SUBDIVISION REGULATIONS ADMINISTRATIVE GUIDELINES FOR THE UNINCORPORATED AREA OF MARICOPA COUNTY

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SUBDIVISION REGULATIONS ADMINISTRATIVE GUIDELINES

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SUBDIVISION REGULATIONS ADMINISTRATIVE GUIDELINES

I. Purpose. The purpose of these administrative guidelines is to establish and describe the precise content of applications required for subdivisions (preliminary plat, final plat, replats, abandonments), and Development Master Plans. They are meant to be utilized as a tool by subdividers to assist them in filing such applications, and by staff in verifying that the applications are complete. These guidelines have been adopted by the Maricopa County Board of Supervisors and are effective as of August 6, 1990.

II. Preliminary Plat. As indicated in Section 202.1 of the Subdivision Regulations, the preliminary plat application will not be considered accepted for processing until all required information as contained in these guidelines is submitted.

1. Application Form (administered by the Department of Planning and Development). The Preliminary Plat application form is to be completed in full by the applicant. The requested information on the form is self-explanatory. A copy of the form is attached to these guidelines as Exhibit "A".

2. General Preliminary Plat Submittal Requirements (administered by the Department of Planning and Development). The Preliminary Plat shall be in the following format:

a. Overall drawing shall not exceed 24" x 36" in size (more than one (1) sheet may be utilized).

b. All mapped data shall be drawn at the same standard engineering scale, said scale not being greater than two hundred feet (200') to the inch. No architect or uncommon scale will be accepted.

c. Plats must be drawn with the north direction toward the top or left side ("right read") of the sheet.

d. The subdivider (or his engineer) shall submit twenty (20) copies of the Preliminary Plat as a part of the application. It is recommended that a "working" plat drawing be submitted for preliminary Department review (for completeness only) prior to the preparation of the required number of copies. The subdivider or his engineer shall also submit one (1) 8-1/2" x 11" clear film positive with no more than a 7-1/2" x 9-1/2" image (which may be submitted after Department/TAC review has been completed, and appropriate revisions to the Preliminary Plat have been made).

3. Specific Preliminary Plat Submittal Requirements (as required on an agency by agency basis). A Preliminary Plat shall contain the following information:

a. Department of Planning and Development:

1) Name, address, zip code and phone number of the land owner and the subdivider.

2) Name, address and phone number of the engineer, surveyor, landscape architect, or land planner preparing the plat, including the registration number, if registered.

3) Proposed name of the subdivision and its location by section, township and range.

4) North point and scale (written and graphic).

5) Date of preparation, including dates of any subsequent revisions.

6) Small scale vicinity map showing relative location of plat.

7) Appropriate zoning district designation (if rezoning has been filed provide designation of proposed zoning district and Rezone Application Case Number).

8) Subdivision Case Number(s) (e.g., CASE NO. S88-1). (NOTE: Case number required on copies of plat submitted after TAC meeting.)

9) Reference by dimension and bearing to section corners and quarter-section corners.

10) Subdivision boundaries clearly defined.

11) Name, book and page numbers of adjacent subdivisions or the names of record owners of adjoining parcels of unsubdivided land.

12) Lot layout, including minimum building lines related to all streets; lot numbers, and approximate dimensions and areas of proposed lots. A "typical" lot layout shall be provided which indicates entire standard building envelope (and which must conform with requirements of the Zoning Ordinance).

13) Existing and proposed contours established by field survey relating to USGS survey datum, or other datum approved in writing by the County Engineer, to be shown on the same map as the subdivision layout, and extending twenty-five feet (25') beyond the subdivision boundaries. Location and elevation of the bench mark used shall also be shown on the plat. The following contour intervals shall be the minimum considered acceptable; grades up to five percent (5%), two feet (2'); grades of five percent (5%) or greater, five feet (5'). The average slopes within building envelopes of lots which are located in the Hillside Development Overlay Zoning District shall be shown on the Preliminary Plat.

14) If a plat is a subdivision of airspace, existing or not, or a conversion of an existing multi-family, commercial or industrial project to condominium use, include information as specified in Appendix A of these Guidelines.

15) A preliminary plat filed within a Unit Plan of Development Zoning District shall provide the following additional information on the plat:

a) Boundaries of the plan, gross land area, area of streets and areas of each proposed type of land use, including schools, parks, playgrounds and common areas.

b) Areas proposed for residential use must show the type of dwellings (i.e., single-family detached, two-family, multi-family, etc.) with the minimum lot size, average lot size and maximum lot size proposed for each dwelling type.

c) A table which compares the requirements of the base zoning district, and the variations approved (or proposed if not yet approved) under the Unit Plan of Development. The table shall include: average lot area per dwelling unit, minimum setbacks, maximum lot coverage, the minimum distance between buildings, minimum lot size, minimum lot width, maximum building height (and number of stories) and a calculation of required parking spaces.

d) If buildings are to be clustered, the general location must be indicated.

e) Major and collector street layout with proposed rightof-way widths. Indication of whether the streets are to be public or private must be included.

f) Proposed number of families and total projected population.

g) The building envelope of proposed commercial or industrial facilities.

h) A table which lists methods of fire protection (including number of fire hydrants), police protection, sewage and solid waste disposal, utility services (electric, gas, telephone, and cable TV) and water supply (including fire hydrants).

i) Proposed handling of site drainage and protection against storm waters and flooding. A drainage study must be included as specified in Article III, Section 304.4 of the Subdivision Regulations.

j) Any other information as may be further required by these guidelines to carry out the purpose and intent of the Unit Plan of Development.

16) If a plat includes land for which multi-family, commercial or industrial use is proposed, such areas shall be clearly designated together with the existing zoning classification, present district boundary lines and status of any pending zoning change.

17) Designate existing use of property and note whether use is to be abandoned or not.

b. County Engineer (Highway Department):

1) Location, widths and names of all existing or proposed streets, alleys, drainage ways, crosswalks and easements, or other public ways within or adjacent to the tract including all connections to adjoining platted or unplatted tracts, existing permanent buildings, railroad rights-of-way and other important features such as section lines, political subdivision or corporation lines and school district boundaries.

2) A statement as to the type and extent of proposed improvements shall be placed on the face of the plat.

3) Designation of all land to be dedicated, provided, or reserved for public or semipublic uses (including all easements), with the use/s indicated.

4) Reference by note whether utility services will be underground.

5) If lots are proposed to be irrigated, all easements, the preliminary location of valves, and the tentative line of the underground pipe must be shown.

c. Flood Control District:

1) Location by survey of streams, washes, canals, irrigation laterals, private ditches, culverts, lakes or other water features, including direction of flow and water surface elevations, and location and extent of areas subject to inundation and whether such inundation is frequent, periodic or occasional. Any portion of the subdivision within a Regulatory Floodplain as defined in the Subdivision Regulations shall be shown (See Plate 14 of these Guidelines).

2) Where water flows across proposed streets, adequate access during flow times must be shown.

3) A statement that the finished floor eleva tions of any structure will be free from inundation from a one-hundred-year flood event, and a statement of who is to maintain drainage easements/tracts and/or retention areas, if applicable.

4) Storm Water Disposal. All existing drainage patterns affecting the land included in the Preliminary Plat must be shown. Requirements of this section are not applicable if a drainage plan for the area included in the subdivision has been previously approved provided the previously approved drainage plan was prepared in accordance with current Flood Control District standards. In addition, the following must be provided:

(a) Washes must indicate the following:

(1) Size of contributing drainage area, in acres.

(2) Approximate length and width of contributing drainage area.

(b) Peak discharges and volume discharged at the lower boundary of the proposed subdivision, indicating the effect on neighboring property.

(c) If any part of the storm water flow is to be handled by an underground pipe system, the location of the inlets, tentative size and line of pipe and the outlet grade must be shown.

(d) Development must be in accordance with the Maricopa County Drainage Regulations.

d. <u>County Health Department</u>:

1) Existing usable sewers, water mains, culverts, or other underground structures within the subdivision and immediately adjacent thereto with pipe sizes, grades and locations indicated. Where sewers or water mains are not immediately adjacent thereto, give direction and distance to nearest such usable utility.

2) A statement as to the type of sewage disposal facilities proposed shall appear on the Preliminary Plat. If sewage facilities are to be provided in a community septic area within the subdivision, it shall be indicated on the plat. In subdivisions which are proposed to be served by individual sewage disposal systems, the location of which may cause structure setback deviations from those normally required in Zoning Ordinance provisions, each lot shall designate the specific setback deviation.

3) A statement as to the type of domestic water supply facilities shall be placed on the plat. If a portion of the subdivision is to be used for a community water supply facility, it shall be so indicated on the plat.

e. Rural Metro Fire Department or Appropriate Fire District. If fire protection is being provided, the number and location of fire hydrants shall be shown on the preliminary plat. Information regarding volume of water, line sizes, and water pressure will be required at the final plat stage.

4. Other Agencies/interest groups receiving referrals of preliminary plat applications. In addition to the agencies receiving referrals of a Preliminary Plat for review purposes (as listed in Section 202.3b of the Subdivision Regulations), the below listed agencies/interest groups will, when appropriate, be sent a copy of the submitted Preliminary Plat by the Department for review and/or comment. It is suggested that the subdivider or his engineer, consult with the below listed agencies in the preparation of their Preliminary Plat application:

a. Appropriate homeowners association or area improvement association.

b. Appropriate utility companies (i.e., utility companies not listed in Section 202.3B, but which are to provide service to the subdivision).

c. Military air bases if subdivision is within AICUZ Study Area.

d. National Forest Service, if subdivision is in proximity to a National Forest.

e. Appropriate Indian reservation, if subdivision is in proximity to same.

f. Corps of Engineers, if subdivision is in proximity to Central Arizona Project.

g. Federal Bureau of Reclamation, if proposed subdivision has transmission line easements on it or there are transmission line easements in close proximity.

h. Natural Resource Conservation District (Soil Conservation Service), which is of assistance in soils reports preparation.

i. Arizona State Land Department or Bureau of Land Management, if subdivision is adjacent to state or federal public lands.

j. Federal Aviation Administration, if subdivision is in close proximity to an airport.

k. Maricopa County Department of Civil Defense and Emergency Services, if subdivision is within ten (10) miles of the Palo Verde Nuclear Generating Station.

l. State Historic Preservation Office (SHPO), if appropriate.

III. Final Plat. As indicated in Section 203.1 of the subdivision regulations, the final plat application will not be considered accepted for processing until all required information as contained in these guidelines is submitted.

1. Application Form (administered by the Department of Planning and Development). The final plat application form is to be completed in full by the applicant. The requested information on the form is self-explanatory. A copy of the information on the form is attached to these guidelines as Exhibit "B".

2. Application Letter (administered by the Department of Planning and Development). The application for Final Plat approval shall include a letter addressed to the Board requesting their approval. The letter shall indicate the name and address of the subdivider, the party responsible for preparing the plat, a statement of whether or not the proposed subdivision lies within three (3) miles of the corporate limits of any city or town having subdivision regulations, and if so, certification that copies of the final plat have been filed with such city or town.

3. General Final Plat Submittal Requirements (administered by the Department of Planning and Development). The Final Plat shall be in the following format:

a. The original of the Final Plat shall be drawn in india ink on polyester or linen or a copy shall be reproduced on polyester by a silver imaging process or other method that assures archival quality, plastic or other non-shrinking material.

b. Overall drawing shall not exceed 24" x 36" in size (more than one (1) sheet may be utilized). If more than two (2) sheets are required, a key shall be shown on the first sheet or on a separate sheet.

c. All mapped data shall be drawn at the same standard engineering scale, said scale not being greater than two hundred feet (200') to the inch from an accurate survey. No architect or uncommon scale will be accepted.

d. Final plat must be drawn with the north direction toward the top of left side ("right read") of the sheet.

e. The subdivider, or his engineer shall submit eight (8) copies of the original Final Plat to the Department.

f. In addition to the submittal of the above eight (8) copies, it is the responsibility of the subdivider, or his engineer, to submit one (1) sepia copy of the Final Plat to the utility agency or agencies, including the irrigation district concerned if the lots are to be irrigated, concerned with the installation of utilities within the subdivision. The sepia print/s shall be submitted to the aforementioned at least fifteen (15) working days prior to the submittal of the Final Plat to the Department. These plats should contain a statement as to whether utility service is to be overhead or underground. One (1) copy of the sepia print will be returned directly to the subdivision engineer and the Department with any required additions or corrections noted thereon from all utility companies and the irrigation district having jurisdiction.

g. In accordance with ARS 9-474, as amended 1978, if the plat is within three (3) miles of the corporate limits of a city having subdivision regulations, the subdivider shall submit copies of the final plat to said city for its review at least thirty (30) working days prior to the regular Board meeting at which the subdivider wishes to be heard.

4. Specific Final Plat Submittal Requirements (As required on an agency by agency basis). A Final Plat shall contain the following information:

a. Department of Planning and Development:

1) A title, which includes the name of the subdivision and its location by section, township, range and County. The title area should also contain the County's Subdivision Case Number (e.g., S88-1)

2) Name, registration number, and seal of the registered professional civil engineer or registered land surveyor preparing the plat.

3) Name and registration number of the registered professional civil engineer responsible for the engineering that is necessary in preparation of the proposed subdivision.

4) Date of plat preparation, including dates of any subsequent revisions.

5) North point and scale (both written and graphic).

6) Location and description of cardinal points to which all dimensions, angles, bearings, and similar data on the plat shall be referenced.

7) Any excepted parcel(s) within the plat boundary shall be accurately described by bearings and distances. Proper street and alley dedications adjacent to any proposed tracts or excepted parcels shall be provided by the subdivider by inclusion within the plat or by separate dedication noted on the plat, pursuant to Resolution of the Board adopted February 15, 1957.

8) Boundaries of the tract to be subdivided fully balanced and closed, showing all bearings and distances determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof. Corners of the plat should be noted and monuments found or set should be indicted: Each of the two (2) corners of the subdivision traverse shall be tied by course and distance to separate section corners or quarter corners. Portions of any adjacent property between major road intersections shall not be excluded from within the boundaries of the subdivision when needed or required for dedication or improvement of any traffic, drainage, or flood control facility. Such areas may be indicated as excluded tracts after necessary dedications are shown.

9) Location and dimensions of all lots shall be shown. Lot dimensions shall be indicated for at least one (1) side lot line and either the front or rear lot line when lots are rectangular or square. If lots are not rectangular or square all lot line dimensions shall be indicated. All minimum building setback lines which adjoin all streets shall be shown and dimensioned for all lots intended for residential use of any character and on commercial or industrial lots immediately adjoining residential areas. Such lot dimensions, areas, or building setback lines shall not be less than required by the zoning ordinance or building line regulations applying to the property.

10) All required "sight-distance triangles" shall be indicated at street corners.

11) Where a subdivision is part of a Unit Plan of Development, those standards approved by the Board shall be shown on the final plat.

12) All lots shall utilize a block and lot numbering system or be numbered consecutively throughout the plat. Exceptions such as tracts and private parks shall be so designated, lettered or named, and clearly dimensioned. Ownership and maintenance responsibilities for tracts and private parks shall be indicated on the plat.

13) Name, Book and Page number of adjacent recorded subdivisions, with location of existing adjacent lots, easements and right-of-way shown, or notation "Unsubdivided" where appropriate. All proposed conditions shall be graphically differentiated from existing conditions on adjacent properties and on excepted parcels within the plat.

14) Notes on final plat that all private streets and tracts will be maintained and by whom.

15) Certification by a registered professional civil engineer or registered land surveyor who has made the plat, that it is correct and accurate, that the monuments described in it have been located or established as described and the lot corners permanently set.

16) Space for approval by the Board under the signature of the Chairman of the Board and attested by the Clerk of The Board.

17) Where a subdivision contains a park, school or other public area which is shown upon the County Plan or as recommended by the Commission, such area shall be reserved for acquisition by the proper public agency within a period of one (1) year after recording the Final Subdivision Plat.

18) A statement as follows: "The provisions of Section 2318 of the Maricopa County Zoning Ordinance (Outdoor Light Controls) will be adhered to."

19) A statement as follows: "This subdivision is located within the_____Water Service Area and has been designated as having: a) an assured water supply, or b) a presumption of an assured water supply.".

20) If a plat is a condominium, existing or not, a conversion of an existing multi-family, commercial or industrial project to condominium use, include information as specified in Appendix A of these guidelines.

b. <u>County Engineer (Highway Department)</u>:

1) Names, centerlines, right-of-way lines, courses, lengths and widths of all public streets, alleys, crosswalks and utility easements: radii, points of tangency and central angles of all curvilinear streets and alleys, and radii of all rounded street line intersections.

2) The location, width and use of all public or private utility easements shall be noted.

3) The accurate outline of all property which is offered for dedication for public use and of all property that may be reserved by deed covenant for the common use of the property owners in the subdivision.

4) Dedications: Statement of dedication of all streets and alleys for public use by the persons holding title by deed to the lands, by persons holding any other title of record, by persons holding title as vendees under land contract, and by spouses of said parties. If land dedicated is mortgaged, the mortgagee shall also sign the plat. Dedication shall include a written location by section, township and range. Signatures must be witnessed. If the plat contains private streets, provisions shall be made for installation and maintenance of utilities and drainageways. Easements shall be provided for purposes indicated.

5) Acknowledgment of dedications: execution of dedication, acknowledged and certified by a notary public.

6) Assurance Statement as follows:

a) For new subdivisions: "Satisfactory assurance in the form of_____ from _____ in the amount of $ _____ has been provided to guarantee pavement, drainage, water, and sewer services in this subdivision. Electric service has been assured by_____.

_____ _____"
For County Engineer Date

b) For existing developments: "Paving, drainage, water, sewer and electric services in this subdivision are existing and approved.

_____ _____"
For County Engineer Date

c) For Fountain Hills plats: "Satisfactory assurance has been provided in the form of letters and appropriate Resolutions from the Fountain Hills Special Road Districts and Fountain Hills Sanitary District to guarantee one hundred percent completion of roads and the sanitary sewer system. Satisfactory assurance in the form of_____ from in the amount of $ _____ has been provided to guarantee pavement, drainage, water and sewer services in this subdivision. Electric service has been assured by_____.

_____ _____"
For County Engineer Date

NOTE: Statement may be modified as necessary (i.e., if Road District is installing all paving, pavement will not be shown in second part of statement.

c. Flood Control District:

1) The limit of the Floodplain, as defined in Section 102 of the subdivision regulations, if any portion of the land being subdivided is within the Regulatory Floodplain shall be shown on the plat.

2) All drainageways and drainage easements, as well as maintenance responsibilities and ownership, shall be shown on the plat. All development must be in accordance with the Drainage Regulations for Maricopa County.

3) In areas subject to flooding, minimum finished first floor elevations shall be shown as may be required by the Flood Control District.

d. County Health Department: (See Section 4.b.6 of these guidelines - County Engineer/Highway Department) for information regarding assurance statements on provisions of water and sewer service for the subdivision.

e. County Assessor. Certification of County Assessor as follows:

"CERTIFICATE OF COUNTRY ASSESSOR: I, the undersigned as a Deputy County Assessor, Maricopa County Arizona, do hereby certify that as of this date, the records of this office reflect that _____ as designated on the plat is owner of the property as shown on the plat and more particularly described as Assessor's Parcel Number/s _____

_____ _____"

Deputy County Assessor Date

f. County Treasurer. Certification of County Treasurer as follows:

"CERTIFICATE OF COUNTY TREASURER: I, the undersigned as a Deputy County Treasurer, Maricopa County, Arizona, do hereby certify that as of this date, the records of this office reflect that there are no tax liens on any of the parcels comprising the plat, as listed in the Assessor's Certification, with the following exceptions:

_____

_____ _____"

Deputy County Treasurer Date

IV. Development Master Plans. As indicated in Section 206.1 of the Subdivision Regulations, the **Development Master Plan (DMP)** application will not be considered for processing until all required information as contained in these Guidelines is submitted.

1. Procedure.

a. Preliminary Review. Prior to submitting the DMP for formal review, the applicant must submit three (3) copies of the proposed plan to the Department of Planning and Development for preliminary review. This will enable the applicant to obtain additional guidance regarding Maricopa County policies and requirements and will minimize possible confusion and delays in the consideration of the proposal. Preliminary submittals should contain all appropriate information as outlined in these Guidelines.

b. Formal Application. When the applicant and the Department of Planning and Development are satisfied that the DMP is ready for formal review, a minimum of twenty-five (25) copies of the narrative report and land use display map must be submitted to the Department of Planning and Development. An application for a DMP must also be filed, accompanied by the appropriate filing fee.

c. Technical Advisory Committee Review. Upon receipt of the application, filing fee and a minimum of twenty-five (25) copies of the DMP, the Department of Planning and Development will notify the applicant of the scheduled date and time for review by the **Technical Advisory Committee (TAC)**. TAC consists of local, County, state, municipal, and federal agencies involved in the development process which will consider the health, transportation, flood control, and other impacts of the project.

d. Technical Advisory Committee Meeting. At the Technical Advisory Committee (TAC) meeting, the applicant may be requested to make additions or revisions to the proposed DMP. Copies of the revised DMP will be required for final review by interested reviewing agencies. Once the proposed DMP has been reviewed by TAC, and the applicant and Department of Planning and Development are satisfied that it is ready for consideration by the Planning and Zoning Commission, a minimum of twenty (20) copies of the proposed plan and display map must be submitted to the Department of Planning and Development. One 8 1/2" x 11", clear film positive of the land use display map must also be submitted.

e. Public Hearing - Planning and Zoning Commission. The DMP will be scheduled for a public hearing before the Maricopa County Planning and Zoning Commission. The Department of Planning and Development will transmit the DMP to the Planning and Zoning Commission along with a staff report and comments from the Technical Advisory Committee (TAC).

f. Public Hearing - Maricopa County Board of Supervisors. A recommendation of approval by the Maricopa County Planning and Zoning Commission will result in the plan being transmitted to the Maricopa County Board of Supervisors for a second public hearing. Development Master Plans recommended for denial by the Planning and Zoning Commission can be forwarded for consideration by the Board of Supervisors at the written request of the applicant.

g. Post Board of Supervisors Submittal. Five (5) copies of the revised DMP, consistent with the requirements of the Board of Supervisors, shall be submitted within thirty (30) days of the date of approval.

h. Amendments. Changes to the DMP will require an amendment. An amendment is required to use the same procedure as a new application. Requirements for submission are outlined under **Section 7, "Amendments/-Addenda".**

i. Administrative Amendments. Minor changes to the DMP may be processed administratively at the discretion of the Maricopa Department of Planning and Development. Information submitted shall be according to the requirements as outlined under Section 7, "Amendments/Addendums".

2. Application Submittal Requirements.

a. Requirements. The applicant must be a legal representative of the landowner(s) involved in the proposed DMP. All contiguous property under the applicant's control must be included in the application. Verification of ownership must be submitted.

b. Form. The DMP **Application Form** is to be completed in full by the applicant. The requested information on the form is self-explanatory. A copy of the form is attached to these Guidelines **(Appendix "C").**

c. Fee. The filing fee for a DMP is $1,500 for up to one (1) square mile plus $500 for each additional square mile or portion thereof. The filing fee for an amendment to a DMP is $1,000 and $250 for an administrative amendment. These fees are not refundable.

3. Narrative Report Format Submittal Requirements.

a. The Narrative Report shall be organized as follows: Title Page, Table of Contents, Executive Summary, Location Section, Site Analysis Section, Plan Section, and Appendix.

b. The Narrative Report shall be prepared using letter size (8 1/2" x 11") paper.

c. The Narrative Report shall have a protective cover and, prior to the Board of Supervisors' Meeting, shall be provided in a three-ring binder.

d. All pages shall be consecutively numbered.

e. All large scale maps shall be reduced to 8 1/2" x 11", included in the narrative report, and legible when reduced.

f. Maps shall include the following information:

1) North arrow

2) Scale (written and graphic)

3) Date of preparation and log showing date(s) of revision(s)

4) Map title

5) Name of development master plan

6) Name of individual or firm who prepared the map

g. Detailed supplemental materials shall be placed in an appendix.

h. Statistical information shall be documented and sources identified.

4. Narrative Report Information submittal requirements.

a. Information required on the **"Title Page"** in the following order:

1) Name of the DMP (Title shall include "Development Master Plan").

2) Name of landowner(s), developer, and persons or firm who prepared the Narrative Report.

3) Address and telephone number of the primary contact.

4) Date of preparation and subsequent revisions.

b. Information required in the **"Table Of Contents"** in the following order:

1) Main Sections, with page numbers.

2) Sub-Sections, with page numbers.

3) List of all maps in chronological order, with page numbers.

4) List of all tables in chronological order, with page numbers.

5) List of all illustrations in chronological order, with page numbers.

6) Appendices listed by subject with page numbers.

c. Information required in the **"Executive Summary"**:

1) Summary of the proposed development.

d. Information required in the **"Location Section"** in the following order:

1) The legal description of property.

2) A map showing the exact boundaries of the development and identifying the owners of all adjacent property.

3) A map showing the location of the DMP on a regional vicinity map.

4) A map showing the boundaries on or within three (3) miles of the site for the following:

(a) School districts and existing school facilities by type.

(b) Water districts and existing facilities by type.

(c) Sanitation districts and existing facilities by type.

(d) Municipal annexation boundaries.

(e) Municipal strip annexation boundaries.

(f) Airport and related noise and hazard area boundaries.

(g) Fire service areas and location of existing facilities by type.

(h) The nearest location of a Maricopa County Sheriff substation. If not within three (3) miles, a note shall be placed on the map indicating the address and actual driving distance from the substation.

e. Information required in the **"Site Analysis Section"** in the following order:

1) A map showing the existing land use of the site and all properties adjacent to the site.

2) A map showing the existing zoning of the site and all properties adjacent to the site.

3) A map and description of any major physical features relating to the site (e.g., floodplains, mountains, rivers, land subsidence, earth fissures, soil types that would impact development, slopes of fifteen percent (15%) or greater, etc.).

4) A map and description of existing right-of-ways, and related improvements (such as utilities, canals, streets, etc.) on the site and adjacent to the site (within one quarter (1/4) mile).

f. Information required in the **"Plan Section"** in the following order:

1) **Land Use Plan Information**

(a) The projected time frame for starting and completion of development.

(b) The **Land Use Summary Table**, **Appendix "E"** completed with required information.

2) **Circulation Plan Information**

(a) A street circulation map which shows the following:

(1) Location of proposed interior collector and arterial streets with existing or proposed names.

(2) Points of ingress and egress to the site.

(3) Perimeter streets including existing or proposed street names.

(4) Streets proposed to be dedicated to the County for public use, and those to remain private.

(5) Statement that all roadways will meet Maricopa County Highway Department standards and specifications.

(6) Routes for alternative modes of transportation within the development (i.e., mass transit, bicycle paths, pedestrian trails).

(b) Discussion of the proposed development's impact on existing transportation corridors, and proposed improvements by the developer to those corridors. (A traffic study may be required by the Maricopa County Highway Department.)

3) **Drainage Plan Information**

(a) Method of facilitating on-site and off-site drainage.

(b) Approximate locations of proposed detention, and retention areas.

(c) General directions of stormwater runoff.

(d) Statement that all development will be in accordance with the drainage and floodplain regulations for Maricopa County. (A drainage study may be required by the Maricopa County Flood Control District.)

4) **Utility Plan Information**

(a) A discussion of the supply for domestic water and the water supply system.

(b) A discussion of the sewage collection and disposal system. (A water and/or sewer study may be required by the Maricopa County Health Department.)

(c) A list all service providers (fire, police, electric, etc.).

5) **Miscellaneous Information**

(a) A discussion of the role of the developer, residents, and others in providing, operating, and maintaining services, utilities, community facilities, and other development related improvements.

(b) An indication of whether there will be a homeowners or community association.

(c) The type of landscaping proposed for open space and common areas.

*(d) If lakes are proposed, the total number of lakes, the total surface acreage of each lake, and the total surface acreage of all lakes.

(1) All of the water (100%) used to fill or refill a lake shall be a renewable supply of water such as treated effluent, surface water or Central Arizona Project (CAP) water. A plan shall be submitted that includes a schedule which ultimately provides for the use of a renewable water supply to fill or refill a lake. A renewable supply of water must be used during each phase of the project and at the completion of the project. The lakes shall be designed and constructed to facilitate the use of treated effluent. The Plan approved by the Board of Supervisors may provide for the interim use of groundwater in conjunction with the use of a renewable supply of water during the development phases of the project. The Plan approved by the Board of Supervisors may also allow for:

(a) The use of groundwater in the event of a threat to public health and safety, only if the additional use of groundwater will reduce the risk of a public health and safety hazard and all other actions would not reduce the risk.

(b) The use of non-potable groundwater.

(c) The use of groundwater where the seasonal occupancy of the residents will cause a seasonal fluctuation in the availability of treated effluent.

(2) It must be specified that the filling of the proposed lake(s) complies with the State of Arizona Groundwater Management Act.

*(e) If a golf course(s) or a large common area(s) is proposed, the acres of turf to be irrigated, the amount of water needed for irrigation in acre feet per winter period, summer period, and the combined period, and the source of irrigation.

(1) Irrigation of a common area over 10 acres in size and a golf course shall be entirely (100%) with a renewable supply of water such as treated effluent, surface water or Central Arizona Project (CAP) water. A plan shall be submitted that includes a schedule which ultimately provides for the use of a renewable supply of water to irrigate the facilities noted above. A renewable water supply must be used during each phase of the project and at the completion of the project. The facilities subject to this regulation shall be designed and constructed to facilitate the use of treated effluent. The Plan approved by the Board of Supervisors may provide for the interim use of groundwater in conjunction with the use of a renewable supply of water during the development phases of the project. The Plan approved by the Board of Supervisors may also allow for:

(a) The use of groundwater in the event of a threat to public health and safety, only if the additional use of groundwater will reduce the risk of a public health and safety hazard and all other actions would not reduce the risk.

(b) The use of groundwater to leach soil to maintain turf, provided there is no other available source of water that would achieve the same result.

(c) The use of non-potable groundwater.

(d) The Plan may also provide for the use of groundwater where the seasonal occupancy of the residents will cause a seasonal fluctuation in the availability of treated effluent.

g. Information required in the **"Appendix"** in the following order:

1) Reports containing detailed information including:

(a) Traffic Study

(b) Drainage Study

(c) Other Pertinent Studies.

2) Documents validating information in the narrative such as:

(a) Legal Description

(b) Site Ownership

(c) Other Pertinent Documentation.

5. Land Use Display Map Format Submittal Requirements

a. The map size shall be 24" x 36" in size. More than one sheet may be used. A maximum of four (4) square miles can be shown on each sheet. If more than one sheet is used, a summary sheet showing the entire DMP must be provided.

b. All mapped data shall be drawn at the same standard engineering scale. No architectural or uncommon scale will be accepted.

c. The map shall designate an area for the Board of Supervisors' approval.

6. Land Use Display Map Information Submittal Requirements

a. The map shall display the land use table as required in the **"Plan Section"** of the **"Narrative Report"**.

b. The map shall include a legend containing the following:

1) North arrow.

2) Scale (written and graphic).

3) Date of preparation and log showing date(s) of revisions(s).

4) Map title.

5) Name of DMP

6) Name of individual or firm who prepared the map.

c. The map shall show land use designations using the Land Use Categories, described in **Appendix "E"**, and also show the acreage within each parcel shown.

d. The map shall show the location of arterial streets and collector streets (both interior and on the perimeter).

7. Amendments / Addendums Submittal requirements. A Narrative Report for an administrative amendment, amendment, or addendum of a DMP shall be organized in the same format as that required for a new application. It is required to contain the following additional information:

a. An update and brief summary regarding the history of development for the DMP.

b. A table which shall compare the overall affect the amendment will have on land use, population, etc. for the approved DMP site.

c. A revised land use display map.

8. Development Suitability Information Submittal Requirements. The information listed below shall be provided by the applicant as a separate document apart from the development narrative. Maricopa County will use this information to determine suitability of the Development Master Plan (DMP):

a. An evaluation of the development opportunities that the DMP site offers.

b. An evaluation of the constraints that might limit development of the site.

c. An evaluation of the relationship the DMP has with adopted County or municipal land use plan, including stated goals and policies.

d. An evaluation of the impact of the development on the surrounding area. Environmental, socioeconomic, and regional factors shall be included.

e. An evaluation of need for the DMP in relationship to development trends and population projections for the area. If an economic feasibility study was completed, it may be included (but is not required).

f. An evaluation of the relationship of the proposed land uses to **Land Use Ratios, Appendix "E".** If commercial and/or the industrial land use exceeds the recommended land use ratios, a detailed study must be completed by an individual or company competent in this area, unless waived by the Department of Planning and Development.

V. Subdivision Design Principles. The following design principles are to be used as a guide in the layout and design of subdivisions. The Planning and Zoning Commission in its review of Preliminary Plats and the Board of Supervisors in its approval of Final Plats may either deny subdivision plat applications or condition them such that they conform to the following minimum acceptable design principles.

1. Neighborhood Planning Considerations (See Plate 1 for Schematic Neighborhood Unit). For purposes of physical planning, a neighborhood is considered to be that area tributary to an elementary school. The service area of an elementary school depends upon density of development and may vary from 1/4 mile radius to 1/2 mile radius in fully developed portions of the urban area. The neighborhood should be bounded by major streets or other topographical barriers so that elementary pupils are not required to cross a major street in walking to and from school, and that this should be a major criterion for determination of the design capacity of a new school or service area of an existing school. See Appendix D in these Guidelines for School and Park Principles and Standards.

2. Street and Highways (Plates 2-10 provide examples).

a. Street arrangements in subdivisions shall be designed so as not to cause a hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access thereto. Residential streets shall be so designed as to discourage through traffic, but offset streets should be avoided.

b. Grades, curvatures, sight distances, alignment and profile are some of the various elements that must be considered in roadway design. Detailed information on street and highway standards applicable to subdivisions and larger developments should be requested of the County Highway Department at an early stage in planning any specific project.

c. Grades for local residential streets should be as flat as is consistent with the surrounding terrain. The gradient for local streets should be less than fifteen (15%) percent. For streets in commercial and industrial areas, gradient design should be less than eight percent (8%); desirably, it should be less than five percent (5%), and flatter gradients should be emphasized. To provide for proper drainage, the desirable minimum grade that should be used for streets without curbs is 0.30 percent, but a minimum grade of 0.20 percent may be used.

d. Other special design features may be necessary where surface drainage from local storms is excessive. If flooding or ponding is anticipated on any portion of a proposed project, the developer should confer with the Maricopa County Highway Department and the Flood Control District prior to Preliminary Plat preparation in order to provide for storm drainage and to achieve the best internal street network possible under existing conditions (Plate 2).

e. Design Standards for street construction have been established by the Maricopa County Highway Department and approved by the Board. Generally speaking, streets are to be designed to the width consistent with the dedicated right-of-way and the traffic function of the particular street. For specific street Design Standard Requirements see Article III, Section 303.2, and Appendix G in these Guidelines. Any questions or matters pertaining to the design and construction of streets should be referred to the Maricopa County Highway Department.

f. In general, the curvilinear street pattern is better suited to areas of irregular topography and provides greater aesthetic appeal than that afforded by the grid pattern.

g. The recent design tendency has been to avoid grid street patterns, partly to eliminate some of the excessive amount of street pavement and service roads resulting from the numerous cross streets in a gridiron design and partly for reasons of traffic control. Curving street patterns make it possible to divert the heavier traffic flow from small residential streets into main thoroughfares, thus avoiding the dangers to children and in general lessening the creation of noise and other disturbances.

h. Plates 3A and 3B located in these Guidelines illustrates different schematic arrangements of lots and streets in relation to arterial streets. In general, long blocks should lie in the direction of the main local traffic flow and not cause long detours in reaching major objectives such as the school, commercial area or major highway. For information on requirements of block length, see Article III, Section 303.2.k in the Subdivision Regulations.

i. Where a proposed subdivision abuts or contains an existing or proposed arterial route, local service roads or reverse frontage with nonaccess easements and screening along the arterial route can be used to protect the residential properties from the nuisance and hazard of high volume traffic and to preserve the traffic function of the arterial route (NOTE: "Sight-Distance Triangles" must be placed at street intersections). See Plates 4, 5 and 6 for examples of intersections with arterial streets.

j. Some Rules for Designing Safe Residential Streets (See Plates 7-10 for examples):

1) Use three-way rather than four-way intersections whenever possible;

2) Use curved streets, if appropriate;

3) Minimize number of frontage roads;

4) Minimize continuous streets through neighborhoods, particularly those connecting two (2) major arterials by a direct route;

5) Avoid irregular intersections such as multi-legged intersections and Y-types where two (2) legs meet at acute angles; and,

6) Eliminate jogs in intersection alignments and hidden intersections where visibility is limited by structures, natural features or plant growth.

k. The number of intersections, especially those involving arterial streets and railroads, should be kept to a minimum, but consistent with traffic needs. Intersection design is of extreme significance since a very heavy proportion of total accidents continues to occur where streets and other rights-of-way converge. A minimum number of 4-way intersections should be used in order to reduce traffic hazards. Plates 4, 5 and 6 illustrates street arrangements that tend to reduce traffic hazards.

l. Names of streets must be consistent with the natural alignments and extensions of existing streets and the MAG Address and Street Assignment Policy. If new street names must be used, they may not duplicate in whole or in part existing names. The developer or subdivider should confer with the Department on proposed street names prior to submission of a preliminary plat.

3. Block and Lot Design (Plate 11)

a. Residential lots should be designed in a manner appropriate to the use and density characteristics of the development. A better neighborhood appearance results if a variety of lot shapes and sizes can be provided and coordinated with the different styles of structures planned. It is recommended that Article III, Section 303 (Design Standards) of the Subdivision Regulations be reviewed as a part of these Administrative Guidelines.

b. Residential lots must contain a building finish floor elevation which is above the Regulatory Flood Elevation and must meet all requirements of the Drainage Regulations. For further information on these requirements, see pertinent sections of the Subdivision Regulations, Floodplain Regulations, Drainage Regulations, Drainage sections of the Subdivision Regulations, and/or contact the Flood Control District of Maricopa County.

c. It is inevitable that the street pattern will have the greatest effect on the ultimate size and shape of lots in a subdivision. For example, a curvilinear street pattern will result in a greater number of nonrectangular or wedge-shaped lots with a greater variety of lot sizes, whereas with a grid pattern the opposite would be the case.

d. Corner lots for residential use are required to be wider than interior lots in order to provide adequate yard setbacks from both streets. Property lines at corners must be rounded in accordance with Subdivision Regulation requirements (Article III, Section 303.1.e).

e. Lot depth-to-width ratios for usable areas of a residential lot should not be greater than 3 to 1. For commercial and industrial lots, the lot depth-to-width ratio for usable areas of the lot should not be greater than 4 to 1.

f. No remnants of property should be left in the subdivision which do not conform to lot requirements in the zoning district in which they are located, unless required and dedicated for approved public purpose.

g. Wherever practical, all subdivisions created within any rural or single-family residential zone should be designed to facilitate solar access and energy efficiency.

h. Lots should be designed so that grading can be accomplished in such a manner as to preclude excessive grade differences (e.g., 2 feet) between adjacent lots or between lots and adjacent streets.

4. Alley and Easement Design (Plates 3A, 3B, 13 AND 14):

a. Alleys should be provided in multiple-family, commercial and industrial use areas, and easements are generally preferable in single-family residential areas per Standards in the Subdivision Regulations (Article III, Section 303.2.1).

b. Nonaccess easements, which are easements prohibiting vehicular access from an arterial street side of double frontage lots, are required per Subdivision Regulations. Plate 3A and 3B located in these Guidelines provides an example of such easements.

c. Utility easements along rear lot lines must be as straight and long as possible per Subdivision Regulations. Plate 14 located in these Guidelines provides an example of such easements.

d. Standards for utility easements or alleys on lots facing on curvilinear streets shall be as required in the Subdivision Regulations (Article III, Section 303.2.o). Plate 14 located in these Guidelines provides an example of good design.

e. Pedestrian ways with right-of-way width of eight (8) feet may be required where essential for circulation, or access to schools, playgrounds, shopping centers, transportation, and other community facilities. Pedestrian ways may be used for utility purposes.

5. Drainage and Detention/Retention of Storm Water. All subdivision design must be in conformance with Drainage Regulations of Maricopa County as required by the Maricopa County Flood Control District. Engineered Drainage Reports will be required for all subdivisions. Please review Article III, Section 304.4 of the Subdivision Regulations for minimum improvement standards.

6. Sanitary and Water Facilities. All sanitary and water facilities shall be as required by the Maricopa County Health Department. Please review Article III, Section 304.2 and Section 304.3, of the Subdivision Regulations for minimum improvement standards.

a. Percolation tests and test boring logs in accordance with the requirements of the County Health Department should be taken at the proposed subdivision prior to the approval of the Preliminary Plat.

7. Fire Protection. It is the responsibility of the subdivider or developer to ensure that all subdivisions are initially provided with adequate fire protection facilities. Please review Article III, Section 304.2.b, of the Subdivision Regulations for minimum improvement standards.

8. Hillside Subdivision. Planning, platting and development of hillside subdivisions involve special problems and require special handling by the subdivider and his engineer, and, by the Commission, staff, and reviewing officials. These problems are preservation of scenic beauty and natural vegetation for the benefit of the general public, safe construction of public improvements commensurate with lower density and lesser public use, and safe construction of private improvements related to sewage disposal, water supply, storm drainage and foundation bearing. It is strongly recommended that the Hillside Development Standards in the Zoning Ordinance (Article XXII-A) be reviewed prior to commencing with the design of any hillside subdivision.

a. Lot width and area shall be closely related to the terrain, drainage, percolation factors or construction of sanitary sewers with emphasis placed on selection of homesites and access to the homesites.

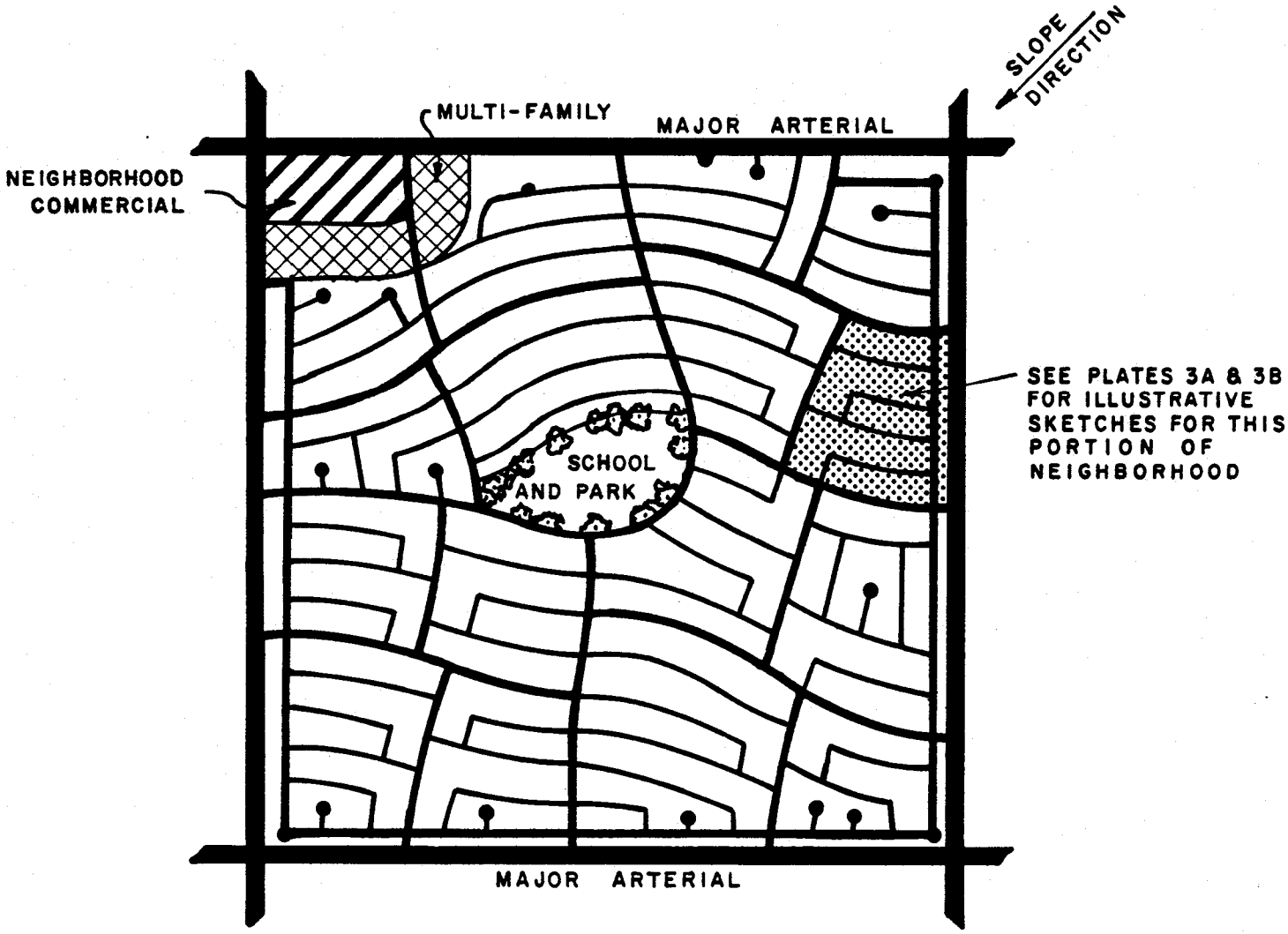
b. In designing hillside subdivision, it should be noted that unorthodox lotting patterns may be permitted only when they meet Zoning Ordinance minimum lot standards. In cases where extreme sloped conditions exist, it may be necessary to obtain Residential Unit Plan of Development (R.U.P.D.) approval by the Planning and Zoning Commission and the Board of Supervisors to allow unorthodox lotting patterns (i.e., lots not meeting minimum lot size or width requirements).

c. Street design in hillside subdivisions shall be as required by the County Highway Department. The gradient for local streets should be less than fifteen (15%) percent. Where grades of four percent (4%) or steeper are necessary, the drainage design may become critical. On such grades, special care must be taken in the design of streets to prevent erosion on slopes and open drainage facilities. For other required Design Standards, see Article III, Section 303.2, in the Subdivision Regulations.

d. Due to problems requiring special field and office review by the County Health Department, the County Engineer and the staff, subdividers should expect processing time for hillside plats to exceed that otherwise required for normal plats.

gb/16/6

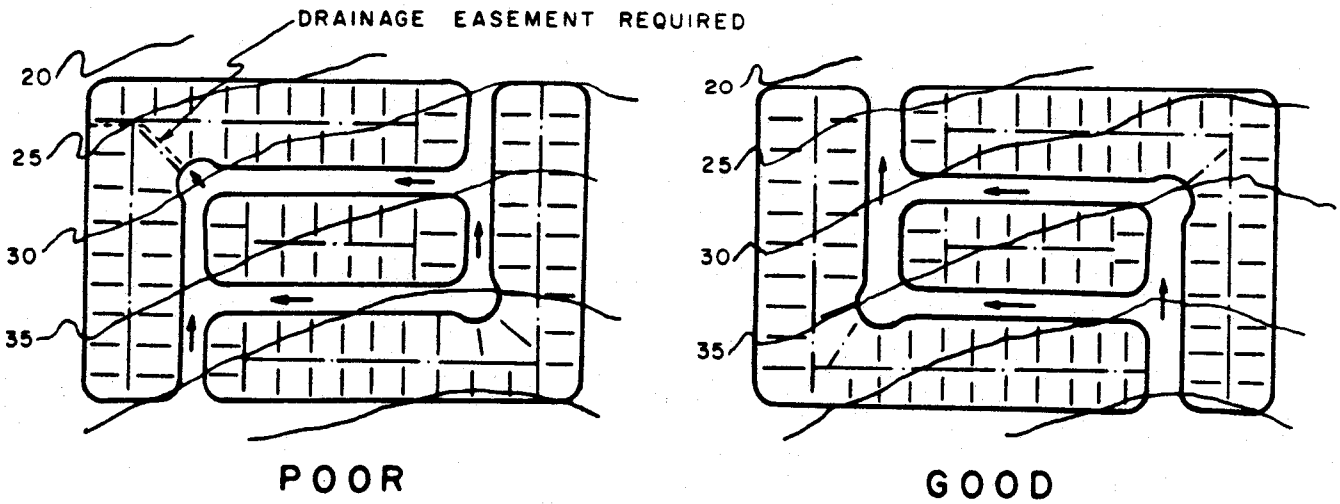
* ADDED BY ADOPTION OF BOARD OF SUPERVISORS ON DECEMBER 10, 1990



SCHEMATIC NEIGHBORHOOD UNIT

(1 SQUARE MILE OR LESS DEPENDING UPON POPULATION DENSITY AND SCHOOL REQUIREMENTS)

PLATE 1



STREET DRAINAGE

for

RESIDENTIAL STREETS

Streets should be so designed and arranged in relation to existing topography as to facilitate drainage. Proper design will eliminate excessive cuts and fills and unnecessary drainageways between lots.

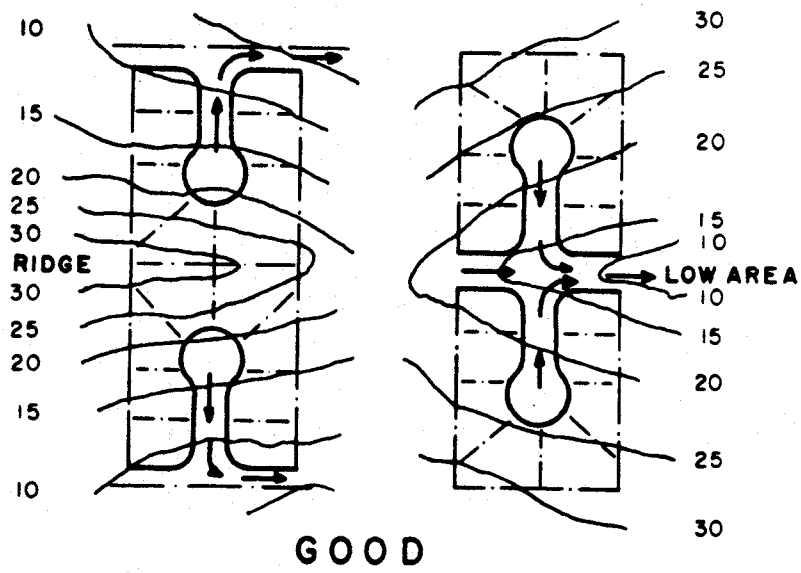
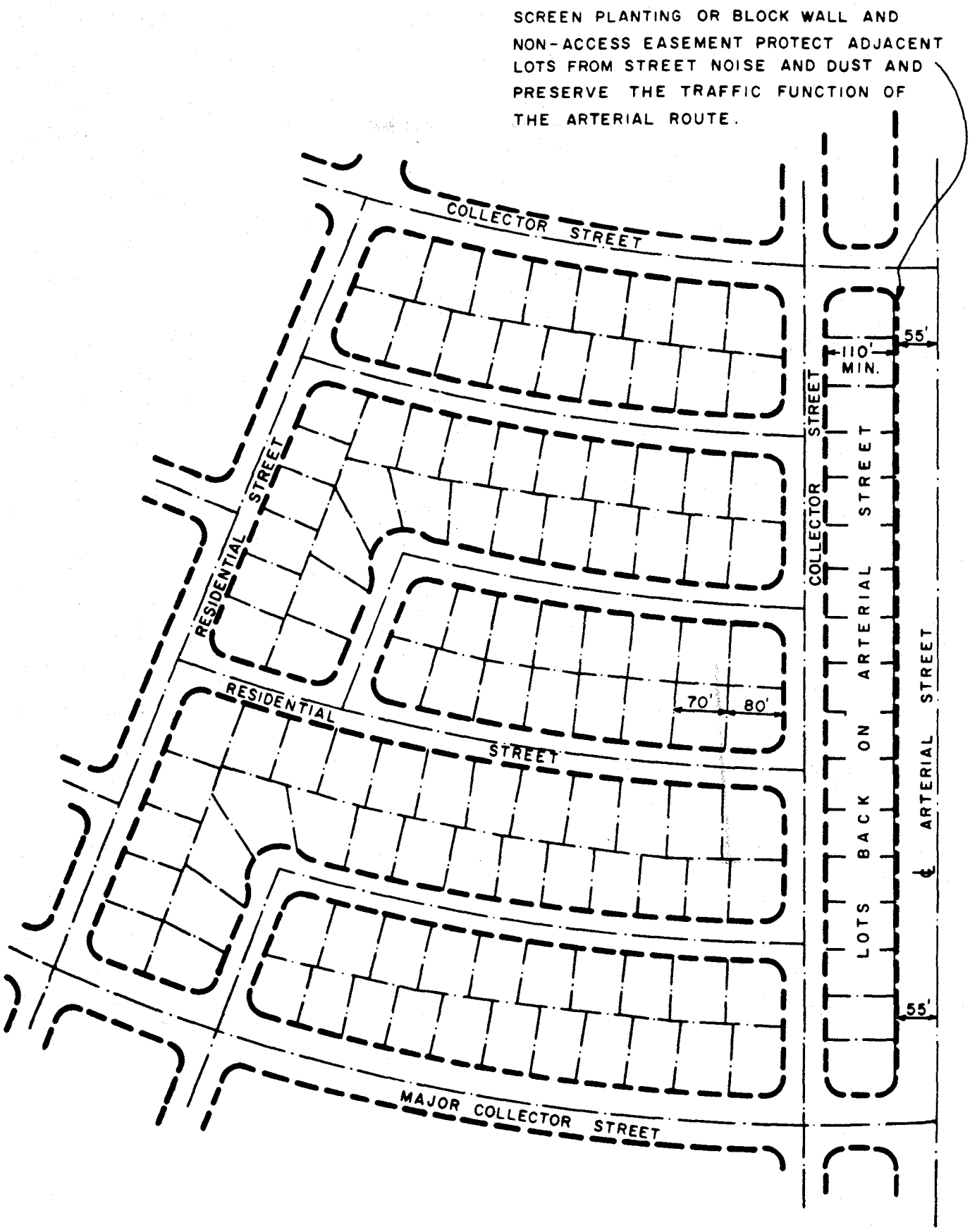


PLATE 2



SCHEMATIC SUBDIVISION

PLATE 3A

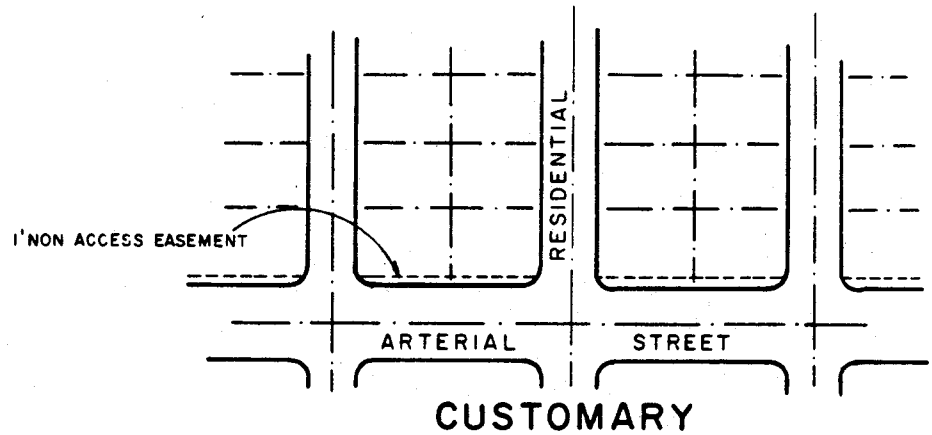
SCHEMATIC SUBDIVISION

PLATE 3B

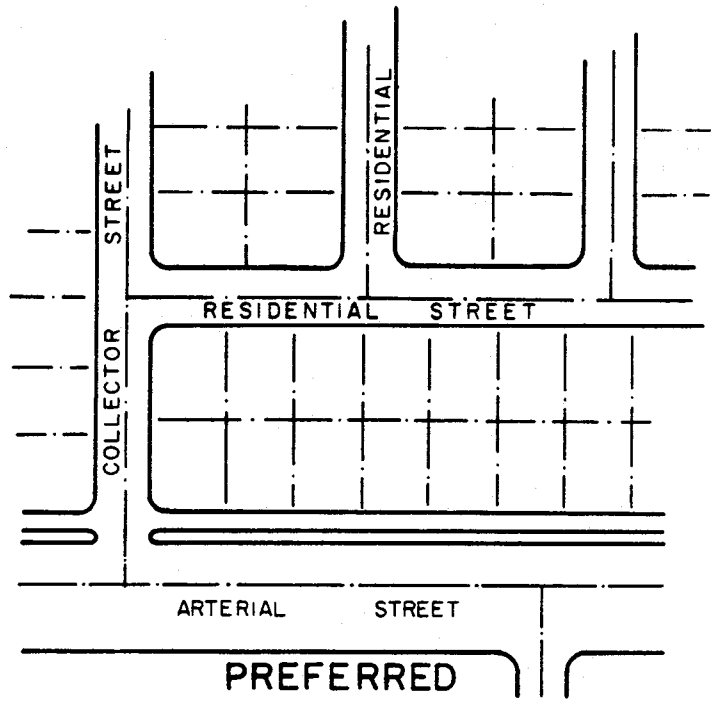
As Revised and Adopted by the Board of Supervisors October 1, 1975

STREET INTERSECTIONS

Openings onto arterial streets should be limited to quarter mile intervals. However, if more frequent intersections are necessary, they should be "T" type intersections as illustrated.



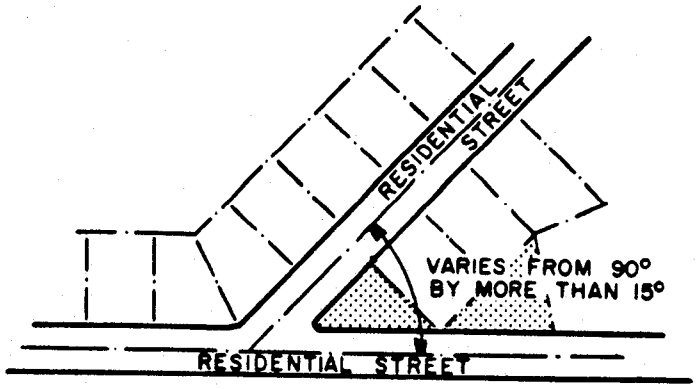
CUSTOMARY



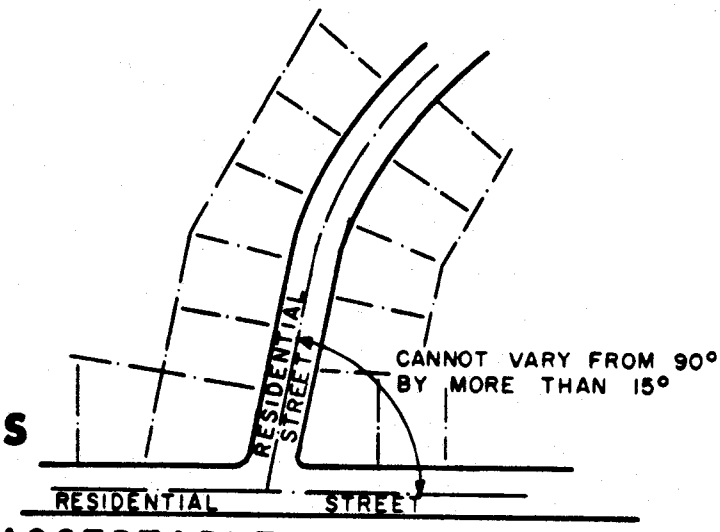
PREFERRED

PLATE 4

ANGLE of INTERSECTIONS for RESIDENTIAL STREETS

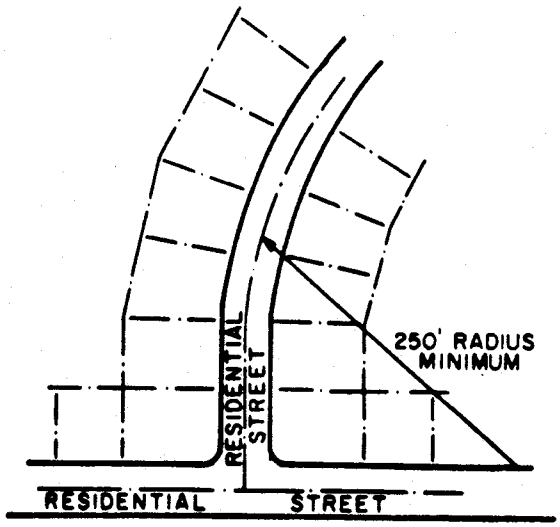


NOT ACCEPTABLE



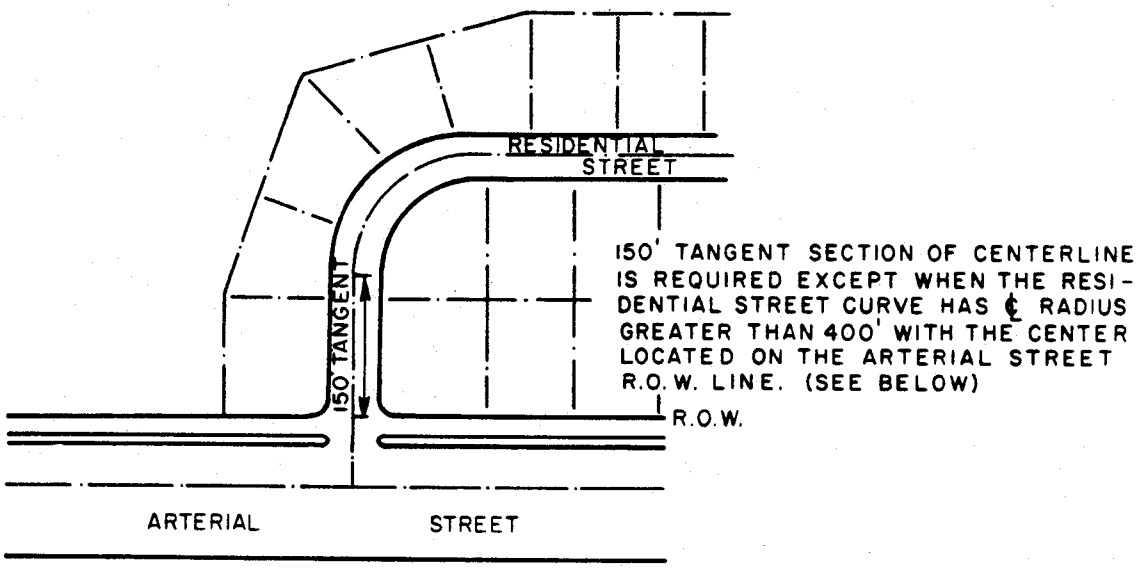
ACCEPTABLE, IF NECESSARY

Street intersections should be carefully designed so as to eliminate dangerous traffic movements and odd shaped lots.



PREFERRED

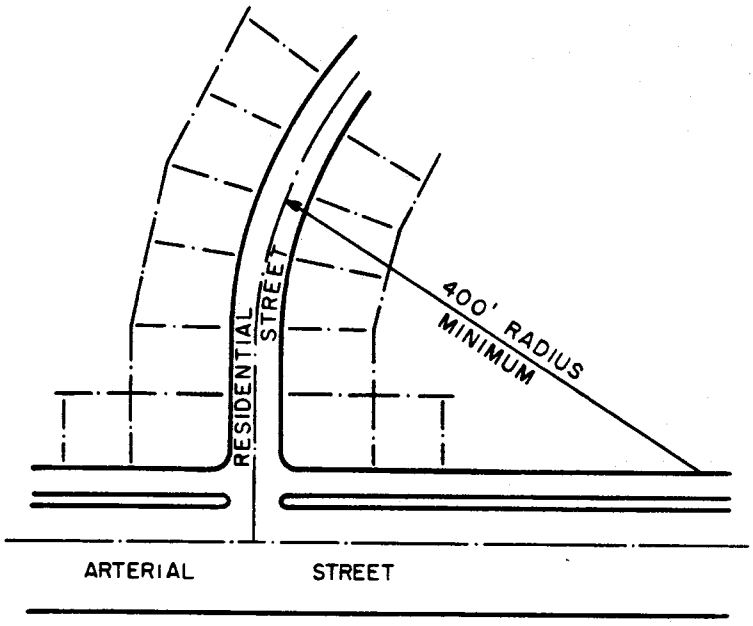
PLATE 5



GOOD

ANGLE of INTERSECTIONS for ARTERIAL STREETS

All intersections of arterial streets and collector streets should be at right angles.

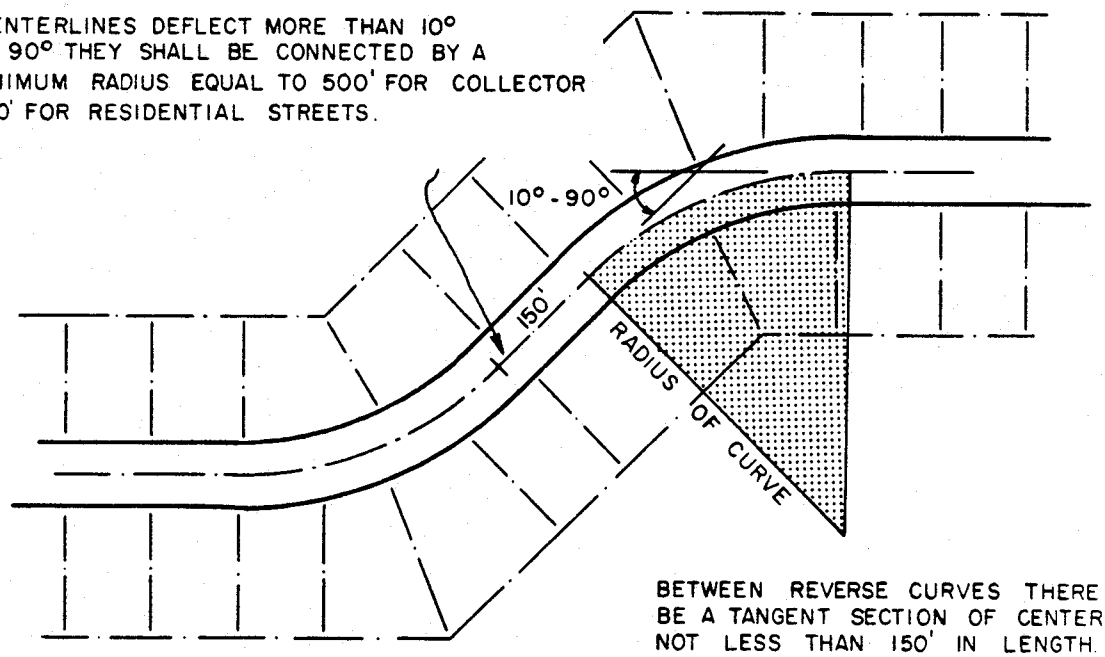


GOOD

PLATE 6

CENTERLINE DEFLECTION
and
REVERSE CURVES
for
COLLECTOR and RESIDENTIAL STREETS

WHEN TANGENT CENTERLINES DEFLECT MORE THAN 10° AND LESS THAN 90° THEY SHALL BE CONNECTED BY A CURVE WITH MINIMUM RADIUS EQUAL TO 500' FOR COLLECTOR STREETS AND 200' FOR RESIDENTIAL STREETS.



BETWEEN REVERSE CURVES THERE SHALL BE A TANGENT SECTION OF CENTERLINE NOT LESS THAN 150' IN LENGTH.

NOTE :

Horizontal Alignments on Arterial Routes shall be determined by the County Engineer.

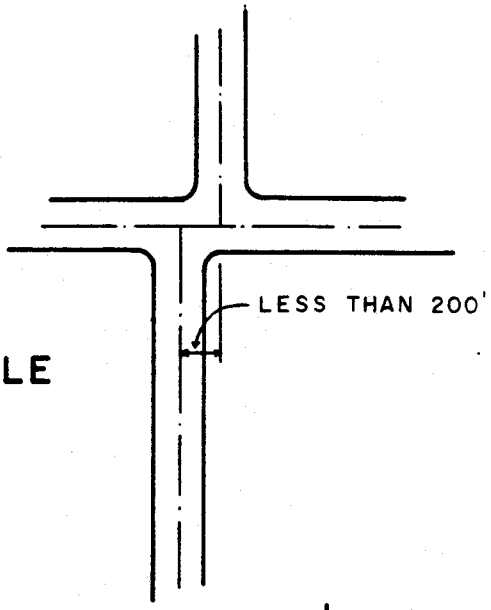
PLATE 7

STREET JOGS

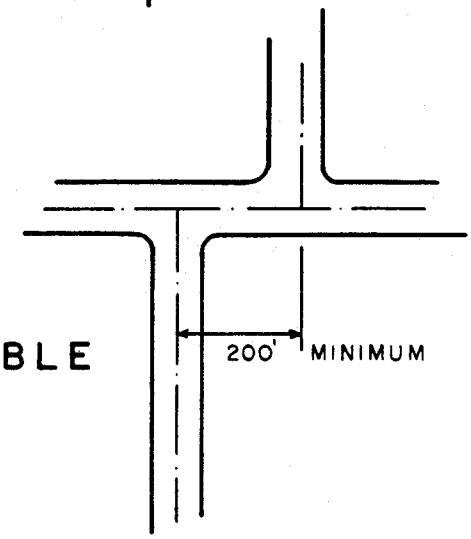
for

RESIDENTIAL STREETS

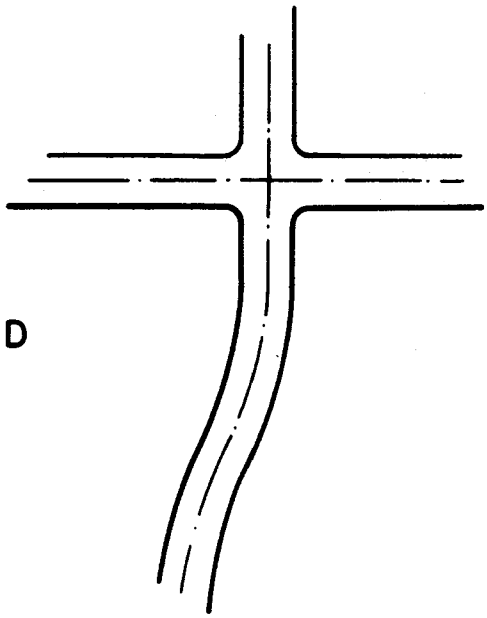
NOT ACCEPTABLE



ACCEPTABLE



GOOD

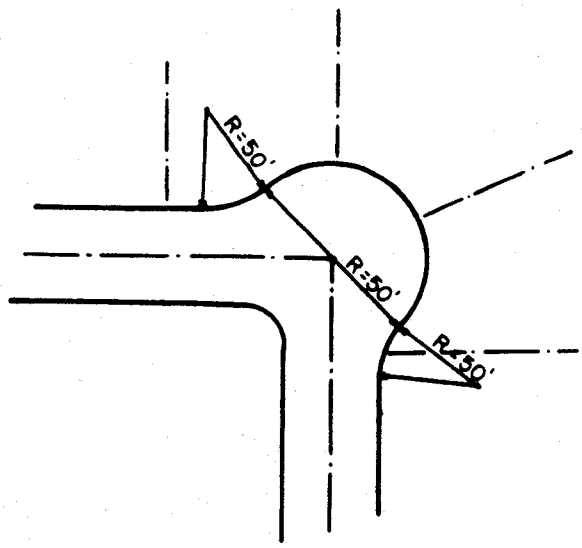


NOTE:

Horizontal Alignments on Arterial Routes shall be determined by the County Engineer.

PLATE 8

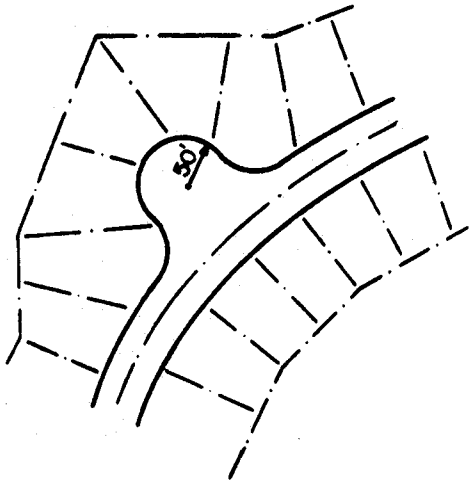
Eyebrow design and lotting arrangement for right angle turns.



GOOD

EYEBROW DESIGNS
for
RESIDENTIAL STREETS

Eyebrow design provides frontage for additional lots in deeper portions of a block.



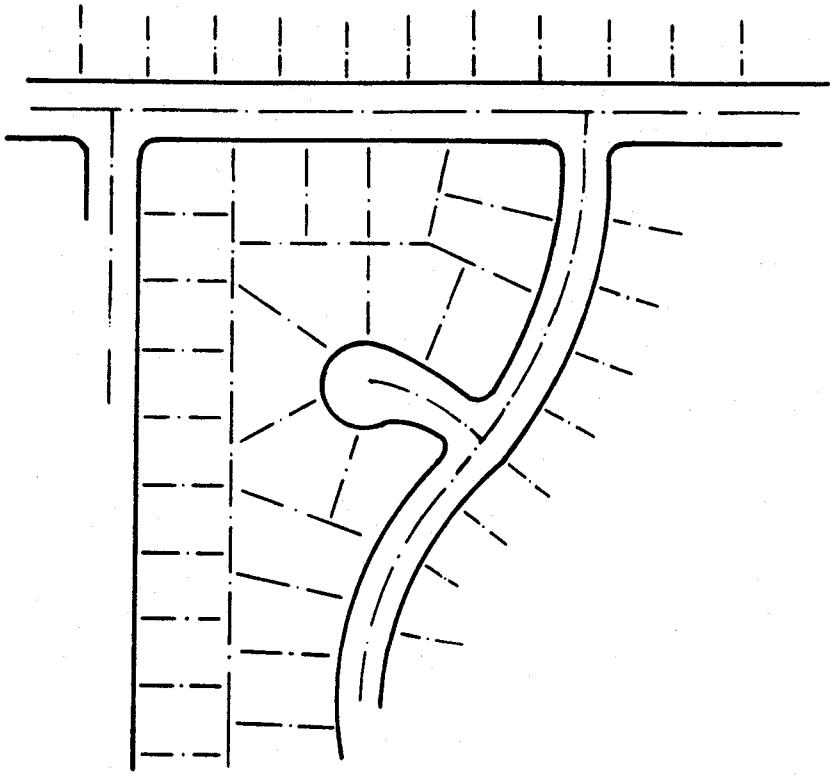
GOOD

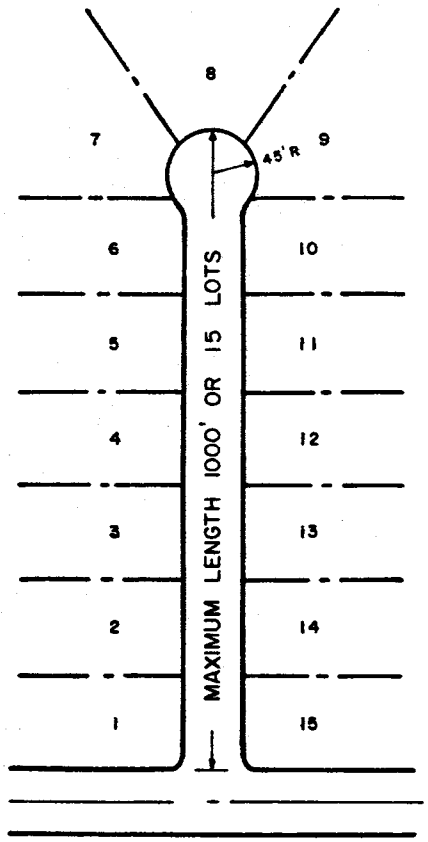
NOTE:

Eyebrow designs should not be used on collector or arterial streets.

PLATE 9

Culs-de-sac should be used to serve irregular areas of a tract that would otherwise be inaccessible. Culs-de-sac should not be used excessively nor as a primary design feature.





CULS - DE - SAC

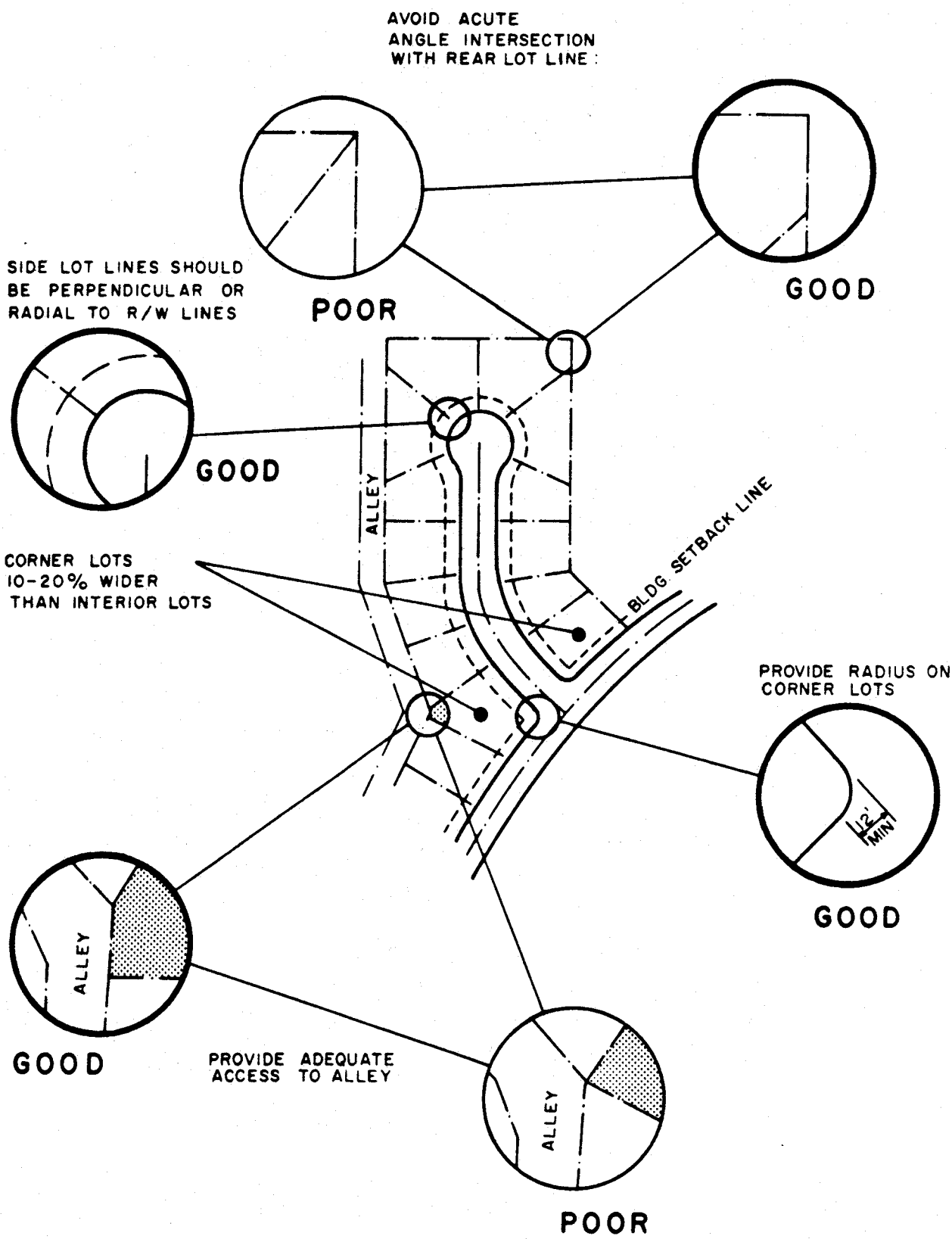
for

RESIDENTIAL STREETS

Culs-de-sac should preferably not be longer than 1,000 feet or provide frontage for more than 15 lots and should terminate in a turn-around at the closed end.

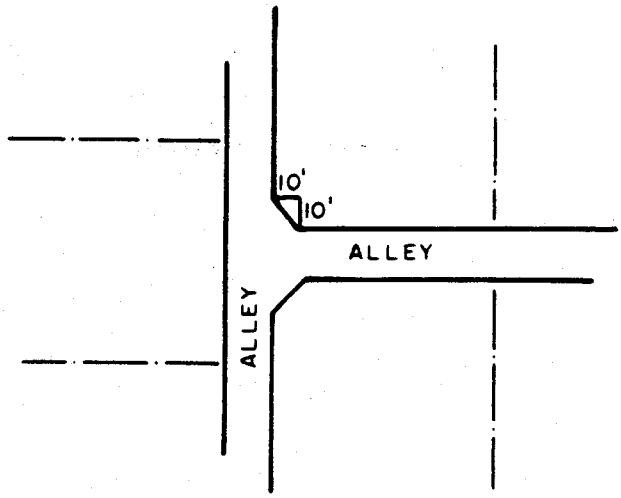
PLATE 10

As Revised and Adopted by the Board of Supervisors October 1, 1975



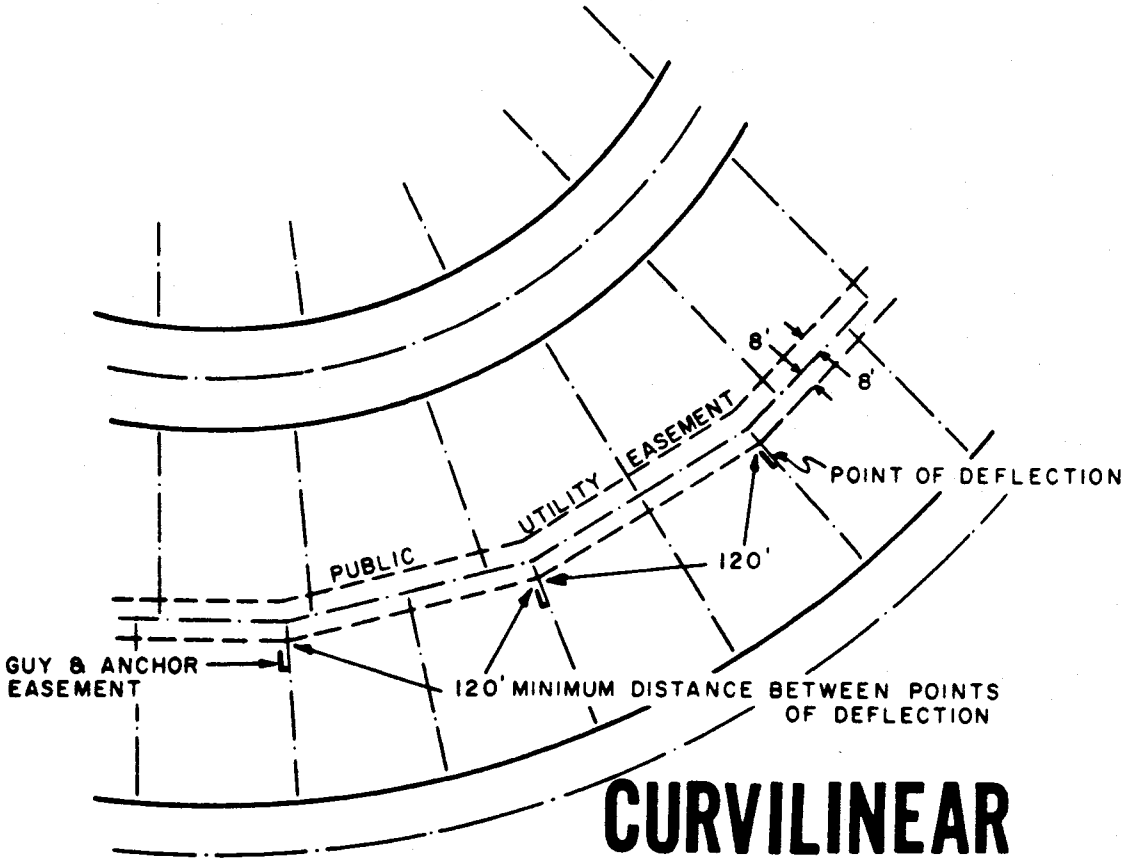
LOT DESIGN

PLATE 11



ALLEY INTERSECTIONS

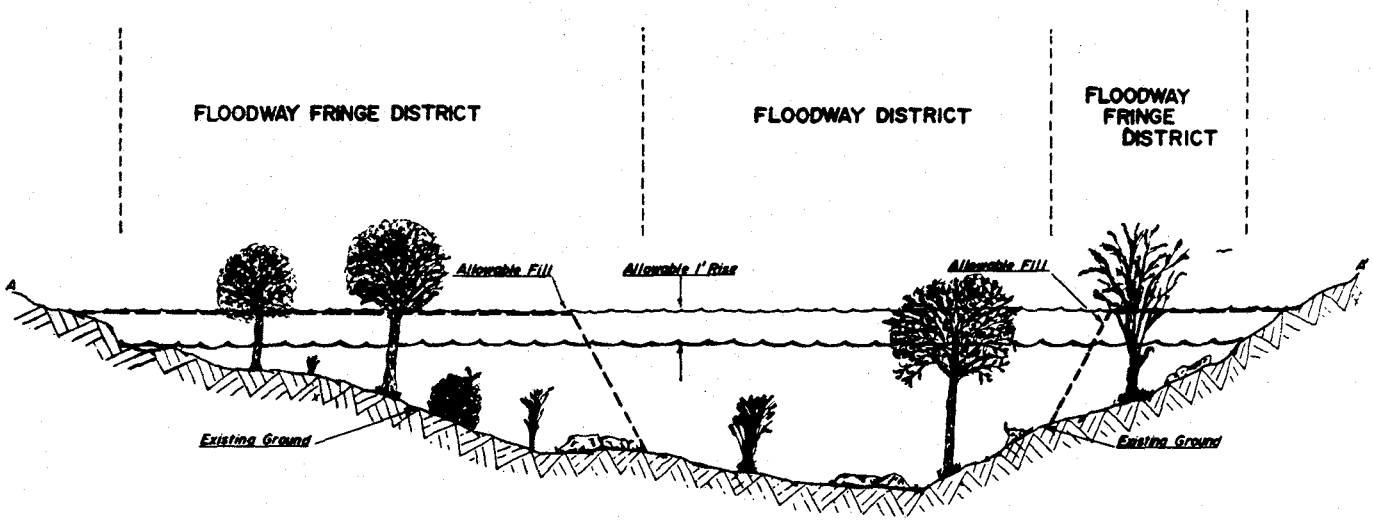
PLATE 12



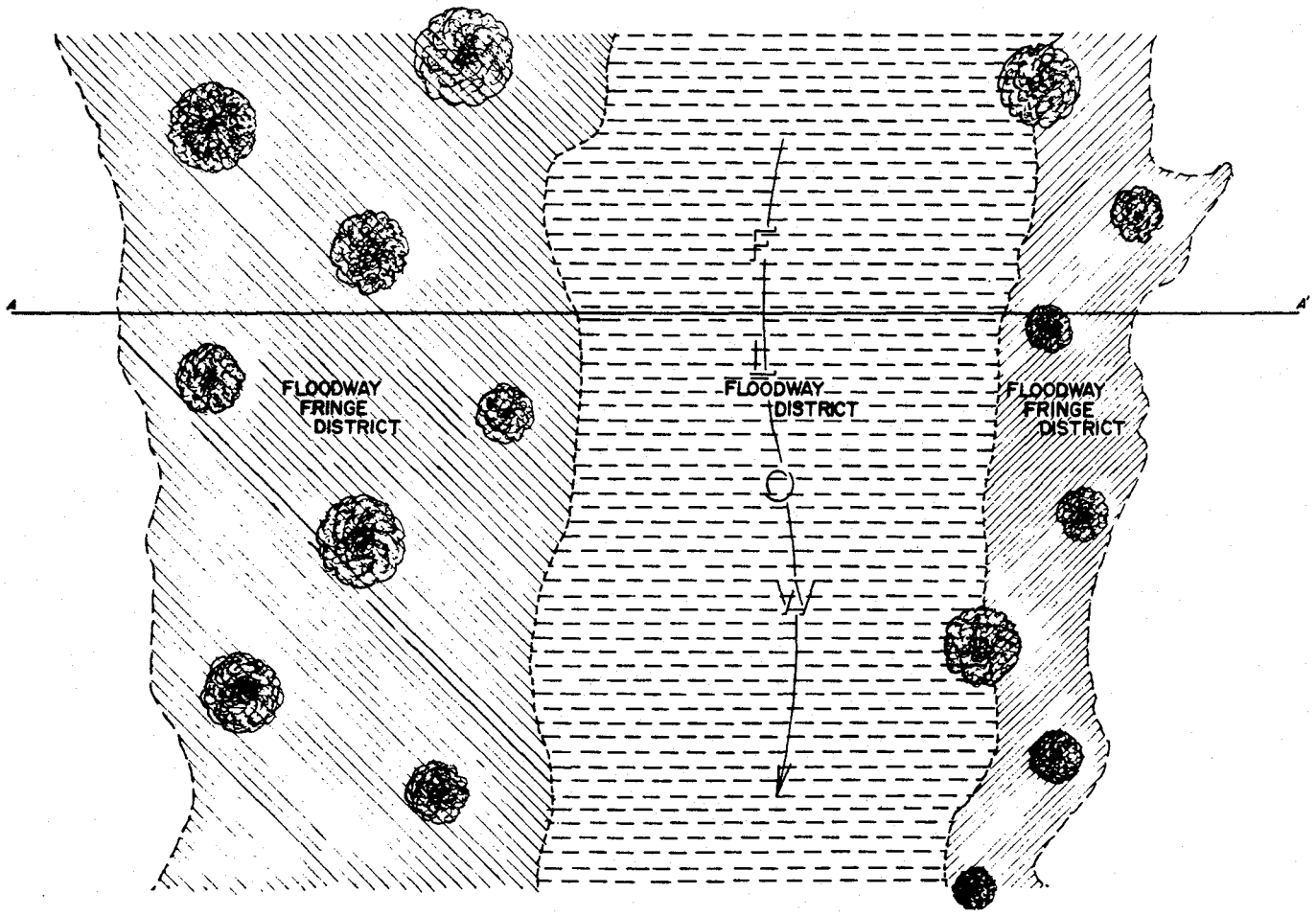
CURVILINEAR LOT AND EASEMENT PLANNING

PLATE 13

TWO-DISTRICT FLOODPLAIN REGULATION



ELEVATION



PLAN

PRELIMINARY PLAT APPLICATION

MARICOPA COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

NAME AND UNIT NUMBER OF PLAT _____

General Location _____

_____ (subdivider's name) _____ (address) _____ (phone)

_____ (owner's name) _____ (address) _____ (phone)

_____ (engineer's name) _____ (address) _____ (phone)

CERTIFICATION OF SUBMITTAL TO CITIES WITHIN THREE MILES OF PLAT

Preliminary plat submitted to _____ (name of city or cities)

_____ (date submitted) _____ (attested to by subdivider or his representative)

PROPOSED STREET AND UTILITY IMPROVEMENTS:

Type and extent of street improvements _____

Method of sewage disposal _____

Sources of domestic water supply _____

Type and extent of other improvements (drainage-ways, etc.) _____

SUBDIVISION STATISTICS

Proposed Land Use	Net Acreage	Number Of Lots	Number Of Tracts	Average Lot Size(Sq.Ft.)	Minimum Lot Area (Sq.Ft.)
Single-family					
Multi-family					
Mobile Home Lots					
Commercial					
Industrial					
Other (specify)					

Net area in streets and alleys . . . . . _____

Gross area of plat . . . . . _____

Existing zoning of property _____ Proposed zoning _____

Change of zoning requested _____ Zoning Case No. Z _____

OTHER REMARKS _____

_____

For Departmental Use Only: File No. S _____

Preliminary Plat Filing Fee $ _____ Receipt No. _____ Date _____

FINAL PLAT APPLICATION

MARICOPA COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT

To be completed by the applicant

Name and Unit Number of Plat _____

General Location _____

(subdivider's name)	(address)	(phone)
(owner's name)	(address)	(phone)
(engineer's name)	(address)	(phone)

CERTIFICATION OF SUBMITTAL TO CITIES WITHIN THREE MILES OF PLAT

Final plat submitted to _____
(name of city or cities)

_____ (date submitted) _____ (attested to by subdivider or his representative)

Land Use Category	Area (acres)	No. of Lots or Tracts	Zoning Classification
Single-family			
Two-family			
Multi-family			
Commercial			
Parks and Playgrounds			
Light Industry			
Heavy Industry			
Public and Semi-public			
Streets			
Alleys			
Other			
TOTALS			

Average lot width ..... _____

Average lot area (sq. ft.) ..... _____

Lineal feet of streets ..... _____

Lineal feet of alleys ..... _____

OTHER REMARKS _____

For Department use only

Location: Section _____, Township _____, Range _____. Census Division _____

Final plat filing fee $ _____ Receipt No. _____ Date _____

Recording fee $ _____ Receipt No. _____ Date _____

Deed Restrictions, etc. $ _____ Receipt No. _____ Date _____

MARICOPA COUNTY
DEPARTMENT OF PLANNING AND DEVELOPMENT
111 So. 3rd AVENUE, ROOM 300, PHOENIX, ARIZONA 85003

APPLICATION FOR DEVELOPMENT MASTER PLAN

TO MARICOPA COUNTY BOARD OF SUPERVISORS
PHOENIX, ARIZONA

I hereby request approval of a Development Master Plan for the property described below:

NEW _____ ADDENDUM _____ AMENDMENT _____ ADMINISTRATIVE AMENDMENT _____

DEVELOPMENT MASTER PLAN NAME: _____

NAME AND ADDRESS OF APPLICANT: _____

_____

_____

NAME AND ADDRESS OF OWNER: _____

_____

_____

GENERAL LOCATION AND SIZE: _____

_____

LEGAL DESCRIPTION OF PROPERTY: _____

_____

_____

_____

_____

_____ _____
(Signature Of Applicant) (Date)

CASE NUMBER _____

FEE _____

Advance Planning
February 1990

4. Transmit all of its recommendations, decisions, findings, reports and official actions, regardless of vote, to the board of supervisors.

B. A majority of the commission shall constitute a quorum for the transaction of business and a majority vote of the quorum shall be required for any official action.

Amended by Laws 1982, Ch. 120, § 1.

§ 11-806. Powers and duties; comprehensive plan

A. The commission shall act in an advisory capacity to the board and may from time to time, and shall, when requested by the board, make a report or recommendation in connection with any matter relating to the development of the county under the jurisdiction of the board. The commission shall make such investigations, maps, reports and recommendations in connection therewith as seem desirable within the limits of the funds available.

B. The commission shall prepare and recommend to the board a comprehensive plan of the area of jurisdiction of the county for the purpose of bringing about coordinated physical development in accordance with the present and future needs of the county. The comprehensive plan shall be developed so as to conserve the natural resources of the county, to insure efficient expenditure of public funds, and to promote the health, safety, convenience, and general welfare of the public. Such comprehensive plan may include but not be limited to, among other things, studies and recommendations relative to the location, character and extent of highways, railroads, bus and other transportation routes, bicycle facilities, bridges, public buildings, schools, parks, parkways, hiking and riding trails, airports, forests, wildlife areas, dams, projects affecting conservation of natural resources, air quality and floodplain zoning. Such comprehensive plan shall be a public record, but its purpose and effect shall be primarily as an aid to the county planning and zoning commission in the performance of its duties.

C. The board shall adopt a comprehensive plan in whole or in part and subsequently amend or extend the adopted plan or portion thereof. Before the adoption, amendment, or extension of the plan or portion thereof, the board shall hold at least one public hearing thereon.

D. The adoption of the plan, or any part thereof, shall be by resolution carried by not less than a majority vote of the full membership of the board.

E. The commission may also confer from time to time with governing bodies and planning commissions of cities and towns in the county for the purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the county and of zoning districts and of public improvements and utilities which do not begin and terminate within the boundaries of any single city or town, and which will, in accordance with the present and future needs of the county, best promote with efficiency and economy the health, safety, morals, order, convenience, or general welfare of the public.

Amended by Laws 1987, Ch. 365, § 4.

Cross References

Construction of new airports, restrictions, see § 28-106.01.

Law Review Commentaries

Nonproportional representation, middle-ground approach. 19 Ariz.L.Rev. 544 (1977).

§ 11-806.01. Subdivision regulation; platting rules; violation; classification; easement vesting

A. The county board of supervisors shall regulate the subdivision of all lands within its corporate limits, except subdivisions which are regulated by municipalities.

B. No plat of a subdivision of land within the area of jurisdiction of such county shall be accepted for recording or recorded until it has been approved by the board. The approval of the board shall be endorsed in writing on the plat and shall also include specific identification and approval of the assurances except those for hiking and equestrian trails required by this section. Where a county planning and zoning commission exists, the plat shall first have been referred to such commission for its consideration

and the board shall have received the recommendation of the commission. If the subdivision is within a groundwater active management area, as defined in § 45-402, the plat shall not be approved unless accompanied by a certificate of assured water supply issued by the director of water resources, unless the subdivision is located within an area designated as having an assured water supply by the director of water resources pursuant to § 45-576, subsection D, E, G or I or is exempt from such requirement pursuant to § 45-576, subsection K. The board shall note on the face of the plat that a certificate of assured water supply has been submitted with the plat or that the proposed subdivision is within an area designated as having an assured water supply, pursuant to § 45-576, subsection D, E, G or I.

C. Any person causing a final plat to be recorded without first submitting the plat and obtaining approval of the board shall be guilty of a class 2 misdemeanor. No county recorder shall accept for recording or record any plat which has not been approved as provided by this article.

D. The ground of refusal or approval of any plat submitted, including citation of or reference to the rule or regulation violated by the plat, shall be stated upon the record of the board.

E. The commission shall recommend to the board and the board shall adopt general rules and regulations of uniform application governing plats and subdivisions of land within its area of jurisdiction. The regulations adopted shall secure and provide for the proper arrangement of streets or other highways in relation to existing or planned streets, highways or bicycle facilities or to the official map for adequate and convenient open spaces for traffic, utilities, drainage, access of fire fighting apparatus, recreation, light and air. The board may adopt general rules and regulations to provide for the proper arrangement of hiking and equestrian trails in relation to existing or planned streets or highways, and if adopted, such hiking and equestrian trails shall conform to the official map for adequate and convenient open spaces for traffic, utilities, drainage, access of fire fighting apparatus, recreation, light and air. The general rules and regulations may provide for modification by the commission in planned area development or specific cases where unusual topographical or other exceptional conditions may require such action. The regulations shall include provisions as to the extent to which streets and other highways shall be graded and improved and to which water, sewer or other utility mains, piping or other facilities shall be installed or provided for on the plat as a condition precedent to the approval of the final plat.

F. On recording of a plat, the fee of the streets, alleys, avenues, highways, easements, parks and other parcels of ground reserved to the use of the public vests in trust in the county for the uses and to the extent depicted on the plat including, but not limited to, ingress and egress easements depicted on such plat. On annexation by any city or town such fee automatically vests in the city or town.

G. Boards of supervisors of counties shall prepare specifications and make orders, inspections, examinations and certificates as may be necessary to protect and complete the provisions and make them effective. The regulations shall require the posting of performance bonds, assurances or such other security as may be appropriate and necessary to assure the installation of required street, sewer, electric and water utilities, drainage, flood control and improvements meeting established minimum standards of design and construction.

H. Before adoption of rules and regulations by the board or any amendment thereof as provided in this article, a public hearing shall be held by the commission. A copy of the rules and regulations shall be certified by the commission to the county board of supervisors which shall hold a public hearing after notice of the time and place has been given by one publication fifteen days prior to the public hearing in a newspaper of general circulation in the county.

I. Approval of a plat shall not be deemed to constitute or effect an acceptance by the county for designation of any street, highway, bicycle facility or other way or open space shown upon the plat into the county maintenance system except for hiking and equestrian trails which shall be constructed and maintained by the county. However, at such time as

the streets, highways, bicycle facilities or other ways are fully completed in accordance with the approved plat and written specifications made by the county board, the county shall accept such streets, highways, bicycle facilities and other ways into the county maintenance system within one year of completion.

Amended by Laws 1978, Ch. 201, § 72, eff. Oct. 1, 1978; Laws 1980, 4th S.S., Ch. 1, § 4, eff. June 12, 1980; Laws 1981, Ch. 192, § 2, eff. April 22, 1981; Laws 1982, Ch. 191, § 2, eff. April 22, 1982; Laws 1984, Ch. 103, § 2; Laws 1986, Ch. 264, § 1; Laws 1987, Ch. 365, § 5.

Historical Note

For application of Laws 1978, Ch. 201, effective October 1, 1978, see note following § 1-215.

For effective date provision of Laws 1978, Ch. 201, see note following § 1-215.

For impairment of obligations and nonseverability provisions of Laws 1980, 4th S.S., Ch. 1, effective June 12, 1980, see notes preceding § 45-401.

For legislative intent regarding termination of provisions added or amended by Laws 1981, Ch. 192, see note following § 9-463.01.

For provision of Laws 1981, Ch. 203 relating to exemption to the requirement of a certificate of assured water supply for subdivided or unsubdivided lands, see note following § 45-108.

For legislative intent regarding termination of provisions added or amended by Laws 1982, Ch. 191, see note following § 9-463.01.

Cross References

Classification of offenses, see § 13-601 et seq.

Restitution and fines, see § 13-801 et seq.

Sentences of imprisonment, see § 13-701 et seq.

Law Review Commentaries

Arizona Real Estate Sales Act: A developer's view. 13 Ariz.Bar J. No. 1, 42 (1977).

City planning, Swedish techniques. 21 Ariz.L. Rev. 795 (1979).

Groundwater rights in Arizona. 21 Ariz.Bar J. No. 4, p. 8 (1986).

1980 Arizona groundwater management code. Ariz.State L.J. 3, 1980, p. 621.

Nonproportional representation, middle-ground approach. 19 Ariz.L.Rev. 544 (1977).

Notes of Decisions

Roads and streets 5

5. Roads and streets

Subcontractor was not required to file lien in order to recover for its services in improving streets under bond, where applicable ordinance provided that bond could not be released until all claims made by laborers and materialmen were paid and thus, practical effect of bond and ordinance was to guaranty payment to subcontractor after improvements had been accepted by county. Tanner Companies v. Insurance Marketing Services, Inc. (App.1987) 154 Ariz. 442, 743 P.2d 951.

County is not required to improve public roads but may choose to preserve them. Op.Atty.Gen. No. I85-113.

County has authority to expend public funds to maintain public roads in unincorporated subdivision when such roads have never been constructed in compliance with county's road construction standards but were platted, recorded, laid out, opened, usable, and used by public prior to 1971. Op.Atty.Gen. No. I85-113.

Whether subdivision qualifies as unincorporated town is irrelevant to whether county must maintain subdivision roads. Op.Atty.Gen. No. I85-113.

§ 11-806.02. Subdivision reservation for public facilities and services; conditions; procedures; time limitation

A. A board of supervisors may require by ordinance that land areas within a subdivision be reserved for parks, recreational facilities, school sites and fire stations subject to the following conditions:

1. The requirement may only be made on preliminary plats filed at least thirty days after the adoption of a comprehensive plan or amendment of the plan affecting the land area to be reserved.

2. The required reservations are in accordance with definite principles and standards adopted by the board or commission.

3. The land area reserved is of such a size and shape as to permit the remainder of the land area of the subdivision within which the reservation is located to develop in an orderly and efficient manner.

4. The land area reserved is in such multiples of streets and parcels as to permit an efficient division of the reserved area if it is not acquired within the prescribed period.

B. The public agency for whose benefit an area has been reserved has one year after recording the final subdivision plat to enter into an agreement to acquire the reserved land area. The purchase price is the fair market value of the land at the time of the filing of the preliminary subdivision plat plus the taxes against the reserved area from the date of the reservation and any other costs incurred by the subdivider in the maintenance of the reserved area, including interest cost incurred on any loan covering the reserved area.

C. If the public agency for whose benefit an area has been reserved does not exercise the reservation agreement within the one year period or an extended period mutually agreed on by the public agency and the subdivider, the reservation of the area terminates.

Added by Laws 1988, Ch. 230, § 1.

§ 11-807. Boards of adjustment; powers; appeals

Law Review Commentaries

City planning, Swedish techniques. 21 Ariz.L. Rev. 795 (1979).

Notes of Decisions

Parties 1.5
Term of membership 4
Timeliness of appeal 2.5

1. In general

Where §§ 11-807 and 11-808 were enacted together, court of appeals would assume that legislature intended different consequences to flow from use of different language in the sections, and could not import synonymity contrary to plain meaning of the sections unless content of the statute permitted no other conclusion. P.F. West, Inc. v. Superior Court of State of Ariz., In and For Pima County (App.1984) 139 Ariz. 31, 676 P.2d 665.

Where a board is specifically empowered to act by legislature, board should act before recourse is had to courts. Minor v. Cochise County (1980) 125 Ariz. 170, 608 P.2d 309.

1.5. Parties

Appeals to a board of adjustment may be maintained by any person who feels there is an error or doubt in the interpretation of a zoning ordinance without any requirement that such person make a showing of special damage. P.F. West, Inc. v. Superior Court of State of Ariz., In and For Pima County (App.1984) 139 Ariz. 31, 676 P.2d 665.

2. Judicial review

Parties objecting to county planning department's approval of use permit for operation of industrial chemical manufacturing plant on railroad right-of-way were required to test the permit by appealing to county board of adjustment before filing special action. Minor v. Cochise County (1980) 125 Ariz. 170, 608 P.2d 309.

Parties were not exempted from appealing county planning department's approval of use permit for chemical manufacturing plant to county board of adjustment by fact that primary issue involved statutory construction and resolution of a legal issue, where county board of adjustment had been specifically given the right to interpret county zoning ordinances. Id.

2.5. Timeliness of appeal

Where last day for appellant to file his appeal from decision of county board of adjustment was a Saturday, appeal filed the following Monday was not untimely. Upton v. Cochise County Bd. of Adjustment, Dist. 1 (App.1979) 121 Ariz. 238, 589 P.2d 481.

4. Term of membership

This section sets the term of membership on county board of adjustment at four years and, accordingly, the term is set by law and a member may be removed before the term expires only for cause. Op.Atty.Gen. No. I86-059.

§ 11-808. Enforcement; county zoning inspector; deputies; building permits; violations; classification; civil penalties; hearing officers and procedures

A. The county zoning ordinance shall provide for its enforcement within a zoned territory by means of withholding building permits, and for such purposes may establish the position of county zoning inspector, and such deputy inspectors as may be required, who shall be appointed by the board.

B. From and after the establishment and filling of the position, it shall be unlawful to erect, construct, reconstruct, alter or use any building or other structure within a zoning district covered by the ordinance without first obtaining a building permit from the inspector and for that purpose the applicant shall provide the zoning inspector with a sketch of the proposed construction containing sufficient information for the enforcement of the zoning ordinance. No permit shall be required for repairs or improvements of a value not exceeding five hundred dollars. Reasonable fees may be charged for the

25. Valuation of property—In general

Even if there had been some personal property located on land annexed and some of that property did not appear on county assessment rolls, municipality did not violate provision of this section requiring that petitions for annexation be signed by owners of not less than one-half in value of real or personal property shown by last assessment, since municipality was not required to do independent assessment and municipality used latest assessment rolls in making its computation. Glick v. Town of Gilbert (App.1979) 123 Ariz. 395, 599 P.2d 848.

Under provision of this section requiring that petition for annexation be signed by owners of not less than one-half in value of real and personal property shown by last assessment, entire value of every parcel of property involved in annexation should not be used in computing base for 50% owner consent, where only strips of land of opponents of annexation were annexed. Id.

In annexation proceedings, officials did not err in looking to assessor's rolls to determine assessed valuation of property to be annexed, rather than requesting assessor's office itself to furnish that assessment. Id.

31.5. —— Publication, ordinances

Publication of annexation ordinance three times rather than the four times required by § 39–204 was not question which could be raised to invalidate the ordinance by taxpayers owning and residing on property located within boundaries of area claimed to have been annexed. Kempton v. City of Safford (App.1984) 140 Ariz. 539, 683 P.2d 338.

33.5. —— Subdivision ordinances

Subdivision ordinances apply to lots on prior recorded maps which are unsold at time of ordinance's enactment. Dawe v. City of Scottsdale (1978) 119 Ariz. 486, 581 P.2d 1136.

37.5. Rescission of annexation

Rescission of annexation ordinances by city and town prior to their having become final avoided statutory effect of withdrawing the territory in question from annexation and, hence, such territory, otherwise contiguous to city, could be proper subject of subsequent annexation ordinance passed by city. Kempton v. City of Safford (App.1984) 140 Ariz. 539, 683 P.2d 338.

42. Review

Court of Appeals would not consider constitutional questions, not raised in trial court, concerning strip annexation, on ground of general public importance. Glick v. Town of Gilbert (App.1979) 123 Ariz. 395, 599 P.2d 848.

§ 9–474. Subdivision plats; projection of street and alley lines; approval; survey

A. When the owner of land, the whole or part of which is in an unincorporated area within three miles from the corporate limits of a city or town having an ordinance establishing minimum subdivision standards and controls, desires to subdivide the land into lots for the purpose of selling it by reference to a map or plat, he shall first give written notice to the city or town of his intention to subdivide the land, naming and describing the land so that it may be identified upon the ground, and shall submit to the city or town a tentative plat of the land showing the manner in which he desires to subdivide the land.

B. If the city or town desires that the streets or alleys of the tract conform with the projected streets or alleys of the city or town, or of an adopted plan of the city or town, then the city or town may, at its cost, project the lines of its streets and alleys to the nearest outer boundary lines of the subdivision and thereon mark the same, and shall supply the owner with the courses of the lines.

C. The city or town may also submit to the owner a written report recommending changes in the submitted plat of the location or dimension of streets, alleys, parks, easement for rights-of-way or property intended to be devoted to the use of the public. One copy of the report shall be delivered to the board of supervisors of the county.

D. If the report is given to the owner or the lines are so marked and the courses given the owner within thirty days from the date of service of notice of intention to the city or town, then the owner shall cause the land to be subdivided into blocks, lots, streets, alleys, parks and parkways, so as to accurately conform to the report and the projected lines and the courses thereof, and shall prepare in duplicate an accurate map or plat thereof on cloth, drawn and attested by a registered civil engineer or registered land surveyor from his survey of the ground. The engineer or registered land surveyor shall, in making the surveys, leave sufficient permanent monuments so that another surveyor or engineer may retrace his work. The nature and location of the monuments shall be plainly shown on the plat.

E. The plat shall particularly set forth and describe:

1. Parcels of ground within the tract or subdivision to be used for public purposes or offered for dedication for public uses, and their dimensions, boundaries and courses.

2. Either by number or letter, lots intended for sale, or reserved for private use, and their dimensions, boundaries and courses.

3. The location of the subdivision into lots with reference to adjacent subdivisions, the maps or plats of which have been previously recorded, or if none, then with reference to corners of a United States survey, or if on land unsurveyed by the United States, then to some prominent artificial monument established for such purpose.

Amended by Laws 1984, Ch. 270, § 1.

§ 9–476. Amendments to plat

If on the hearing it is determined by the board that corrections, additions or amendments in any respect shall be made to the plat or map then a plat or map shall be prepared by the owner in accordance with the amendments, corrections or additions, and the consent of the owner and the board shall be endorsed thereon and filed with the county recorder.

Amended by Laws 1984, Ch. 270, § 2.

§ 9–477. Subdivision name; limitation; title to streets

Notes of Decisions

Restrictions and reservations 3

3. Restrictions and reservations

Dedicator may impose such restrictions and reservations as he sees fit when dedicating his property for public use provided that restriction or reservation be neither repugnant to dedication nor contrary to public policy. City of Sierra Vista v. Cochise Enterprises, Inc. (App.1985) 144 Ariz. 375, 697 P.2d 1125.

§ 9–479. Conveyance by reference to plat; restriction; violation; classification

A. No property shall be sold or described in a conveyance or other instrument by reference to any map or plat of a subdivision comprehended within the provisions of this article unless the map or plat has been prepared and filed under the provisions of this article.

B. Every person who sells or offers for sale a lot or parcel of land by reference to a map or plat not prepared in accordance with the provisions of this article is guilty of a class 2 misdemeanor, and every sale or offer of sale of such lot or parcel of land constitutes a separate offense.

Amended by Laws 1978, Ch. 201, § 56, eff. Oct. 1, 1978.

Historical Note

For application of Laws 1978, Ch. 201, effective October 1, 1978, see note following § 1–215.

For effective date provision of Laws 1978, Ch. 201, see note following § 1–215.

Cross References

Classification of offenses, see § 13–601 et seq.

Restitution and fines, see § 13–801 et seq.

Sentences of imprisonment, see § 13–701 et seq.

ARTICLE 7.1. AUDIT PROVISIONS

§ 9–481. Audits of cities and towns

Cross References

Annual audit, attesting to expenditure limitation reports and financial statements, see § 41–1279.07.

their nature but enjoyment of which is restricted to limited part of public. City of Scottsdale v. Mocho (1968) 8 Ariz.App. 146, 444 P.2d 437.

In either dedication by plat or common law dedication, use contemplated of land must be use by general public, and not for a limited class thereof, and proof of express or implied intent by platter to dedicate portion of plat for proper public purpose must be clear, satisfactory and unequivocal. Id.

Owner's testimony as to what was his intention at time of alleged dedication of property to public use is competent and relevant, but not conclusive. Id.

7. —— Tax payments, dedication

Generally, payment of taxes and other assessments is relevant in determining whether there has been a dedication, but, if there has been a dedication, payment of taxes on property does not prevent municipality from accepting the dedication. City of Scottsdale v. Mocho (1968) 8 Ariz.App. 146, 444 P.2d 437.

8. —— Parking lots, dedication

Use of a tract in commercial subdivision for a parking lot was not proper public use and did not constitute dedication of tract to general public for parking purposes. City of Scottsdale v. Mocho (1968) 8 Ariz.App. 146, 444 P.2d 437.

Recording of plat approved for use as commercial subdivision with words inscribed on certain tract within plat. "Reserved for Parking Area" did not constitute a dedication of tract to general public for parking purposes, either by statutory dedication by plat or by common law dedication, in absence of showing that alleged dedication was for general public purpose as distinguished from use by specific class of public for limited purpose. Id.

9. —— Burden of proof, dedication

Burden of proof to establish dedication is on party asserting it. City of Scottsdale v. Mocho (1968) 8 Ariz.App. 146, 444 P.2d 437.

To rebut inference that statement on plat that certain tract was "Reserved for Parking Area" created a dedication of tract to general public, party claiming ownership of tract could show acts inconsistent with intent to dedicate. Id.

10. Standards

County could not establish standards for right-of-way widths, grade, and design as prerequisite to extending maintenance of public roads and streets located outside incorporated cities and towns. Op.Atty.Gen.No.61-59.

§ 9-475. Filing of map; hearing; approval; recording

A. One copy of the plat or map shall be filed with the city or town and the other copy with the board of supervisors of the county in which the subdivision is situated, to which shall be attached the petition of the owner praying for the approval of the plat or map.

B. The board of supervisors shall set the petition for hearing not less than fifteen and not more than thirty days from the date of the filing of the plat or map and petition with the board, and shall cause written notice thereof to be given to the governing body of the city or town. The city or town may appear at the hearing and show cause why the petition should not be granted. Upon the hearing, if it appears to the board that the plat or map reasonably conforms to legal requirements it shall approve and endorse the approval upon the plat or map and transmit it to the county recorder of the county for filing.

Historical Note

Source:

§ 2, Ch. 79, L. '25; § 424, R.C. '28; 16-709, C. '39.

Law Review Commentaries

Private land use, public regulation. Milton R. Schroeder, Law & Soc. Order, 1973, p. 747.

Library References

Municipal Corporations ⟹43. C.J.S. Municipal Corporations §§ 83, 84.

Notes of Decisions

I. In general

Plat which was found to conform to all legal requirements when it was submitted to county board should have been approved by board and transmitted to recorder for filing, and board could not hold its approval in abeyance until after it had passed upon rezoning of area and then deny approval for reason that plat did not conform to new zoning. Maricopa County v. Anzwool, Inc. (1973) 19 Ariz.App. 242, 506 P.2d 282.

§ 9-476. Amendments to plat; nonacceptance by owner; projection expenses

If on the hearing it is determined by the board that corrections, additions or amendments in any respect shall be made to the plat or map then a plat or map shall be prepared by the owner in accordance with the amendments, corrections or additions, and the consent of the owner and the board shall be endorsed thereon and filed with the county recorder. If the owner declines to accept the amendments, additions or corrections he shall pay to the city or town the actual engineering expenses incurred in the preparation of the projections.

Historical Note

Source:

§ 3, Ch. 79, L. '25; § 425, R.C. '28; 16-710, C. '39.

Library References

Municipal Corporations ⟹43. C.J.S. Municipal Corporations §§ 83, 84.

§ 9-477. Subdivision name; limitation; title to streets

A. Upon the plat or map shall be endorsed a name, title or designation of the subdivision and the acknowledgment by the owner or some person for him duly authorized thereunto by deed.

B. No title, name or designation shall be given that is the same as that of a subdivision in a city or town in the same county of which a plat or map has been recorded.

C. Upon the filing of the plat or map, the fee of all streets, alleys, parks and other parcels of ground reserved therein to the use of the public, shall vest in the public.

in connection with licensed, in-state broker was intended to recognize interstate character of Arizona real property transactions, and sections governing actions for collection of such compensation and allowing licensed broker to pay compensation to broker of another state should not be construed to thwart that recognition. Adams Realty Corp. v. Realty Center Investments, Inc. (App.1986) 719 P.2d 291.

ARTICLE 4. SALE OF SUBDIVIDED LANDS

For termination under Sunset Law, see italic note preceding § 32-2101.

Cross References

Property transaction instruments, preparation by licensed real estate brokers and salesmen, see Const. Art. 26, § 1.

Rescission of contract or agreement to purchase or lease a time-share interval, see § 32-2197.02.

Law Review Commentaries

Arizona Real Estate Sales Act: A developer's view. 13 Ariz.Bar J. 42 (June 1977).

Public regulation of private land use. Milton R. Schroeder, Ariz. State L.J. 163 (1974).

Subdivided land sales, appraisal of disclosure regulation. Ariz. State L.J. 3, 1980, p. 705.

§ 32-2181. Notice to commissioner of intention to subdivide lands; fractional interests; exceptions; deed restrictions

A. Before offering subdivided lands for sale or lease, the owner, agent or subdivider shall notify the commissioner in writing of his intention. The notice shall contain:

1. Name and address of owner. If the holder of any ownership interest in the land is other than an individual, such as a corporation, partnership or trust, a statement naming the type of legal entity and listing the interest and the extent of such interest of each principal in the entity. For the purposes of this section, "principal" means any person or entity having a ten per cent or more financial interest or, if the legal entity is a trust, each beneficiary of the trust holding a ten per cent or more beneficial interest.

2. Name and address of subdivider.

3. Legal description and area of land.

4. A true statement of the condition of the title to the land, including all encumbrances thereon.

5. The terms and conditions on which it is intended to dispose of the land, together with copies of any real estate sales contract, conveyance, lease, assignment or other instrument intended to be used, and such other information the owner, his agent or subdivider desires to present.

6. A map of the subdivision which has been filed in the office of the county recorder in the county in which the subdivision is located.

7. A brief but comprehensive statement describing the land on and the locality in which the subdivision is located.

8. A statement of the provisions that have been made for permanent access and provisions, if any, for health department approved sewage and solid waste collection and disposal and public utilities in the proposed subdivision, including water, electricity, gas and telephone facilities.

9. A statement as to the location of the nearest public common and high schools available for the attendance of school age pupils residing on the subdivision property.

10. A statement of the use or uses for which the proposed subdivision will be offered.

11. A statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision, together with copies of any restrictive covenants affecting all or part of the subdivision.

12. The name and business address of the principal broker selling or leasing, within this state, lots or parcels in the subdivision.

13. A true statement of the approximate amount of indebtedness which is a lien on the subdivision or any part thereof and which was incurred to pay for the construction of any on-site or off-site improvement, or any community or recreational facility.

14. A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area or assessment district, within the boundaries of which, the subdivision, or any part thereof is located, and which is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to such subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision or any part thereof.

15. A true statement as to the approximate amount of annual taxes, special assessments or fees to be paid by the buyer for the proposed annual maintenance of common facilities in the subdivision.

16. A statement of the provisions for easements for permanent access for irrigation water where applicable.

17. A true statement of assurances for the installation of off-site improvements, such as roads and utilities, and approval thereof by the political subdivision having such authority.

18. A true statement of provisions made for financing any community, recreational or other facilities to be included in the offering or represented as being in the offering. Such statement shall include a trust agreement or other evidence of assurances for delivery of such facilities and a statement of the provisions, if any, for the continued maintenance of such facilities.

19. A true statement of the nature of any improvements to be installed by the developer, the estimated schedule for completion and the estimated costs related to such improvements which will be borne by purchasers of lots in the subdivision.

20. A true statement of the availability of sewage disposal facilities and other public utilities including water, electricity, gas and telephone facilities in the subdivision, the estimated schedule for their installation, and the estimated costs related to such facilities and utilities which will be borne by purchasers of lots in the subdivision.

21. A true statement as to whether all or any portion of the subdivision is located in an open range or area in which livestock may roam at large under the laws of this state and what provisions, if any, have been made for the fencing of the subdivision to preclude livestock from roaming within the subdivided lands.

22. If the subdivider is a subsidiary corporation, a true statement identifying the parent corporation and any of the following in which the parent or any of its subsidiaries are or have been involved within the past five years:

(a) Any subdivision in this state.

(b) Any subdivision, wherever located, for which registration is required pursuant to the federal Interstate Land Sales Full Disclosure Act.[1]

(c) Any subdivision, wherever located, for which registration would have been required pursuant to the federal Interstate Land Sales Full Disclosure Act but for the exemption for subdivisions whose lots are all five acres or more in size.

23. A true statement identifying all other subdivisions, designated in paragraph 22, subdivisions (a), (b) and (c), in which any of the following are or, within the last five years, have been directly or indirectly involved:

(a) The holder of any ownership interest in the land.

(b) The subdivider.

(c) Any principal or officer in the holder or subdivider.

24. Such other information and such other documents and certifications as the commissioner may reasonably require.

B. The commissioner, upon application, may grant an owner, agent or subdivider of ten or less lots or parcels within a subdivision previously approved by the commissioner, an exemption from all or part of the notification requirements of subsection A of this section. Such owner, agent or subdivider shall file a statement with the commissioner indicating the change of ownership in such lots or parcels together with any material changes occurring subsequent to the original approval of the

subdivision within which such lots or parcels are located. Such statement shall further refer to the original approval by the commissioner.

C. If the subdivision is within a groundwater active management area, as defined in § 45–402, the owner, agent or subdivider shall accompany the notice with a certificate of assured water supply issued by the director of water resources, unless the subdivision is located within an area designated as having an assured water supply by the director of water resources pursuant to § 45–576, subsection D, E, G or I or is exempt from such requirement pursuant to § 45–576, subsection K. If the owner, agent or subdivider has submitted a certificate of assured water supply to a city, town or county prior to approval of the plat by the city, town or county and this has been noted on the face of the plat, such submission constitutes compliance with this subsection.

D. It shall be unlawful for a person or group of persons acting in concert to attempt to avoid the provisions of this article by acting in concert to divide a parcel of land by using a series of owners or conveyances or by any other method which ultimately results in the division of such lands into a subdivision. Such a plan or offering is subject to the provisions of this article.

E. A creation of four or more fractional interests in improved or unimproved land, lots or parcels of any size shall subject such land to the provisions of this article except when:

1. Each of the fractional interests represents, on a partition basis, thirty-six acres or more in area of land located in this state including to the center line of dedicated roads or easements, if any, contiguous to the land in which such interests are held.

2. The fractional interests are the result of a foreclosure sale, the exercise by a trustee under a deed of trust of a power of sale or the grant of a deed in lieu of foreclosure.

3. The fractional interests are created by a valid order or decree of a court or by operation of law.

4. The fractional interests consist of interests in any oil, gas or mineral lease, permit, claim or right therein and such interests are regulated as securities by the United States or by this state.

5. The fractional interests are registered as securities under the laws of the United States or the laws of this state or are exempt transactions under the provisions of § 44–1844, 44–1845 or 44–1846.

6. The commissioner by special order exempts offerings or dispositions of any fractional interests from compliance with the provisions of this article upon written petition and upon a showing satisfactory to the commissioner that compliance is not essential to the public interest or for the protection of buyers.

F. In areas outside of groundwater active management areas established pursuant to title 45, chapter 2, article 2,[2] if the director of water resources, pursuant to § 45–108, reports an inadequate on-site supply of water to meet the needs projected by the developer or if no water is available, the state real estate commissioner shall require that all promotional material and contracts for sale of lots in subdivisions approved by the commissioner adequately display the director of water resources' report or the developer's brief summary of the report as approved by the commissioner on the proposed water supply for the subdivision.

G. The commissioner may require any additional information which is reasonably necessary to determine the good moral character of anyone directly involved in subdividing land within the state. The information may include:

1. Prior criminal records.

2. Fingerprints and background information, pursuant to § 41–1750, subsection G. With respect to each person requiring a fingerprint and background investigation a fee shall be charged in an amount to be determined by the commissioner. For such purpose, the real estate department and the department of public safety may enter into an intergovernmental agreement pursuant to title 11, chapter 7, article 3.[3] Such fees shall be credited pursuant to § 35–148.

3. An affidavit setting out whether the applicant, any holder of an ownership interest or any principal of such holder has participated in, operated or held an interest in any land development company which has filed, or is subject to, a petition under any chapter of the federal Bankruptcy Act,[4] or the names of any persons who have been indicted for fraud or against whom an information for fraud has been filed.

H. The commissioner may require the owner, agent or subdivider to supplement the notice of intention to subdivide lands and may require the filing of periodic reports to update the information contained in the original notice of intention to subdivide lands.

I. The commissioner may adopt rules and regulations authorizing the owner, agent or subdivider to file as the notice of intention to subdivide lands, in lieu of some or all of the requirements of subsection A of this section, a copy of the statement of record filed with respect to the subdivision pursuant to the federal interstate land sales full disclosure act provided that the statement complies with the requirements of such act and the regulations pertinent thereto.

J. Cemeteries once formed and approved pursuant to this chapter shall be exempt from the requirements of this section upon further subdivision or development if such further subdivision or development is not inconsistent with the original notice filed pursuant to this section and the original report prepared pursuant to § 32–2183.

K. Neither a real estate sales contract, conveyance, lease, assignment or other instrument to transfer any interest in subdivided land nor any covenant or restriction affecting real property shall contain any provision limiting the right of any party to appear or testify in support of or opposition to zoning changes, building permits or any other official acts affecting real property before a governmental body or official considering zoning changes, building permits or any other official acts affecting real property, whether such property is located within or outside of the boundaries of the subdivision. All contractual provisions which conflict with this subsection are declared to be contrary to public policy. Nothing contained in this subsection shall prohibit private restrictions on the use of any real property.

L. Before offering subdivided lands for lease or sale an owner, agent or subdivider who makes any promises through any form of advertising media that the subdivided lands will be exclusively a retirement community or one which is limited to the residency of adults or senior citizens shall include such promises as deed restrictions in all deeds or other instruments affecting any interest in real property within such subdivided lands.

Amended by Laws 1972, Ch. 110, § 30; Laws 1973, Ch. 94, § 2; Laws 1973, Ch. 129, § 2; Laws 1975, Ch. 151, § 20, eff. June 13, 1975; Laws 1976, Ch. 106, § 3, eff. Sept. 23, 1976; Laws 1976, Ch. 133, § 2, eff. Sept. 23, 1976; Laws 1977, Ch. 153, § 10, eff. June 6, 1977; Laws 1978, Ch. 78, § 10; Laws 1979, Ch. 219, § 3; Laws 1980, 4th S.S., Ch. 1, § 12, eff. June 12, 1980; Laws 1981, Ch. 192, § 3; Laws 1981, Ch. 270, § 1; Laws 1982, Ch. 191, § 3, eff. April 22, 1982; Laws 1982, Ch. 292, § 10; Laws 1984, Ch. 103, § 3.

[1] 15 U.S.C.A. § 170 et seq.

[2] Section 45-561 et seq.

[3] Section 11-951 et seq.

[4] 11 U.S.C.A. § 101 et seq.

Historical Note

Source:

Laws 1937, Ch. 53, § 31.
Code 1939, § 67-1731.

Adopted in part from California, see West's Ann.Bus. & Prof.Code §§ 11010, 11011.

The 1972 amendment, in subsec. A in par. 5, inserted "real estate sales" and "conveyance, lease, assignment or other instrument" and added pars. 7 to 15 and inserted subsecs. B and C [now, C and D].

Laws 1973, Ch. 94, § 2, inserted subsec. D [now, E].

Laws 1973, Ch. 129, § 2, in subsec. A in par. 8, substituted "permanent" for "legal" and inserted par. 16, in subsec. C [now, D] inserted par. 1, in par. 2 added "the exercise * * * of foreclosure" and in par. 3 added "or by operation of law" and inserted subsec. D [now, E].

The 1975 amendment, in subsec. A in par. 11, added ", together with * * * the subdivision" and added pars. 17 and 18; and rewrote subsec. B [now, C] which prior thereto read:

"A person or a group of persons acting in concert may not avoid the provisions of this chapter by offering for sale or lease land designated or advertised as a common unit or by a common name in individual offerings. Any such offering as a part of a common promotional plan is subject to the provisions of this article."

The 1975 amendment also rewrote subsec. E [now, F] which thereto read:

"The commissioner may require additional information he deems necessary by submitting a questionnaire to the owner, his agent or subdivider."

Laws 1976, Ch. 106, § 3, added subsec. F (re-designated as subsec. I by the Reviser).

Laws 1976, Ch. 133, § 2, added the last two sentences of par. 1 in subsec. A; added pars. 19 to 23 in subsec. A; inserted new subsec. B, relettering the following subsecs. accordingly; inserted ", any holder of an ownership interest or any principal of such holder" in par. 3 of subsec. F; and added subsecs. G & H.

The 1977 amendment deleted "but shall not be limited to" following "may include" in the second sentence of subsec. F (now subsec. G); and made other nonsubstantive changes.

The 1978 amendment added subsec. J (now subsec. K); and made other nonsubstantive changes.

The 1979 amendment added subsec. K (now subsec. L).

Laws 1979, Ch. 219 became law without the governor's signature. See note following § 11-263.

The 1980 amendment inserted subsec. C; added to the beginning of subsec. F, "In areas outside of groundwater active management areas established pursuant to title 45, chapter 2, article 2,"; also in subsec. F, substituted "director of water resources" for "Arizona water commission" in two places; and made other nonsubstantive changes.

For impairment of obligations and nonseverability provisions of Laws 1980, 4th S.S., Ch. 1, effective June 12, 1980, see notes preceding § 45-401.

The 1981 amendment by Ch. 192 altered the subsection references following "§ 45-576" in subsec. C.

For legislative intent regarding termination of provisions added or amended by Laws 1981, Ch. 192, see note following § 9-463.01.

The 1981 amendment by Ch. 270 inserted par. 21 of subsec. A, and renumbered the remaining paragraphs accordingly.

This section, as amended by Laws 1981, Ch. 270, § 1, was repealed by Laws 1982, Ch. 191, § 4, effective April 22, 1982, and Laws 1982, Ch. 292, § 11.

For provision of Laws 1981, Ch. 203 relating to exemption to the requirement of a certificate of assured water supply for subdivided or unsubdivided lands, see note following § 45-108.

The 1982 amendment by Ch. 191 inserted par. 21 of subsec. A, and renumbered the remaining paragraphs accordingly; and added, "or is exempt from such requirement pursuant to § 45-576, subsection I", to the first sentence of subsec. C.

For legislative intent regarding termination of provisions added or amended by Laws 1982, Ch. 191, see note following § 9-463.01.

The 1982 amendment by Ch. 292 inserted par. 21 of subsec. A, and renumbered the remaining paragraphs accordingly.

Laws 1982, Ch. 292, § 1, par. 5 provides:

"5. Section 32-2181, Arizona Revised Statutes, was amended by Laws 1981, chapter 192, § 3 and chapter 270, § 1. The chapter 192 version had an emergency effective date of April 22, 1981. The chapter 270 version which received final passage on April 27, 1981 did not set forth the full text of § 32-2181 as amended by Laws 1981, chapter 192 as is required by Constitution of Arizona Article IV, part 2, § 14. In order to accomplish the intent of both 1981 amendments, in this enactment the chapter 192 version is amended to incorporate the amendments made by chapter 270 and the chapter 270 version is repealed."

This section, as amended by Laws 1982, Ch. 292, § 10, was repealed by Laws 1983, Ch. 101, § 20, subsec. A.

Laws 1983, Ch. 101, § 1, par. 13 provides:

"13. Section 32-2181, Arizona Revised Statutes, was amended by Laws 1982, chapter 191, § 3 and chapter 292, § 10. The chapter 191 version had an emergency effective date of April 22, 1982. The chapter 292 version which received final passage on May 3 did not set forth the full text of § 32-2181, Arizona Revised Statutes, as amended by Laws 1982, chapter 191 as is required by Constitution of Arizona Article IV, part 2, § 14. However, since the chapter 191 version made the identical amendments as the chapter 292 version as well as other substantive amendments, the legislative intent of both amendments is accomplished in the chapter 191 version and in this enactment the chapter 292 version is repealed."

The 1984 amendment altered the subsection references following "§ 45-576" in subsec. C.

Reviser's Notes:

1975 Note. Laws 1973, Chs. 94 and 129 amended this section. An emergency measure, Ch. 94 added a new subsec. D and relettered to conform. Ch. 129 made the same changes and several additional ones. Under a correctional enactment, Laws 1975, Ch. 104, the Ch. 94 version was repealed.

1976 Note. Prior to the 1977 amendment, this section contained the amendments made by Laws 1976, Ch. 106, § 3 and Ch. 133, § 2 which were blended together pursuant to authority of § 41-1304.03.

1981 Note. The amendment of this section by Laws 1981, Ch. 270, § 1 failed to set forth in full the text of the section as amended by Laws 1981, Ch. 192, § 3, an emergency act, as required by Constitution of Arizona Art. IV, part 2, § 14.

1982 Note. The amendment of this section by Laws 1982, Ch. 292, § 10 failed to set forth in full the text of the section as amended by Laws 1982, Ch. 191, § 3, an emergency act, as required by Constitution of Arizona Article IV, part 2, § 14.

Cross References

Administrative procedure, see § 41-1001 et seq.
Advertising and sales literature, consistency with notice of intention and public report, see § 32-2183.01.
Definition of subdivision and subdivided lands, inapplicability, see § 32-2101.
Exemptions from subdivision notice and filing requirements, see § 32-2181.03.
Filing fee, notice, see § 32-2182.
Further subdivision or development, see § 32-2185.05.
Subdivided lands, defined, see § 32-2101.
Subdivision recovery fund deposits, see § 32-2196.
Surety bond requirement, see § 32-2196.07.

Administrative Code References

Subdivided and unsubdivided lands, advertising, see A.C.R.R. R4-28-16.

Law Review Commentaries

Changes in real estate subdividing statutes. 12 Ariz.Bar J. No. 4, p. 4 (1976).

Groundwater rights in Arizona. 21 Ariz.Bar J. No. 4, p. 8 (1986).

1980 Arizona groundwater management code. Ariz. State L.J. 621 (1980).

Public regulation of private land use. Milton R. Schroeder, Law & Soc.Order, 1973, p. 747.

Notes of Decisions

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1. In general

Provision of § 11-806.01 that county board of supervisors shall regulate subdivision of all lands within its corporate limits, except subdivisions regulated by municipalities, provision of § 32-2101 defining "subdivision", and provisions of § 32-2181 et seq. requiring that subdividers submit information statements to real estate commission before offering lots for sale and that subdivision plats must first be approved by county board of supervisors before they are submitted to real estate commission are in pari materia and must therefore be construed together as if they constituted one law; accordingly, county is without power to regulate division of land into parcels of 36 acres or more. Transamerica Title Ins. Co. v. Cochise County (1976) 26 Ariz.App. 323, 548 P.2d 416.

Splitting of lot in subdivision did not require replatting and subdivision approval under county zoning plan which, in conformity with state law, defined "subdivision" as division of parcel into four or more lots or parcels, where the lot in question was divided into only three parts none of which was below the minimum lot size required by ordinance. Wilkerson v. Marks (1975) 24 Ariz.App. 316, 538 P.2d 403.

Where state real estate commissioner denied corporation's application to establish a cemetery and subdivide land in certain county, appeal to Superior Court is to be heard in same manner as if it were original proceeding in Superior Court, in absence of statute expressly providing otherwise. Cox v. Superior Court, in and for Pima County (1952) 73 Ariz. 93, 237 P.2d 820.

As to a previously approved subdivision, proposed change by which portion of land comprising the subdivision is excluded constitutes a material change in plan and requires written notification to the real estate commissioner. Op.Atty.Gen. No. 63-52-L.

Proposed change in name of certain units of a previously arranged subdivision does not constitute a material change in plan requiring written notification of intended change to real estate commissioner or a refiling of the subdivision application. Op. Atty.Gen. No. 63-37-L.

If a condominium consists of five or more units, it constitutes a subdivision and is subject to prior approval of state real estate commissioner before an offering is made to the public. Op.Atty.Gen. No. 63-26.

Large tract of land which might, at a future time, be divided for purpose of selling or leasing individual and probably dissimilarly sized parcels therefrom does not constitute a subdivision necessitating real estate commissioner's approval. Op.Atty. Gen. No. 63-18-L.

Cooperative apartments do not constitute "subdivisions" or "subdivided lands" within §§ 32-2101, 32-2181, regulating sale of subdivided lands. Op.Atty.Gen. No. 61-75.

County recorder, after satisfying himself that map or plat is authorized to be recorded by law, must, upon proper request, record it, and responsibility for determining sufficiency of map or plat to meet requirements of law it intends to satisfy lies with personnel of department which is vested with responsibilities of carrying out such laws, not with the county recorder. Op. Atty.Gen. No. 61-58.

2. Dedications

Where subdivision has been platted and sales made with reference to plat, dedication is presumed in regard to all areas which appear to be labeled as public areas, whether or not such areas are specifically dedicated to use of public by appropriate wording; primary concern of courts is to determine intention of subdivider, and if intention of subdivider is inconsistent with presumption and dedication, intention prevails over presumption. City of Flagstaff v. Babbitt (1968) 8 Ariz.App. 123, 443 P.2d 938.

Although mortgagor retains possession of property he can neither dedicate a road nor effectively subdivide premises unless mortgagee consents. Lane Title & Trust Co. v. Brannan (1968) 103 Ariz. 272, 440 P.2d 105.

3. Sale of lands

Statements required by § 32-2181 et seq. to be submitted by subdividers to real estate commission before offering lots for sale must contain, inter alia, information about provisions for sewage disposal, solid waste collection, and utilities, and must also contain assurances for installation of off-site improvements and approval thereof by political subdivision with authority to so do, i.e., the county. Transamerica Title Ins. Co. v. Cochise County (1976) 26 Ariz.App. 323, 548 P.2d 416.

Where individual or organization offers for sale or lease, not out-of-state subdivided lands, but rather sale or lease of his or its contractual interest as vendee under an executory land sale contract, such individual or organization is, under principle of equitable conversion, owner of the property, and the interest is "land", and, therefore, the individual or organization would have to comply with the state subdivision law, § 32-2181 et seq. Op.Atty.Gen. No. 66-16-L.

Before offering for sale in Arizona subdivided lands located outside Arizona, subdivider, owner, or agent must comply with § 32-2181 et seq., by giving appropriate notice to real estate commissioner and obtaining his approval. Op.Atty.Gen. No. 65-11.

Sale of lands in not less than 25 acre plots, sold as agricultural land and not building lots outside United States fell within jurisdiction of subdivision law as administered by State Real Estate Department. Op.Atty.Gen. No. 60-73.

Tracts of land which have been subdivided into five or more parcels constitute a subdivision, regardless of number of acres in each parcel, and, therefore, before such parcels are offered for sale or lease, real estate commissioner's approval must be secured and other provisions of the Real Estate Act, § 32-2101 et seq., complied with. Op.Atty.Gen. No. 57-54.

4. Advertising

State real estate commissioner, after calling for advertising in connection with offering of subdivided lands, must review the advertising and then advise subdivider in what respects the advertising is not in the public interest, and subdivider has burden of revising the advertising so that the public will not be deceived; commissioner's function is not to affirmatively aid in composition of advertising matter, even though frank and candid discussion between commissioner and subdivider regarding the advertising is not to be discouraged. Op.Atty. Gen. No. 64-8-L.

State real estate commissioner has right to demand submission of advertising by a subdivider when a filing is made pursuant to § 32-2181 et seq. Id.

§ 32-2181.01. Power of commissioner to exempt certain subdivisions or fractional interests by special order

A. The commissioner may in his discretion by special order exempt from any one or all of the provisions of this article certain subdivided lands or fractional interests therein upon written petition and upon a showing by the petitioner, satisfactory to the commissioner, that compliance with the provisions of this article is not essential to the public interest or for the protection of buyers by reason of the special characteristics of the subdivided lands or fractional interests therein or the limited character and duration of the offer for sale, lease or financing or the special characteristics or limited number of fractional interests.

B. Special orders issued pursuant to this section shall relate to specific lands or specific fractional interests.

C. A petition filed under this section shall be accompanied by an initial fee of one hundred dollars. No fees shall be returnable irrespective of the nature of the action upon the petition.

Added by Laws 1972, Ch. 110, § 31. Amended by Laws 1976, Ch. 133, § 3; Laws 1986, Ch. 134, § 6.

Historical Note

The 1976 amendment substituted "one hundred dollars" for "seventy-five dollars" in subsec. C.

The 1986 amendment inserted "any one or all of" in subsec. A.

Cross References

Hearing, denial of exemption, see § 32-2183.
Subdivision recovery fund deposits, see § 32-2196.
Surety bond requirement, see § 32-2196.07.

Law Review Commentaries

Arizona Real Estate Sales Act: A developer's view. 13 Ariz.Bar J. No. 1, 42 (1977).

Notes of Decisions

1. Permanent access

Real estate commissioner could fully waive the permanent access requirement of § 32-2185.02 forbidding the sale of subdivided land without provision for permanent access to the land over terrain which may be traversed by conventional motor vehicle unless such provision is waived by the com-

missioner, if the commissioner finds that compliance with the permanent access requirement is not essential to the public interest or for the protection of buyers. Op. Atty.Gen. No. I81-007.

§ 32-2181.02. Exempt sales

The sale of four or more lots, parcels or fractional interests to a subdivider shall be exempt from this article.

Added by Laws 1982, Ch. 260, § 4, eff. July 24, 1982, retroactive to July 1, 1982. Amended by Laws 1984, Ch. 223, § 1, eff. Jan. 1, 1985.

Historical Note

Laws 1982, Ch. 260, § 10 provides:

"The provisions of § 4 of this act are retroactive to July 1, 1982."

The 1984 amendment inserted "lots" and "or fractional interests"; and deleted ", developer or builder" following "subdivider".

Laws 1984, Ch. 223, § 4 provides:

"This act becomes effective from and after December 31, 1984."

Library References

Brokers ⇐3, 4.
C.J.S. Brokers §§ 6 to 12, 14 to 24.

§ 32-2181.03. Exemptions from subdivision notice and filing requirements

A. The notice of intent required by § 32-2181, subsection A and the issuance of a public report required by § 32-2183, subsection A are not required if the subdivision is in a county having a population of at least three hundred thousand persons or a city or town which the commissioner finds provide adequate protections for buyers and the public consistent with this article and if all of the following requirements are met:

1. All lots within the subdivision are to be improved lots.

2. Adequate financial assurances or other arrangements satisfactory to the appropriate political subdivision have been made for the installation of all off site improvements including all streets, sewers, electric, gas and water utilities, drainage, flood control and any other improvements included in the subdivision.

3. The subdivision does not include purchaser maintained facilities.

4. The commissioner has found:

(a) If the subdivision is located within an active management area as defined in § 45-402, that the developer of the subdivision has obtained the written determination of the director of water resources that the subdivision is within the service area of a city, town or private water company which the director has designated as having an assured water supply pursuant to § 45-576, subsection D, E or G.

(b) If the subdivision is not located within an active management area as defined in § 45-402, that the developer of the subdivision has obtained

the written determination of the director of water resources that the subdivision is within the service area of a city, town or private water company which the director has designated as having an adequate water supply pursuant to § 45-108, subsection A.

5. The Arizona department of health services or its designated agent has found that the subdivision is within the service area of a city, town or private utility which has adequate pipe size and capacity to deliver drinking water, adequate pipe size and capacity to treat sewage and provide garbage collection and disposal to the subdivision consistent with the minimum standards of the Arizona department of health services.

6. The Arizona department of health services or its designated agent has found that the subdivision is within the service area of a city, town or private utility which has minimum plans for its future sanitary facility needs.

B. A subdivider exempted from filing the notice of intent required by § 32-2181, subsection A and from furnishing the public report required by § 32-2183, subsection A is not required to file a copy of any original promotional and advertising material as required by § 32-2183.01.

C. This section does not limit the authority of the commissioner to initiate action against any subdivider for a violation of this chapter or of the rules and regulations promulgated pursuant to this chapter.

D. Notwithstanding the provisions of subsection A of this section, the Arizona department of health services or its designated agent shall approve the plans and specifications for the subdivision's water and sewer utilities.

Added by Laws 1984, Ch. 223, § 2, eff. Jan. 1, 1985.

Historical Note

For effective date provision of Laws 1984, Ch. 223, see Historical Note following § 32-2181.02.

§ 32-2182. Examination of subdivision by commissioner; fee

The commissioner shall examine any subdivision offered for sale or lease, and shall make public his findings. The total cost of travel and subsistence expenses incurred by the department in the examination, in addition to the initial filing fee provided for in this section, shall be borne by the owner of the subdivision or his agent, or the subdivider of the project, on the basis of actual cost to the department. A filing fee of two hundred fifty dollars or such lesser fee as determined by the commissioner shall accompany the written notification required in § 32-2181.

Amended by Laws 1961, Ch. 9, § 3; Laws 1972, Ch. 110, § 32; Laws 1975, Ch. 35, § 2, eff. May 12, 1975; Laws 1976, Ch. 133, § 4; Laws 1983, Ch. 112, § 1, eff. Jan. 1, 1984; Laws 1986, Ch. 134, § 7.

Historical Note

Source:

Laws 1937, Ch. 53, § 32.
Laws 1943, Ch. 59, § 5.
Code 1939, Supp.1952, § 67–1732.

Adopted from California, see West's Ann. Bus. & Prof.Code § 11014.

Prior to the 1961 amendment, this section read:

"The commissioner shall investigate any subdivision offered for sale or lease, and shall make public his findings. The total cost of the investigation shall be borne by the owner of the subdivision or his agent, or the subdivider of the project, on the basis of actual cost to the department. An initial fee of twenty-five dollars shall accompany the written notification required in § 32–2181."

The 1961 amendment increased the initial fee to $50 from $25.

The 1972 amendment rewrote the section.

The 1975 amendment substituted $100 for $75 as the initial filing fee.

The 1976 amendment deleted the subsection lettering, added that part of the last sentence which precedes "the written", and deleted "B. An initial filing fee of one hundred dollars shall accompany" preceding "the written".

The 1983 amendment increased the filing fee to "two hundred fifty dollars".

Laws 1983, Ch. 112, § 4 provides:

"Sections 1 and 2 of this act are effective from and after December 31, 1983."

The 1986 amendment substituted "A filing fee" for "An initial filing fee" in the last sentence.

§ 32–2183. Issuance of public report by commissioner on subdivision; denial of issuance; voidable sale or lease; order prohibiting sale or lease; investigations by commissioner; public hearings; summary orders

A. Upon examination of a subdivision, the commissioner shall, unless there are grounds for denial, issue to the subdivider a public report authorizing the sale or lease in this state of the lots or parcels within the subdivision. The report shall contain the data obtained in accordance with § 32–2181 and any other information which the commissioner determines is necessary to implement the purposes of this article. The commissioner shall require the owner, agent or subdivider to reproduce the report and furnish each prospective customer with a copy, taking a receipt therefor.

B. The commissioner may deny issuance of a public report on any of the following grounds:

1. Failure to comply with any of the provisions of this article or the regulations of the commissioner pertaining to this article.

2. The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.

3. Inability to deliver title or other interest contracted for.

4. Inability to demonstrate that adequate financial or other arrangements acceptable to the commissioner have been made for installation of all streets, sewers, electric, gas and water utilities, drainage, flood control and other similar improvements included in the offering.

5. Failure to make a showing that the parcels can be used for the purpose for which they are offered.

any such action, the prevailing party shall be entitled to reasonable attorneys' fees as determined by the court.

E. Any applicant objecting to the denial of a public report or to denial by the commissioner of exemption from special regulation pursuant to § 32-2181.01 may, within thirty days after receipt of the order of denial, file a written request for a hearing. The commissioner shall hold the hearing within twenty days thereafter unless the party requesting the hearing has requested a postponement. If the hearing is not held within twenty days after request for a hearing is received, plus the period of any such postponement, or if a proposed decision is not rendered within forty-five days after submission, the order of denial shall be rescinded and a public report issued.

F. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that the owner, agent or subdivider is violating any provision set forth in this article or the rules and regulations of the commissioner or has engaged in any unlawful practice as defined in § 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report, may investigate the subdivision project and examine the books and records of the owner, agent or subdivider. For the purpose of examination, the owner, agent or subdivider shall keep and maintain records of all sales transactions and funds received by him pursuant thereto and make them accessible to the commissioner upon reasonable notice and demand.

G. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that any person has violated any of the provisions of this article or the rules and regulations of the commissioner or has engaged in any unlawful practice as defined in § 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report, or has been indicted for fraud or against whom an information for fraud has been filed or has been convicted of a felony, before or after the commissioner issues the public report as provided in subsection A of this section, may conduct an investigation of such matter, issue a summary order as provided in § 32-2157, or hold a public hearing and, after the hearing, may issue such order or orders as he may deem necessary to protect the public interest and insure compliance with the law, or rules and regulations or public report or the commissioner may bring action in any court of competent jurisdiction against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof. Such court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore to any person in interest any monies or property, real or personal, which may have been acquired by means of any practice in this article declared to be unlawful.

6. Failure to provide in the contract or other writing the use or uses for which the parcels are offered, together with any covenants or conditions relative to such parcels.

7. Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering if the subdivision meets all of the following criteria:

(a) The subdivision contains fifty or more parcels of which any fifty are both:

(i) Not improved with residential, industrial, commercial or institutional buildings.

(ii) Offered for sale, lease or financing for purposes other than industrial, commercial, institutional or commercial agricultural uses.

(b) The subdivision is located in an area with less than one thousand residences within the subdivision or within ten miles of the boundaries of the property described in the final public report.

8. The owner, agent, subdivider, officer, director or partner, subdivider trust beneficiary or, if a corporation, any stockholder owning ten per cent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which has been indicted for fraud or against whom an information for fraud has been filed or has been convicted of a felony.

9. Procurement or an attempt to procure a public report by fraud, misrepresentation or deceit or by filing an application for a public report which is false or misleading.

10. Failure of the declaration for a condominium created pursuant to title 33, chapter 9, article 2[1] to comply with the requirements of § 33–1215 or failure of the plat for such condominium to comply with the requirements of § 33–1219.

C. If the subdivision is within a groundwater active management area, as defined in § 45–402, the commissioner shall deny issuance of a public report unless the owner, agent or subdivider has been issued a certificate of assured water supply by the director of water resources, or unless the subdivision is located within an area designated as having an assured water supply by the director of water resources pursuant to § 45–576, subsection D, E, G or I or is exempt from such requirement pursuant to § 45–576, subsection K.

D. No person shall sell or lease or offer for sale or lease in this state any lots or parcels in a subdivision without first obtaining a public report from the commissioner except as provided in § 32–2181.01, 32–2181.02 or 32–2181.03. Any sale or lease of subdivided lands prior to issuance of the public report shall be voidable by the purchaser. An action by the purchaser to void such transaction shall be brought within three years of the date of execution of the purchase agreement by the purchaser. In

H. When it appears to the commissioner that a person has engaged in or is engaging in a practice declared to be unlawful by this article and that such person is concealing assets or self or has made arrangements to conceal assets or is about to leave the state, the commissioner may apply to the superior court, ex parte, for an order appointing a receiver of the assets of such person or for a writ of ne exeat, or both.

I. The court upon receipt of an application for the appointment of a receiver or for a writ of ne exeat, or both, shall examine the verified application of the commissioner and such other evidence that the commissioner may present the court. If satisfied that the interests of the public require the appointment of a receiver or the issuance of a writ of ne exeat without notice, the court shall issue an order appointing the receiver or issue the writ, or both. If the court determines that the interests of the public will not be harmed by the giving of notice, the court shall set a time for a hearing and require such notice be given as the court deems satisfactory.

J. If the court appoints a receiver without notice, the court shall further direct that a copy of the order appointing a receiver be served upon the person engaged in or engaging in a practice declared to be unlawful under this article by delivering such order to the last address of such person which is on file with the real estate department. The order shall inform such person that he has the right to request a hearing within ten days of the date of the order and, if requested, the hearing shall be held within thirty days from the date of the order.

Amended by Laws 1961, Ch. 9, § 4; Laws 1967, Ch. 61, § 7; Laws 1971, Ch. 181, § 4; Laws 1972, Ch. 110, § 33; Laws 1974, Ch. 135, § 5; Laws 1975, Ch. 151, § 21, eff. June 13, 1975; Laws 1976, Ch. 133, § 5; Laws 1978, Ch. 202, § 10; Laws 1980, 4th S.S., Ch. 1, § 13, eff. June 12, 1980; Laws 1981, Ch. 192, § 4, eff. April 22, 1981; Laws 1982, Ch. 191, § 5, eff. April 22, 1982; Laws 1984, Ch. 103, § 4; Laws 1984, Ch. 223, § 3, eff. Jan. 1, 1985; Laws 1985, Ch. 192, § 5, eff. Jan. 1, 1986; Laws 1985, Ch. 272, § 9, eff. May 1, 1985; Laws 1986, Ch. 134, § 8.

[1] Section 33-1211 et seq.

Historical Note

Source:

Laws 1937, Ch. 53, § 33.
Code 1939, § 67-1733.

Adopted from California, see West's Ann. Bus. & Prof.Code §§ 11018 and 11019.

Prior to the 1961 amendment, this section read:

"Upon examination of a subdivision, the commissioner shall prepare a report thereon, and may publish it. An order prohibiting the sale or lease of the property may be issued by the commissioner if the examination discloses that sale or lease would constitute misrepresentation, deceit or fraud. Before an order of prohibition shall issue, the commission shall hold a hearing as provided in this chapter."

The 1961 inserted a second sentence which read:

"The commissioner may require the owner, agent or subdivider to reproduce the report and furnish each prospective customer with a copy, taking a receipt therefor."

The 1967 amendment rewrote the section to read:

"A. Upon examination of a subdivision, the commissioner within a reasonable time shall prepare a report thereon. It is unlawful for subdivided lands to be offered for

sale or lease by the owner, agent, or subdivider thereof until the report has been prepared and the owner, agent or subdivider has been given notice by the commissioner that the subdivided lands may be offered for sale or lease. The commissioner may require the owner, agent or subdivider to reproduce the report and furnish each prospective customer with a copy, taking a receipt therefor. An order prohibiting the sale or lease of the property may be issued by the commissioner if the examination discloses that sale or lease would constitute misrepresentation, deceit or fraud. Before an order of prohibition shall issue, the commissioner shall hold a hearing as provided in this chapter.

"B. When the commissioner has received a complaint and has satisfactory evidence that the owner, agent or subdivider is violating any provision set forth in this article or the rules and regulations of the real estate board, the commissioner may investigate the subdivision project and examine the books and records of the owner, agent or subdivider insofar as such books and records pertain to the complaint received. For the purpose of examination, the owner, agent or subdivider shall keep and maintain records of all sales transactions and funds received by him pursuant thereto, and make them accessible to the commissioner upon reasonable notice and demand.

"C. When the commissioner has received a complaint and has satisfactory evidence that any person has violated any of the provisions of this article or the rules and regulations of the real estate board, before or after the commissioner prepares his report as provided in subsection A, he may conduct an investigation of such matter, and hold a public hearing and, after the hearing, may issue such order or orders as he may deem necessary to protect the public interest and insure compliance with the law or rules and regulations. If, after such hearing, violation of the law or rules and regulations continues, the commissioner may bring action in any court of competent jurisdiction against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof."

The 1971 amendment in subsecs. B and C at the beginning substituted "The commissioner, on his own motion, or when he has received a complaint and he" for "When the commissioner has received a complaint and".

The 1972 amendment in subsec. A in the second sentence inserted "public" preceding "report"; in subsec. B in the first sentence substituted "commission or deviated from the provisions of the public report" for "board, the commissioner"; and in subsec. C in the first sentence substituted "real estate commission, or deviated from the provisions of the public report" for "board" and "prepares the public" for "prepares his" and added "or public report" at the end; and in the last sentence inserted "or public report" following "rules and regulations".

The 1974 amendment in subsec. A in the last sentence inserted "Except as provided in § 32-2157" and in subsec. C in the first sentence substituted "issue a summary order as provided in § 32-2157, or" for "and".

The 1975 amendment rewrote the section to read:

"A. Upon examination of a subdivision, the commissioner within a reasonable time shall prepare a report thereon. It is unlawful for subdivided lands to be offered for sale or lease by the owner, agent or subdivider thereof until the public report has been prepared and the owner, agent or subdivider has been given notice by the commissioner that the subdivided lands may be offered for sale or lease. Any sale or lease of subdivided lands prior to issuance of such notice shall be voidable by the purchaser. An action by the purchaser to void such transaction shall be brought within three years of the date of execution of the purchase agreement by the purchaser. In any such action, the prevailing party shall be entitled to reasonable attorney's fees as determined by the court. The commissioner may require the owner, agent or subdivider to reproduce the report and furnish each prospective customer with a copy, taking a receipt therefor. An order prohibiting the sale or lease of the property may be issued by the commissioner if the examination discloses that sale or lease would constitute misrepresentation, deceit or fraud, or that the owner, agent, subdivider, officer or partner, subdivider trust beneficiary or, if a corporation, any stockholder owning ten per cent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which is bankrupt or has been indicted for fraud or against whom an information for fraud has been filed or has been convicted of a felony. Except as provided in § 32-2157, before an order of prohibition shall

issue, the commissioner shall hold a hearing as provided in this chapter.

"B. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that the owner, agent or subdivider is violating any provision set forth in this article or the rules and regulations of the commissioner or deviated from the provisions of the public report, may investigate the subdivision project and examine the books and records of the owner, agent or subdivider. For the purpose of examination, the owner, agent or subdivider shall keep and maintain records of all sales transactions and funds received by him pursuant thereto, and make them accessible to the commissioner upon reasonable notice and demand.

"C. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that any person has violated any of the provisions of this article or the rules and regulations of the commissioner or deviated from the provisions of the public report, or that the owner, agent, subdivider, officer or partner, subdivider trust beneficiary or, if a corporation, any stockholder owning ten per cent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which is bankrupt or has been indicted for fraud or against whom an information for fraud has been filed or has been convicted of a felony, before or after the commissioner prepares the public report as provided in subsection A, may conduct an investigation of such matter, issue a summary order as provided in § 32–2157, or hold a public hearing and, after the hearing, may issue such order or orders as he may deem necessary to protect the public interest and insure compliance with the law, or rules and regulations or public report or the commissioner may bring action in any court of competent jurisdiction against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof. Such court may make such orders or judgments, including the appointment of a receiver as may be necessary to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore to any person in interest any monies or property, real or personal, which may have been acquired by means of any practice in this article declared to be unlawful.

"D. When it appears to the commissioner that a person has engaged in or is engaging in a practice declared to be unlawful by this article and that such person is concealing assets or self or has made arrangements to conceal assets or is about to leave the state, the commissioner may apply to the superior court, ex parte, for an order appointing a receiver of the assets of such person, for a writ of ne exeat or both.

"E. The court upon receipt of an application for the appointment of a receiver, for a writ ne exeat or both shall examine the verified application of the commissioner and such other evidence that the commissioner may present the court. If satisfied that the interests of the public require the appointment of a receiver or the issuance of a writ ne exeat without notice, the court shall issue an order appointing the receiver or issue the writ or both. If the court determines that the interests of the public will not be harmed by the giving of notice, the court shall set a time for a hearing and require such notice be given as the court deems satisfactory.

"F. If the court appoints a receiver without notice, the court shall further direct that a copy of the order appointing a receiver be served upon the person engaged in or engaging in a practice declared to be unlawful under this article by delivering such order to the last address of such person which is on file with the real estate department. The order shall inform such person that he has the right to request a hearing within ten days of the date of the order and if requested, the hearing shall be held within thirty days from the date of the order."

The 1976 amendment inserted, in subsecs. B and C, following "rules and regulations of the commissioner", "or has engaged in any unlawful practice as defined in § 44–1522 with respect to the sale of subdivided lands".

The 1978 amendment rewrote subsec. A; inserted subsecs. B to D; relettered former subsecs. B to F as subsecs. E to I; and, in subsec. F, substituted "issues" for "preparers" and inserted "of this section," following "subsection A".

The 1980 amendment inserted subsec. C; and relettered former subsecs. C to J as subsecs. D to J.

For impairment of obligations and nonseverability provisions of Laws 1980, 4th S.S., Ch. 1, effective June 12, 1980, see notes preceding § 45–401.

The 1981 amendment, in subsec. C, added a reference to subsection G of § 45–576.

For legislative intent regarding termination of provisions added or amended by Laws 1981, Ch. 192, see note following § 9-463.01.

For provision of Laws 1981, Ch. 203 relating to exemption to the requirement of a certificate of assured water supply for subdivided or unsubdivided lands, see note following § 45-108.

The 1982 amendment, in subsec. C, inserted "or is exempt from such requirement pursuant to § 45-576, subsection I".

For legislative intent regarding termination of provisions added or amended by Laws 1982, Ch. 191, see note following § 9-463.01.

Laws 1984, Ch. 103, § 4, in subsec. C, inserted "or I" and substituted "subsection K" for "subsection I".

Laws 1984, Ch. 223, § 3, in subsec. D, inserted "32-2181.02 or 32-2181.03"; and made changes in the grammar in par. 7 of subsec. B and subsecs. H and I.

For effective date provision of Laws 1984, Ch. 223, see Historical Note following § 32-2181.02.

Laws 1985, Ch. 192, § 5, inserted par. 9 in subsec. B.

Laws 1985, Ch. 272, § 9, in subsec. E, substituted "has" for "shall have"; and, in subsec. G, deleted "or that the owner, agent, subdivider, officer or partner, subdivider trust beneficiary or, if a corporation, any stockholder owning ten percent or more of the stock in such corporation has participated in, operated or held in interest in any land development company which is bankrupt" following "public report,".

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33-1201.

The 1986 amendment inserted ", director", and deleted "a felony" preceding "fraud" in two places in subsec. B, par. 8; inserted subsec. B, par. 9, renumbered subsec. B, par. 9 as subsec. B, par. 10; and deleted a comma following "article 2" in subsec. B, par. 10.

Reviser's Notes:

1975 Note. The last sentence of subsection C [now subsec. G] was rearranged by adding a comma following "judgments" and by transposing "including the appointment of a receiver" from the end of the sentence, pursuant to authority of § 41-1304.02.

1978 Notes. Pursuant to authority of § 41-1304.02, in the heading of this section "Issuance of public" was inserted before "report", "by" was substituted for "of" following "report" and "denial of issuance; voidable sale or lease;" was added.

Pursuant to authority of § 41-1304.02, in paragraph 7, subdivision (a), item (i), a comma was inserted preceding "and".

1984 Note. Prior to the 1985 amendment, this section contained the amendments made by Laws 1984, Ch. 103, § 4 and Ch. 223, § 3 which were blended together pursuant to authority of § 41-1304.03.

1985 Note. Prior to the 1986 amendment, this section contained the amendments made by Laws 1985, Ch. 192, § 5 and Ch. 272, § 9 which were blended together pursuant to authority of § 41-1304.03.

Cross References

Administrative fines, violations and unlawful practices by real estate broker or salesman, see § 32-2160.01.
Advertising and sales literature, consistency with notice of intention and public report, see § 32-2183.01.
Commissioner, rules and regulations, see § 32-2107.
Definition of subdivision and subdivided lands, inapplicability, see § 32-2101.
Exemptions from subdivision notice and filing requirements, see § 32-2181.03.
Further subdivision or development of existing cemeteries, see § 32-2181.
Liability to purchaser, sale in violation of this section, see § 32-2183.03.
Notice of charges, see § 32-2157.
Sale or lease of unsubdivided land, notice, see § 32-2195.01.
Time-share estates, public report, see §§ 32-2197.01, 32-2197.06.
Travel and subsistence expenses, investigations, reimbursement, see § 32-2183.01.

Law Review Commentaries

Arizona Real Estate Sales Act: A developer's view. 13 Ariz.Bar J. No. 1, 42 (1977).

Changes in real estate subdividing statutes. 12 Ariz.Bar J. No. 4, p. 4 (1976).

1980 Arizona groundwater management code. Ariz. State L.J. 3, 1980, p. 621.

Notes of Decisions

In general 1
Vested rights 2

1. In general

Before offering for sale in Arizona subdivided lands located outside Arizona, subdivider, owner, or agent must comply with § 32-2181 et seq., by giving appropriate notice to real estate commissioner and obtaining his approval. Op.Atty.Gen. No. 65–11.

Large tract of land which might, at a future time, be divided for purpose of selling or leasing individual and probably dissimilarly sized parcels therefrom does not constitute a subdivision necessitating real estate commissioner's approval. Op.Atty. Gen. No. 63–18–L.

2. Vested rights

Subdividers who, in an active groundwater management area, had complied with all local requirements and had commenced construction prior to the effective date of the 1980 Groundwater Management Law, § 45–401 et seq., could, under the prior law, have vested rights which might serve to exempt them from the new requirement under the 1980 law requiring subdividers to obtain a certificate of assured water supply from the director of water resources before the state real estate commissioner could issue a public report authorizing the sale of subdivided lands. Op.Atty.Gen. No. I80–206.

§ 32–2183.01. Advertising material; contents; order prohibiting use; costs of investigation

Text of section effective until January 1, 1987

A. The subdivider shall file with the commissioner a copy of any original promotional and advertising material used in connection with sales of the subdivided lands and copies of any material changes therein. The subdivider shall file with the commissioner, within twenty-one days of use, any subsequent advertising of any kind used directly or indirectly in connection with the purchase, sale or lease of any lot or parcel subject to the provisions of this article. It shall not be necessary to make repetitive filings of material which is the same as or varies only in minor details from material which has previously been filed with the commissioner for the subdivision.

B. No advertising, communication or sales literature of any kind, including oral statements by salespersons or other persons, shall contain:

1. Any untrue statement of material fact or any omission of material fact which would make such statement misleading in light of the circumstances under which such statement was made.

2. Any statement or representation that the lot or parcels are offered without risk or that loss is impossible.

3. Any statement or representation or pictorial representation of proposed improvements or nonexistent scenes without clearly indicating the improvements are proposed and the scenes do not exist.

4. Any statement or representation that the lot or parcels are suitable as homesites or building lots unless either of the following is true:

(a) Potable water is available from a certificated public utility, or a municipal corporation and either an individual sewage disposal system will operate or a sewer system is available from a certified public utility or a municipal corporation.

(b) Facts to the contrary are clearly and conspicuously included in each advertisement pertaining to the property.

C. All advertising and sales literature shall be consistent with the information contained in the notice of intention pursuant to § 32-2181 and the public report pursuant to § 32-2183.

D. If it appears to the commissioner that any person is or has engaged in advertising or promotional practices in violation of this article, the commissioner may hold a hearing as a contested case under the provisions of title 41, chapter 6, article 1,[1] and issue such order or orders as he deems necessary to protect the public interest or the commissioner may bring an action in any court of competent jurisdiction against such person to enjoin such person from continuing such violation.

E. The commissioner may adopt such rules, regulations and guidelines as he or she deems necessary to protect the public interest and to assure that all advertising and promotional practices with respect to land subject to the provisions of this article are not false or misleading.

F. It is unlawful for any owner, subdivider, agent or employee of any subdivision or other person with intent directly or indirectly to sell or lease lots or parcels subject to the provisions of this article to authorize, use, direct or aid in any advertising, communication, sales literature or promotional practice which violates this section.

G. Nothing contained in this section shall apply to the owner or publisher of a newspaper, magazine or other publication of printed matter wherein such advertisement appears or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

H. For any subdivision investigation made under § 32-2183 of an out-of-state subdivision or any in-state subdivision to which the commissioner issues any order necessary to protect the public interest and insure compliance with the law, rules and regulations or public report the subdivider shall reimburse travel and subsistence expenses incurred by the department.

Added by Laws 1972, Ch. 110, § 34. Amended by Laws 1976, Ch. 133, § 6.

[1] Section 41-1001 et seq.

For text of section effective January 1, 1987, see § 32-2183.-01, post

§ 32–2183.01. Advertising material; contents; order prohibiting use; costs of investigation

Text of section effective January 1, 1987

A. The subdivider shall file with the commissioner a copy of any original promotional and advertising material used in connection with sales of the subdivided lands and copies of any material changes therein. The subdivider shall file with the commissioner, within twenty-one days of use, any subsequent advertising of any kind used directly or indirectly in connection with the purchase, sale or lease of any lot or parcel subject to the provisions of this article. It shall not be necessary to make repetitive filings of material which is the same as or varies only in minor details from material which has previously been filed with the commissioner for the subdivision.

B. No advertising, communication or sales literature of any kind, including oral statements by salespersons or other persons, shall contain:

1. Any untrue statement of material fact or any omission of material fact which would make such statement misleading in light of the circumstances under which such statement was made.

2. Any statement or representation that the lot or parcels are offered without risk or that loss is impossible.

3. Any statement or representation or pictorial representation of proposed improvements or nonexistent scenes without clearly indicating the improvements are proposed and the scenes do not exist.

4. Any statement or representation that the lot or parcels are suitable as homesites or building lots unless either of the following is true:

(a) Potable water is available from a certificated public utility or a municipal corporation and either an individual sewage disposal system will operate or a sewer system is available from a certified public utility or a municipal corporation.

(b) Facts to the contrary are clearly and conspicuously included in each advertisement pertaining to the property.

C. All advertising and sales literature shall be consistent with the information contained in the notice of intention pursuant to § 32–2181 and the public report pursuant to § 32–2183.

D. If it appears to the commissioner that any person is or has engaged in advertising or promotional practices in violation of this article, the commissioner may hold a hearing as a contested case under title 41, chapter 6 [1] and issue such order or orders as he deems necessary to protect the public interest, or the commissioner may bring an action in any court of competent jurisdiction against such person to enjoin such person from continuing such violation.

E. The commissioner may adopt such rules and guidelines as he or she deems necessary to protect the public interest and to assure that all advertising and promotional practices with respect to land subject to the provisions of this article are not false or misleading.

F. It is unlawful for any owner, subdivider, agent or employee of any subdivision or other person with intent directly or indirectly to sell or lease lots or parcels subject to the provisions of this article to authorize, use, direct or aid in any advertising, communication, sales literature or promotional practice which violates this section.

G. Nothing contained in this section shall apply to the owner or publisher of a newspaper, magazine or other publication of printed matter wherein such advertisement appears or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher or operator has no knowledge of the intent, design or purpose of the advertiser.

H. For any subdivision investigation made under § 32-2183 of an out-of-state subdivision or any in-state subdivision to which the commissioner issues any order necessary to protect the public interest and insure compliance with the law, rules or public report, the subdivider shall reimburse travel and subsistence expenses incurred by the department.

Added by Laws 1972, Ch. 110, § 34. Amended by Laws 1976, Ch. 133, § 6; Laws 1986, Ch. 232, § 57, eff. Jan. 1, 1987.

[1] Section 41-1001 et seq.

For text of section effective until January 1, 1987, see § 32-2183.01, ante

Historical Note

The 1976 amendment rewrote this section, which prior thereto consisted of the provisions of the first sentence of subsec. A and subsec. H (formerly subsec. B).

The 1986 amendment substituted "under title 41, chapter 6" for "under the provisions of title 41, chapter 6, article 1," in subsec. D; and deleted references to "regulations" following "rules" in subsecs. E and H.

Cross References

Exemption from requirement of filing a copy of original promotional and advertising material, see § 32-2181.03.
Time-share estates, advertising materials, see § 32-2197.11.

Law Review Commentaries

Arizona Real Estate Sales Act: A developer's view. 13 Ariz.Bar J. No. 1, 42 (1977).

Changes in real estate subdividing statutes. 12 Ariz.Bar J. No. 4, p. 4 (1976).

§ 32-2183.02. Recording of actions

A. Whenever the commissioner issues a cease and desist order, obtains a court order enjoining further sales, issues an order of prohibi-

tion or suspends approval of a subdivision, the action shall be recorded in the book of deeds in the office of the county recorder in any county in which the subdivision property is located.

B. In the event of revocation of any of the orders which require recording in subsection A, an order of release shall be recorded in the same manner.

Added by Laws 1972, Ch. 110, § 34.

§ 32-2183.03. Civil liabilities

A. When any part of the notice of intention filed pursuant to § 32-2181 contains an untrue statement of a material fact or omits a material fact required to be stated in such notice, the subdivider or agent shall be liable as provided in this section to any person who acquires a lot or parcel in the subdivision covered by such notice of intention during such period the notice of intention remained uncorrected unless it is proved that at the time of such acquisition the person acquiring the lot knew of such untruth or omission.

B. Any subdivider or agent who sells or leases a lot or parcel in a subdivision in violation of § 32-2183 or by means of a public report which contains an untrue statement of a material fact or omits a material fact required to be stated in such report shall be liable to the purchaser of such lot or parcel as provided in this section.

C. It is unlawful for a subdivider or agent in selling or leasing, or offering to sell or lease, any lot or parcel in a subdivision to:

1. Employ any device, scheme or artifice to defraud.

2. Obtain money or property by means of a material misrepresentation with respect to any information included in the notice of intention or the public report or with respect to any other information pertinent to the lot, parcel or subdivision and upon which the purchaser relies.

3. Engage in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon a purchaser.

D. Damages in any suit brought pursuant to this section shall be the difference between the amount paid for the lot or parcel together with the reasonable cost of improvements to such lot or parcel and whichever of the following amount is the smallest:

1. The value of the lot or parcel and improvements as of the time such suit was brought.

2. The price at which such lot or parcel was disposed of in a bona fide market transaction prior to suit.

3. The price at which such lot or parcel was disposed of in a bona fide market transaction after suit was brought but prior to judgment.

E. In any action in which a violation of this section is established the purchaser shall also be entitled to recover reasonable attorney fees as determined by the court. If a violation is not established, the court, in its discretion, may award reasonable attorney fees to the defendant.

F. Every person who becomes liable to make any payment pursuant to this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment.

G. In no case shall the amount recoverable pursuant to this section exceed the sum of the purchase price of the lot or parcel, the reasonable cost of improvements installed by the purchaser and reasonable court costs and attorneys' fees.

H. Nothing contained in this section shall be construed to preclude any other remedies that may exist at law or in equity.

I. No action shall be maintained to enforce any liability created pursuant to subsection A or B of this section unless brought within one year after the discovery of the untrue statement or the omission or after such discovery should have been made by the exercise of reasonable diligence. No action shall be maintained to enforce any liability created pursuant to subsection C of this section unless brought within two years after the violation upon which it is based. In no event shall any such action be brought by a purchaser more than three years after the sale or lease to such purchaser.

Added by Laws 1976, Ch. 133, § 7.

Historical Note

1976 Reviser's Note:

In subsec. G, the apostrophe was added to "attorneys'", pursuant to authority of § 41-1304.02.

Law Review Commentaries

Arizona Real Estate Sales Act: A developer's view. 13 Ariz.Bar J. No. 1, 42 (1977).

Changes in real estate subdividing statutes. 12 Ariz.Bar J. No. 4, p. 4 (1976).

Notes of Decisions

1. Incorporation

The fact of incorporation does not in itself affect a property developer's liability to conform to promised specifications for roads and streets. Op.Atty.Gen. No. 78-28.

§ 32-2184. Change of subdivision plan after approval by commissioner; notice

It is unlawful for any owner, agent or subdivider, after submitting to the commissioner the plan under which a subdivision is to be offered for sale or lease, and securing his approval, to change the plan materially without first notifying the commissioner in writing of the intended

change. Material changes covered by this section shall be prescribed in the rules and regulations of the commissioner. Upon receipt of any notice of a material change, the commissioner may, if he determines such action to be necessary for the protection of purchasers, suspend his approval of sale or lease pending amendment of the public report.
Amended by Laws 1967, Ch. 61, § 8; Laws 1972, Ch. 110, § 35; Laws 1975, Ch. 151, § 22, eff. June 13, 1975.

Historical Note

Source:

Laws 1937, Ch. 53, § 34.
Code 1939, § 67-1734.

Adopted from California, see West's Ann. Bus. & Prof.Code § 11012.

The 1967 amendment made no change.

The 1972 amendment added the last two sentences.

The 1975 amendment in the second sentence substituted "commissioner" for "real estate commission".

Notes of Decisions

1. In general

Before offering for sale in Arizona subdivided lands located outside Arizona, subdivider, owner, or agent must comply with § 32-2181 et seq., by giving appropriate notice to real estate commissioner and obtaining his approval. Op.Atty.Gen. No. 65-11.

As to a previously approved subdivision, proposed change by which portion of land comprising the subdivision is excluded constitutes a material change in plan and requires written notification to the real estate commissioner. Op.Atty.Gen. No. 63-52-L.

Proposed change in name of certain units of a previously arranged subdivision does not constitute a material change in plan requiring written notification of intended change to real estate commissioner or a refiling of the subdivision application. Op. Atty.Gen. No. 63-37-L.

Large tract of land which might, at a future time, be divided for purpose of selling or leasing individual and probably dissimilarly sized parcels therefrom does not constitute a subdivision necessitating real estate commissioner's approval. Op.Atty. Gen. No. 63-18-L.

§ 32-2185. Delivery of clear title by vendor upon performance of contract by vendee

It is unlawful to sell any lot or parcel of a subdivision which is subject to a lien or encumbrance other than taxes or assessments levied by public authority, or when the interest of the owner, his agent or subdivider of the land is held under option or contract of purchase or in trust, unless there is a provision in the instrument evidencing the lien, encumbrance, option, contract or trust agreement, or in a valid supplementary agreement, enabling the vendor to deliver title to each parcel sold free of the lien, encumbrance, option, contract or trust agreement, upon completion of all payments and performances of all the terms and provisions required to be made or performed by the vendee under the real estate sales contract. Certified or verified copies of documents containing such provisions shall be filed with the commissioner prior to the sale of any part of any such subdivision.
Amended by Laws 1972, Ch. 110, § 36.

Historical Note

Source:

Laws 1937, Ch. 53, § 35.
Code 1939, § 67-1735.

Adopted from California, see West's Ann. Bus. & Prof.Code § 11013.

The 1972 amendment substituted "real estate sales contract", at the end of the first sentence, for "agreement of sale".

Reviser's Note:

Laws 1937, Ch. 53, § 40 (Code 1939, § 67-1740) provided for the severability of the act. The provision is omitted as unnecessary.

§ 32-2185.01. Sale of unimproved lots or parcels; conditions precedent; methods

A. It is unlawful for the owner, agent or subdivider of subdivided lands to sell or offer to sell unimproved lots or parcels within a subdivision unless the sale complies with one of the following:

1. Execution, delivery and recording of a deed in good and sufficient form conveying to the purchaser merchantable and marketable title to the property subject only to such exceptions as may be agreed to in writing by the purchaser. Any balance remaining unpaid by the purchaser may be evidenced by a note and mortgage or deed of trust. The deed and mortgage or deed of trust shall be recorded by the owner, agent or subdivider within sixty days of execution thereof by the purchaser.

2. Execution, delivery, recording and depositing in escrow, not later than sixty days after execution by the purchaser, with a person or firm authorized to receive escrows under the laws of this state or the state in which the subdivision is located, of a real estate sales contract pertaining to the property, which contract sets forth the full and correct legal description of the property being sold and the precise terms and conditions under which the property is being sold together with:

(a) A copy of a preliminary title report showing the conditions of title to the property on the date of the real estate sales contract or a preliminary title report showing the condition of title on an earlier date together with a copy of any document, recorded subsequent to the date of the preliminary title report, which affects the title to the property.

(b) An executed deed in good and sufficient form conveying to the purchaser merchantable and marketable title, subject only to such exceptions as may be agreed to in writing by the purchaser which deed, under the terms of the real estate sales contract, is to be delivered to the escrow agent provided for under the contract within sixty days of the purchaser's execution of the contract and is to be recorded within sixty days after purchaser's compliance with the obligations imposed on him under the contract together with any release or partial release of any blanket encumbrance pertaining to said lot.

(c) Any and all documents necessary to release or extinguish any blanket encumbrance to the extent it applies to the real property being

sold, or a partial release of the lot or parcel being sold from the terms and provisions of such blanket encumbrance.

3. Execution, delivery and recording of a deed to the real property to a trustee together with a trust agreement and any and all documents necessary to release or extinguish any blanket encumbrance to the extent it applies to property being sold, or a partial release of the lot or parcel being sold from the terms and provisions of such blanket encumbrance. The trust agreement shall provide for conveyance by the trustee to a purchaser, upon purchaser's compliance with the obligations imposed on him under his real estate sales contract, by a deed in good and sufficient form conveying to the purchaser merchantable and marketable title, subject only to such exceptions as may be agreed to in writing by the purchaser. The real estate sales contract of the lot being sold shall be recorded by the owner, agent or subdivider within sixty days of execution of the real estate sales contract by the purchaser. The trustee shall execute, record and deliver the deed and record the release or partial release required by this subsection within sixty days of the purchaser's fulfillment of the terms of his real estate sales contract.

B. All documents required to be recorded under the provisions of this section shall be recorded in the county and state wherein the subdivision is located.

C. Any sale or assignment of a mortgage, deed of trust or real estate sales contract by an owner, agent, subdivider or trustee shall be recorded in the county and state where the subdivision is located and a notice of such sale or assignment provided to the commissioner, the recording and notice thereof to be effected not later than sixty days after the execution of such assignment.

D. Any contract or agreement entered into after January 1, 1977, to purchase or lease an unimproved lot or parcel may be rescinded by the purchaser without cause of any kind by sending or delivering written notice of rescission by midnight of the seventh calendar day following the day on which the purchaser or prospective purchaser has executed such contract or agreement. The subdivider shall clearly and conspicuously disclose, in accordance with regulations adopted by the commissioner, the right to rescind provided for in this subsection and shall provide, in accordance with regulations adopted by the commissioner, an adequate opportunity to exercise the right to rescission within the time limit set forth in this subsection. The commissioner may adopt regulations to exempt commercial and industrial subdivisions from such requirements.

E. If a buyer of an unimproved lot or parcel has not inspected the lot or parcel prior to the execution of the purchase agreement, the buyer shall have a six-month period after the execution of the purchase agreement to inspect the lot or parcel and at the time of the inspection have the right to unilaterally rescind the purchase agreement. At the

time of inspection the buyer must sign an affidavit stating that he has inspected the lot, and at the request of the commissioner, such affidavit may be required to be filed with the department.

F. Only a bank, savings and loan association, or title insurance company doing business under the laws of this state or the United States or the state in which the subdivision is located, or a title insurance company wholly owned subsidiary or underwriting agent qualified under § 20-1580, or persons or firms authorized to receive escrows under the laws of this state or the state in which the subdivision is located may act as trustee under paragraph 3 of subsection A of this section. Nothing in this subsection extends to a firm or individual authority to act as a trustee unless such authority is otherwise provided by law.

G. The provisions of this section shall not apply to the sale of improved lots as defined by § 32-2101.

H. The provisions of this section shall not apply to the sale of cemetery lots or parcels within a cemetery which has been formed and approved pursuant to the provisions of this chapter.

Added by Laws 1971, Ch. 181, § 5. Amended Laws 1972, Ch. 110, § 37; Laws 1974, Ch. 135, § 6; Laws 1975, Ch. 151, § 23, eff. June 13, 1975; Laws 1976, Ch. 106, § 4, eff. Sept. 23, 1976; Laws 1976, Ch. 133, § 8, eff. Sept. 23, 1976; Laws 1976, Ch. 160, § 14, eff. Sept. 23, 1976.

Historical Note

The 1972 amendment in subsec. A in the unnumbered par. at the beginning substituted "one of the following" for "paragraph 1, 2 or 3 of this section", in par. 2 substituted "real estate sales contract" and "contract" for "an agreement of sale" throughout and in subdiv. (c) inserted "real" and after "property being sold", inserted "or a partial release of the lot or parcel being sold from the terms and provisions of any blanket encumbrance as defined in § 32-2101" and in par. 3 in the first sentence substituted "real property" for "subdivision", after "property being sold," inserted "or a partial release of the lot or parcel being sold from the terms and provisions of any blanket encumbrance as defined in § 32-2101" and in the second sentence substituted "real estate sales contract" for "agreement to purchase"; and in subsec. E [now subsec. F] inserted "insurance", "or a title * * * under § 20-1580" and the last sentence.

The 1974 amendment in subsec. A in par. 2, subdiv. (c), and also in the first sentence of par. 3 substituted "blanket" for "lien or" and "such" for "any" and at the end deleted "as defined in § 32-2101, unless such lien or encumbrance may have been agreed to in writing by the purchaser".

The 1975 amendment in subsec. A in par. 1 added the last sentence, in par. 2 in the unnumbered paragraph at the beginning substituted "sixty days after execution by the purchaser" for "six months after the date of sale" and in subdiv. (b) substituted "within sixty days after" for "upon" and added "together with * * * said lot" and in par. 3 added the last two sentences; and inserted subsecs. B, C and D [now, subsecs. B, C and E].

Laws 1976, Ch. 106, § 4, added text designated as subsec. G, re-designated subsec. H by the Reviser.

Laws 1976, Ch. 133, § 8, in subdiv. (b), par. 2 of subsec. A, inserted "within sixty days of the purchaser's execution of the contract"; inserted subsec. D; and, in present subsec. G, deleted "paragraph 13 of" preceding "§ 32-2101".

Laws 1976, Ch. 160, § 14, changed the reference in present subsec. G from "paragraph 13 of § 32-2101" to "paragraph 12 of § 32-2101", which change was deleted by the Reviser because the reference to paragraph 12 of § 32-2101 would be inconsistent with the paragraph numbering of that section resulting from the triple amendment

of § 32-2101 as contained in the blended version thereof.

1976 Reviser's Note:

This section contains the amendments made by Laws 1976, Ch. 106, § 4, Ch. 133, § 8 and Ch. 160, § 14 which were blended together as shown above pursuant to authority of § 41-1304.03.

Cross References

Disclosure of right to rescind, see § 32-2185.06.

Law Review Commentaries

Changes in real estate subdividing statutes. 12 Ariz.Bar J. No. 4, p. 4 (1976).

Notes of Decisions

1. In general

Generally, owners of subdivision may impose restrictions by agreement and may likewise provide for modification or extinguishment thereof. Hueg v. Sunburst Farms (Glendale) Mut. Water and Agr. Co. (App.1979) 122 Ariz. 284, 594 P.2d 538.

Where purchasers accepted deeds expressly making their respective conveyances subject to restrictions and covenants contained in declaration recorded prior thereto, properties were bound by covenants and restrictions, even though purchasers signed agreements to purchase property prior to recording of declaration. Hueg v. Sunburst Farms (Glendale) Mut. Water and Agr. Co. (App.1979) 122 Ariz. 284, 594 P.2d 538.

Real estate commissioner could fully waive the permanent access requirement of this section forbidding the sale of subdivided land without provision for permanent access to the land over terrain which may be traversed by conventional motor vehicle unless such provision is waived by the commissioner, if the commissioner finds that compliance with the permanent access requirement is not essential to the public interest or for the protection of buyers. Op. Atty.Gen. No. I81-007.

§ 32-2185.02. Permanent access to subdivided land

A. No subdivided land may be sold without provision for permanent access to the land over terrain which may be traversed by conventional motor vehicle unless such provision is waived by the commissioner.

B. Any sale of subdivided land which is without permanent access is voidable by the purchaser.

Added by Laws 1972, Ch. 110, § 38. Amended by Laws 1973, Ch. 129, § 3; Laws 1977, Ch. 153, § 11, eff. June 6, 1977.

Historical Note

The 1973 amendment substituted "permanent" for "legal" in two places.

The 1977 amendment, in subsec. A, inserted "over terrain which may be traversed by conventional motor vehicle unless such provision is waived by the commissioner".

Notes of Decisions

1. In general

A subdivider must provide permanent public access from the subdivision to a formally designated state, county, or federal-aid highway. Op.Atty.Gen. No. 77-152.

A permanent roadway, while not constituting a formal federal, state, or county highway under par. 19 of § 32-2101 defining permanent access in regard to such highways, can constitute permanent access to such a federal, state, or county highway

and, thus, be sufficient to meet the permanent access requirement of this section which forbids the sale of subdivided land without permanent access to the land, but an informal and revocable roadway would be insufficient to constitute permanent access. Id.

§ 32–2185.03. Deposit of fees

All fees and earned expense collected under this chapter shall be deposited in the state general fund unless otherwise prescribed by law.

Added by Laws 1972, Ch. 110, § 38. Amended by Laws 1975, Ch. 151, § 24, eff. June 13, 1975.

Historical Note

The 1975 amendment rewrote this section, which prior thereto read:

"All fees and earned expense collected under this article shall be deposited in the real estate fund and are available to the commissioner for the purpose of making the required examination prior to issuance of a public report and for review examinations or investigations to determine compliance with the provisions of this article."

§ 32–2185.04. Violation of article; classification

Any person who knowingly violates any of the provisions of this article or the rules and regulations prescribed pursuant thereto, or any person who knowingly, in a statement of record filed under, or in a property report issued pursuant to this article, makes any untrue statement of a material fact or fails to state any material fact required to be stated therein is guilty of a class 5 felony.

Added by Laws 1974, Ch. 135, § 7. Amended by Laws 1978, Ch. 201, § 566, eff. October 1, 1978; Laws 1986, Ch. 134, § 9.

Historical Note

The 1978 amendment substituted "knowingly" for "willfully" and substituted "is guilty of a class 5 felony" for "shall upon conviction be fined not more than five thousand dollars or imprisoned not more than five years, or both".

For effective date provision and application of Laws 1978, Ch. 201, see Historical Note following § 1–215.

The 1986 amendment substituted "fails to state" for "omits to state".

Cross References

Classification of offenses, see § 13–601 et seq.
Offenses, culpable mental state, see § 13–105.
Restitution and fines, see § 13–801 et seq.
Sentences of imprisonment, see § 13–701 et seq.

Law Review Commentaries

Arizona Real Estate Sales Act: A developer's view. 13 Ariz.Bar J. No. 1, 42 (1977).

Changes in real estate subdividing statutes. 12 Ariz.Bar J. No. 4, p. 4 (1976).

§ 32-2185.05. Repealed by Laws 1976, Ch. 149, § 6, eff. Sept. 23, 1976

Historical Note

The repealed section was added by Laws 1975, Ch. 151, § 25.

Laws 1976, Ch. 106, § 5, effective September 23, 1976, added subsec. D; as amended the repealed section read:

"A. As a condition precedent to the sale of any subdivided lands, the commissioner shall require of the subdivider a surety bond to assure that the subdivider shall comply faithfully with all the provisions of this chapter. All bonds shall be in favor of the state, for the use, benefit and protection of any person who as the purchaser of a lot is injured by fraud or misrepresentation of the subdivider in his capacity as such. Any person who suffers loss may bring suit upon the bond in his own name except that the total aggregate liability of the surety for all claims shall be limited to the principal amount of the bond irrespective of the number of years the bond is in force. The principal sum of the bond shall be in such amount as the commissioner shall deem necessary to protect purchasers when the volume of business of the subdivider and other relevant factors are taken into consideration, but in no event less than five thousand dollars.

"B. The surety bond shall continue in effect until all sales of the subdivider have been substantially completed as determined by the commissioner and until the commissioner may determine that such bond is no longer necessary, unless cancelled earlier by the surety as herein provided. Upon receipt by the commissioner of notice to cancel a bond by any surety, the commissioner shall immediately notify the subdivider on the bond of the effective date of cancellation of the bond and that subdivider must furnish a like bond within thirty days after mailing of notice by the commissioner or the subdivider's right to sell lots in any subdivision shall be suspended. Notice to the subdivider shall be by certified mail in a sealed envelope with postage fully prepaid thereon, addressed to the subdivider's latest address of record in the commissioner's office. The subdivider's right to sell lots shall be suspended by operation of law on the date the bond is cancelled unless a replacement bond is filed with the commissioner.

"C. The commissioner may exempt a subdivider of fifty or fewer lots, parcels, units or interests from the bonding provisions of subsections A and B of this section, if the commissioner determines that the plan of promotion and disposition is primarily directed to persons in the local community in which the subdivision is located.

"D. After a surety bond has been provided for a cemetery pursuant to the provisions of this section, such bond shall not be increased nor shall an additional bond be required upon further subdivision or development of land lying within the original boundaries of the cemetery as approved when the bond was furnished, if such further subdivision or development is not inconsistent with the original notice filed pursuant to § 32-2181 and the report prepared pursuant to § 32-2183."

Laws 1976, Ch. 149, § 8, provides:

"**Previous subdividers' bonds.** All subdividers' bonds filed pursuant to § 32-2185.05 prior to the effective date of this act may be canceled at the discretion of the commissioner and upon request of the subdivider and all liability thereunder terminated upon the approval of the commissioner after the subdivider and surety have filed affidavits with the commissioner stating that the subdivider and surety are not aware of any unresolved claims that have been made against such bond and after the subdivider, if subject to the provisions of this article has deposited in the subdivision recovery fund, the appropriate fees pursuant to § 32-2196, subsection C of this article. Upon notice of the commissioner's approval of the cancellation of such bond, the surety shall make available to the subdivider all collateral or security which was required to be posted by the subdivider as a condition for the issuance or maintenance of the bond. After such bond has been canceled, any claim that may arise which could have been brought against such bond shall be brought in the manner prescribed in title 32, chapter 20, article 8".

1976 Reviser's Note:

This section was repealed by Laws 1976, Ch. 149, § 6.

§ 32–2185.06. Contract disclosures; contract disclaimers

All agreements and contracts for the purchase or lease of subdivided land from a subdivider, owner or agent shall clearly and conspicuously disclose, in accordance with regulations adopted by the commissioner, the nature of the document, the purchaser's right to receive a copy of the public report and, in the case of unimproved lots or parcels not exempted by regulation pursuant to § 32–2185.01, the purchaser's right to rescind the agreement as provided in § 32–2185.01. Any contract, agreement or lease which fails to make disclosures pursuant to this section shall not be enforceable against the purchaser. If the transaction involves a lot or parcel offered for present or future residential use, the contract, agreement or lease shall not waive or disclaim liability for prior material representations relied upon by the purchaser made by the seller and such seller's agents concerning the subdivision and lot or parcel involved, and any provision attempting to waive or disclaim liability is void.
Added by Laws 1976, Ch. 133, § 9.

Law Review Commentaries

Arizona Real Estate Sales Act: A developer's view. 13 Ariz.Bar J. No. 1, 42 (1977).

Library References

Vendor and Purchaser ⇐21.
C.J.S. Vendor and Purchaser § 37.

§ 32–2185.07. Jurisdiction

The commissioner shall not be denied jurisdiction over any person subject to the provisions of this article because of similar jurisdiction over such person by any other agency or the applicability to such person of any regulation prescribed pursuant to any other provision of law.
Added by Laws 1976, Ch. 133, § 9.

Library References

States ⇐68.
C.J.S. States §§ 120, 130 to 136, 139.

§ 32–2185.08. Recordable forms of contracts

In accordance with regulations adopted by the commissioner, each purchaser of subdivided land shall be provided with a copy, in recordable form, of each contract involved in the sale of such land to the purchaser at the closing of the contract.
Added by Laws 1977, Ch. 153, § 12, eff. June 6, 1977.

Library References

Vendor and Purchaser ⇐21, 26.
C.J.S. Vendor and Purchaser §§ 37, 43.

§ 32–2185.09. Civil penalties

A subdivider subject to the jurisdiction of the department who violates any provision of this chapter or any rule or order promulgated by the commissioner, who deviates substantially from the provisions of a public report or who engages in any unlawful practices defined in § 44–1522 with respect to the sale or lease of unsubdivided lands may be assessed a civil penalty by the commissioner, after a hearing, in an amount not to exceed one thousand dollars for each infraction. An infraction which concerns more than one lot in a subdivision is a single infraction for the purposes of this section.

Added by Laws 1985, Ch. 272, § 10, eff. May 1, 1985.

ARTICLE 5. REAL ESTATE RECOVERY FUND

Article 5, consisting of §§ 32–2186 to 32–2193, was added by Laws 1963, Ch. 42, § 1, effective July 2, 1963.

For termination under Sunset Law, see italic note preceding § 32–2101.

Laws 1984, Ch. 107, § 2 provides:

"Sec. 2. Certain claims against the real estate recovery fund

"Any unexpired, unsatisfied judgment awarding damages for an act which occurred prior to July 27, 1983 by a real estate salesperson or broker acting on his own behalf in real property owned or controlled by him may, subject to all of the limitations of title 32, chapter 20, article 5, Arizona Revised Statutes, be satisfied from the real estate recovery fund provided application is made prior to December 31, 1984."

Library References

Brokers ⇐38(7).
States ⇐127.

C.J.S. Brokers §§ 86, 87.
C.J.S. States § 228.

§ 32–2186. Use of fund; exception; fees

A. The commissioner is authorized and directed to establish and maintain a real estate recovery fund from which any person, except bonding companies when they are not principals in a real estate transaction, aggrieved by an act, representation, transaction or conduct of a duly licensed broker or salesman or a licensed corporation or partnership, which is in violation of the provisions of this chapter or the regulations promulgated pursuant to this chapter, may recover by order of the superior court or justice court in the county where the violation occurred an award from the fund limited to the actual damages suffered by the aggrieved person, including reasonable attorney fees, provided that nothing shall be construed to obligate the fund for more than fifteen thousand dollars per transaction regardless of the number of persons aggrieved or parcels of real estate involved in such transaction. In addition:

Historical Note

The 1988 amendment inserted provisions relating to wood infestation reports; deleted "or regulation" following "rule" and made nonsubstantive changes throughout.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

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10. Incidents unrelated to real estate

Findings in real estate broker's prior disbarment proceeding contained substantial evidence that the broker was not a person of honesty, truthfulness and good reputation, and that he had been guilty of dishonest dealings, justifying revocation of broker's real estate license, notwithstanding that the incidents exemplifying such conduct were unrelated to broker's real estate activities. Wetzel v. Arizona State Real Estate Dept. (App.1986) 151 Ariz. 330, 727 P.2d 825, certiorari denied 107 S.Ct. 3186, 96 L.Ed.2d 674.

§ 32-2157. Commissioner action requiring commissioner to present respondent with written complaint and notice; service; answer; summary suspension; hearing

Cross References

Sales exempted from this article, see § 32-2181.02.

§ 32-2163. Unlawful acts; out-of-state broker

Notes of Decisions

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3. Commission-splitting

Licensed, out-of-state real estate broker may bring action to recover commission in Arizona courts based on commission-splitting agreement with licensed Arizona broker, where Arizona broker had contractual right to commission and assigned right to out-of-state broker. Bustrum v. Gardner (App.1987) 154 Ariz. 409, 743 P.2d 5.

ARTICLE 4. SALE OF SUBDIVIDED LANDS

§ 32-2181. Notice to commissioner of intention to subdivide lands; fractional interests; exceptions; deed restrictions

Cross References

Municipal development agreements, see § 9-500.05.

§ 32-2181.02. Exempt sales

A. The bulk sale of four or more lots, parcels or fractional interests to a subdivider shall be exempt from this article.

B. The owner, agent or subdivider of subdivided lands is exempt from § 32-2181, subsection A and § 32-2183, subsection A if all of the following are met:

1. The lands were originally approved for sale or lease and a subdivision public report was issued pursuant to this article after June 9, 1978.

2. The terms and conditions under which the original subdivision public report was issued have all been satisfied.

3. There are no material changes in the plan under which the subdivision was originally offered other than ownership and matters relating to ownership.

4. The director of the department of water resources has issued a certificate of assured water supply for the subdivided lands.

5. No owner of ten per cent or greater interest, subdivider, directors, partners, agent, officer or developer of the subdivision has:

(a) Been convicted of a felony or any crime involving theft, dishonesty, fraud or real estate, regardless of whether the convictions were subsequently expunged.

(b) Had a civil judgment entered against them in a case involving allegations of misrepresentation, fraud, breach of fiduciary duty, misappropriation, dishonesty or, where the subject matter involved real property, securities or investments.

(c) Had a business or professional license, including a real estate license, denied, suspended, revoked or voluntarily surrendered a business or professional license during the course of an investigative or disciplinary proceeding or other disciplinary action taken in this state or any other state.

6. The sale of the subdivided lands violates no laws or ordinances of any governmental authority.

C. Before offering lands for sale or lease pursuant to subsection B of this section, the owner, agent or subdivider shall notify the commissioner in writing of his intention and qualification for the exemption to sell or lease on a form provided by the commissioner.

D. Before the buyer's execution of a purchase contract or lease, the owner shall provide the buyer a copy of the effective public report issued to the prior owner, a copy of the notice of intention filed with the commissioner pursuant to subsection C of this section and take a receipt from the buyer.

E. Nothing in this section shall be construed to increase, decrease or otherwise affect any rights or powers granted the commissioner under this chapter.

F. Subsections A and B of this section do not apply to lands on which the commissioner has issued orders pursuant to § 32-2157 and § 32-2183, subsection G.

G. A notice filed under this section shall be accompanied by a fee of one hundred dollars.

H. Nothing in this section shall be construed to increase or to decrease or to otherwise affect any rights or powers granted to political subdivisions of this state with respect to their jurisdictions.

Amended by Laws 1988, Ch. 225, § 1.

§ 32-2183. Issuance of public report by commissioner on subdivision; denial of issuance; voidable sale or lease; order prohibiting sale or lease; investigations by commissioner; public hearings; summary orders

A. Upon examination of a subdivision, the commissioner shall, unless there are grounds for denial, issue to the subdivider a public report authorizing the sale or lease in this state of the lots or parcels within the subdivision. The report shall contain the data obtained in accordance with § 32-2181 and any other information which the commissioner determines is necessary to implement the purposes of this article. The commissioner shall require the owner, agent or subdivider to reproduce the report and furnish each prospective customer with a copy, taking a receipt therefor.

B. The commissioner may deny issuance of a public report on any of the following grounds:

1. Failure to comply with any of the provisions of this article or the rules of the commissioner pertaining to this article.

2. The sale or lease would constitute misrepresentation to or deceit or fraud of the purchasers or lessees.

3. Inability to deliver title or other interest contracted for.

4. Inability to demonstrate that adequate financial or other arrangements acceptable to the commissioner have been made for installation of all streets, sewers, electric, gas and water utilities, drainage, flood control and other similar improvements included in the offering.

5. Failure to make a showing that the parcels can be used for the purpose for which they are offered.

6. Failure to provide in the contract or other writing the use or uses for which the parcels are offered, together with any covenants or conditions relative to such parcels.

7. Failure to demonstrate that adequate financial arrangements have been made for any guaranty or warranty included in the offering if the subdivision meets all of the following criteria:

(a) The subdivision contains fifty or more parcels of which any fifty are both:

(i) Not improved with residential, industrial, commercial or institutional buildings.

(ii) Offered for sale, lease or financing for purposes other than industrial, commercial, institutional or commercial agricultural uses.

(b) The subdivision is located in an area with less than one thousand residences within the subdivision or within ten miles of the boundaries of the property described in the final public report.

8. The owner, agent, subdivider, officer, director or partner, subdivider trust beneficiary or, if a corporation, any stockholder owning ten per cent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which has been indicted for fraud or against whom an information for fraud has been filed or has been convicted of a felony.

9. Procurement or an attempt to procure a public report by fraud, misrepresentation or deceit or by filing an application for a public report which is false or misleading.

10. Failure of the declaration for a condominium created pursuant to title 33, chapter 9, article 2 [1] to comply with the requirements of § 33-1215 or failure of the plat for such condominium to comply with the requirements of § 33-1219.

C. If the subdivision is within a groundwater active management area, as defined in § 45-402, the commissioner shall deny issuance of a public report unless the owner, agent or subdivider has been issued a certificate of assured water supply by the director of water resources, or unless the subdivision is located within an area designated as having an assured water supply by the director of water resources pursuant to § 45-576, subsection D, E, G or I or is exempt from such requirement pursuant to § 45-576, subsection K.

D. No person shall sell or lease or offer for sale or lease in this state any lots or parcels in a subdivision without first obtaining a public report from the commissioner except as provided in § 32-2181.01, 32-2181.02 or 32-2181.03. Any sale or lease of subdivided lands prior to issuance of the public report shall be voidable by the purchaser. An action by the purchaser to void such transaction shall be brought within three years of the date of execution of the purchase agreement by the purchaser. In any such action, the prevailing party shall be entitled to reasonable attorneys' fees as determined by the court.

E. Any applicant objecting to the denial of a public report or to denial by the commissioner of exemption from special regulation pursuant to § 32-2181.01 may, within thirty days after receipt of the order of denial, file a written request for a hearing. The commissioner shall hold the hearing within twenty days thereafter unless the party requesting the hearing has requested a postponement. If the hearing is not held within twenty days after request for a hearing is received, plus the period of any such postponement, or if a proposed decision is not rendered within forty-five days after submission, the order of denial shall be rescinded and a public report issued.

F. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that the owner, agent or subdivider is violating any provision set forth in this article or the rules and regulations of the commissioner or has engaged in any unlawful practice as defined in § 44-1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report, may investigate the subdivision project and examine the books and records of the owner, agent or subdivider. For the purpose of examination, the owner, agent or subdivider shall keep and maintain records of

all sales transactions and funds received by him pursuant thereto and make them accessible to the commissioner upon reasonable notice and demand.

G. The commissioner, on his own motion, or when he has received a complaint and he has satisfactory evidence that any person has violated any of the provisions of this article or the rules of the commissioner or has engaged in any unlawful practice as defined in § 44–1522 with respect to the sale of subdivided lands or deviated from the provisions of the public report or special order of exemption, or has been indicted for fraud or against whom an information for fraud has been filed or has been convicted of a felony, before or after the commissioner issues the public report as provided in subsection A of this section, may conduct an investigation of such matter, issue a summary order as provided in § 32–2157, or hold a public hearing and, after the hearing, may issue such order or orders as he may deem necessary to protect the public interest and insure compliance with the law, or rules and regulations or public report or the commissioner may bring action in any court of competent jurisdiction against such person to enjoin such person from continuing such violation or engaging therein or doing any act or acts in furtherance thereof. Such court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by a person of any unlawful practices, or which may be necessary to restore to any person in interest any monies or property, real or personal, which may have been acquired by means of any practice in this article declared to be unlawful.

H. When it appears to the commissioner that a person has engaged in or is engaging in a practice declared to be unlawful by this article and that such person is concealing assets or self or has made arrangements to conceal assets or is about to leave the state, the commissioner may apply to the superior court, ex parte, for an order appointing a receiver of the assets of such person or for a writ of ne exeat, or both.

I. The court upon receipt of an application for the appointment of a receiver or for a writ of ne exeat, or both, shall examine the verified application of the commissioner and such other evidence that the commissioner may present the court. If satisfied that the interests of the public require the appointment of a receiver or the issuance of a writ of ne exeat without notice, the court shall issue an order appointing the receiver or issue the writ, or both. If the court determines that the interests of the public will not be harmed by the giving of notice, the court shall set a time for a hearing and require such notice be given as the court deems satisfactory.

J. If the court appoints a receiver without notice, the court shall further direct that a copy of the order appointing a receiver be served upon the person engaged in or engaging in a practice declared to be unlawful under this article by delivering such order to the last address of such person which is on file with the real estate department. The order shall inform such person that he has the right to request a hearing within ten days of the date of the order and, if requested, the hearing shall be held within thirty days from the date of the order.

Amended by Laws 1988, Ch. 225, § 2.

[1] Section 33–1211 et seq..

Historical Note

The 1988 amendment, in par. 1 of subsec. B, substituted "rules" for "regulations"; and, in subsec. G, deleted "and regulations" following "rules", and inserted "or special order of exemption".

1988 Reviser's Note:

Pursuant to authority of § 41–1304.02, in subsection G, first sentence the words "or special order of exemption" were transposed to follow the first "report".

Cross References

Body of water located in subdivision, source of water used to fill, notice, see § 45–140.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

Subdivision 4
Voidable contract 3

3. Voidable contract

Purchaser, who contended that contract was illegal and void on basis that land was subdivided without complying with this section, was not entitled to keep property and to have note and deed of trust declared unenforceable as legisla-

ture had mandated that contract was voidable rather than void. Yank v. Juhrend (App.1986) 151 Ariz. 587, 729 P.2d 941.

4. Subdivision

Purchaser could not rescind land purchase agreement, though land had been illegally subdivided in past, where there were only three subsequent sales by vendor which did not trigger application of this section. Landin v. Ford (App. 1985) 151 Ariz. 273, 727 P.2d 326, approved 151 Ariz. 278, 727 P.2d 331.

§ 32-2183.03. Civil liabilities

Notes of Decisions

2. Damages

Purchaser who testified at hearing that illegally subdivided lot had increased in value since purchase was not entitled to damages for vendors' violation of subdivision laws. Yank v. Juhrend (App.1986) 151 Ariz. 587, 729 P.2d 941.

§ 32-2185.04. Violation of article; classification

Notes of Decisions

1. Enforcement

Private persons cannot enforce this section. Yank v. Juhrend (App.1986) 151 Ariz. 587, 729 P.2d 941.

ARTICLE 7. SALE OF UNSUBDIVIDED LANDS

§ 32-2195.01. Notice to commissioner of intention before offering for sale or lease of unsubdivided land

A. Prior to the offering for sale or lease of unsubdivided land which consists of four or more contiguous parcels of land, which parcels are more than thirty-six acres each but less than one hundred sixty acres each, and which are offered, known or advertised under a common plan for sale or lease, the owner or agent shall notify the commissioner in writing of his intention to offer such parcels for sale or lease.

B. The notice required by this section shall contain the following information:

1. The name and address of the owner. If the holder of any ownership interest in the land is other than an individual, such as a corporation, partnership or trust, a statement naming the type of legal entity and listing the interest and the extent of such interest of each principal in the entity. For the purposes of this section, "principal" means any person or entity having a ten per cent or more financial interest or, if the legal entity is a trust, each beneficiary of the trust holding a ten per cent or more beneficial interest.

2. The name and address of the agent.

3. The legal description and area of the lands.

4. A true statement of the condition of the title to the land, including all encumbrances thereon.

5. A true statement of the terms and conditions under which such lands are to be offered to the public.

6. A statement of the use or uses for which the land will be offered or a statement that it is offered for no specific use.

7. A true statement of the provisions made for permanent access.

8. A true statement setting out the availability of water or lack thereof.

9. A true statement of the availability to the land of sewage disposal facilities and other public utilities including water, electricity, gas and telephone facilities.

10. A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, taxing area or assessment district within the boundaries of which the

tive date, see Historical Note preceding § 33-1201.

§§ 33-1208 to 33-1210. Repealed by Laws 1978, Ch. 129, § 1

Historical Note

Former § 33-1208, relating to conspiracies to violate former Article 1, was repealed by Laws 1978, Ch. 129, § 1. Subsequent to repeal former § 33-1208 was amended by Laws 1978, Ch. 201, § 587 and was repealed by Laws 1979, Ch. 195, § 21.

Former § 33-1209, relating to enforcement of former Article 1, was repealed by Laws 1978, Ch. 129, § 1.

Former § 33-1210, relating to actions brought to enforce law denying rights to non-citizens and burden of proof of citizenship, was repealed by Laws 1978, Ch. 129, § 1.

Laws 1979, Ch. 195, § 1, par. 12 provides:

"12. Title 33, chapter 9, article 1, Arizona Revised Statutes, the alien land 1978, Ch. 201, § 587, consisting of §§ 33-1201 through 33-1210, was repealed by Laws 1978, chapter 129, § 1, with a general effective date. Sections 33-1204 and 33-1208, Arizona Revised Statutes, were amended by Laws 1978, chapter 201, §§ 586 and 587, respectively, with a delayed effective date. The chapter 201 amendments were part of the legislation conforming penalties prescribed in other titles of Arizona Revised Statutes to the classification system of the revised criminal code in title 13. In order to effect the intention of Laws 1978, chapter 129, §§ 33-1204 and 33-1208, as amended by Laws 1978, chapter 201, are repealed."

ARTICLE 2. CREATION, ALTERATION AND TERMINATION OF CONDOMINIUMS

Article 2, consisting of §§ 33-1211 to 33-1230, was added by Laws 1985, Ch. 192, § 3, effective January 1, 1986.

§ 33-1211. Creation of condominium

A condominium may only be created pursuant to this chapter by recording a declaration in the same manner as a deed in each county in which any portion of the condominium is located. The declaration shall be indexed in the name of the condominium, the name of the association and otherwise as required by law.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33-1201.

Cross References

Amended declarations, see § 33-1227.

§ 33-1212. Unit boundaries

Except as provided by the declaration:

1. If walls, floors or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces are a part of the unit, and all other portions of the walls, floors or ceilings are a part of the common elements.

2. If any chute, flue, duct, wire, conduit, bearing wall, bearing column or other fixture lies partially within and partially outside the designated boundaries of a unit, any portion serving only that unit is a limited common element allocated solely to that unit and any portion serving more than one unit or any portion of the common elements is a part of the common elements.

3. Subject to the provisions of paragraph 2, all spaces, interior partitions and other fixtures and improvements within the boundaries of a unit are a part of the unit.

4. Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, entryways or patios, and all exterior doors and windows or other fixtures designed to serve a

single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

§ 33–1213. Construction and validity of declaration and bylaws

A. All provisions of the condominium documents are severable.

B. The rule against perpetuities shall not be applied to defeat any provision of the condominium documents.

C. Except to the extent inconsistent with this chapter:

1. If a conflict exists between the provisions of the declaration and the other condominium documents, the declaration prevails.

2. If a conflict exists between the provisions of the articles of incorporation and the bylaws or rules, the articles of incorporation prevail.

3. If a conflict exists between the provisions of the bylaws and the rules, the bylaws prevail.

D. Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of any condominium documents to comply with this chapter.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

§ 33–1214. Description of units

A description of a unit which sets forth the name of the condominium, the recording data for the declaration, the county or counties in which the condominium is located and the identifying number of the unit is a sufficient legal description of that unit and all common elements, rights, obligations and interests appurtenant to that unit.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

§ 33–1215. Contents of declaration

A. The declaration shall contain:

1. The name of the condominium, which shall include the word "condominium" or be followed by the words "a condominium", and the name of the association.

2. The name of every county in which any portion of the condominium is located.

3. A legal description of the real estate included in the condominium.

4. A description of the boundaries of each unit created by the declaration, including each unit's identifying number.

5. A description of any limited common elements, other than those specified in § 33–1212, paragraphs 2 and 4, but the declaration shall contain a description of any porches, balconies, patios and entryways, if any, as provided in § 33–1219, subsection B, paragraph 11.

6. A description of any development rights and other special declarant rights, together with a legal description of the real estate to which each of those rights applies, any time

limit within which each of those rights must be exercised and any other conditions or limitations under which the rights described in this paragraph may be exercised or will lapse.

7. An allocation to each unit of the allocated interests in the manner described in § 33–1217.

8. Any restrictions on use, occupancy and alienation of the units.

9. All matters required by §§ 33–1216, 33–1217, 33–1218, 33–1219, 33–1226 and 33–1243, subsection D.

10. A statement that the assessment obligation of the unit owner under § 33–1255 is secured by a lien on the owner's unit in favor of the association pursuant to § 33–1256.

B. The declaration may contain any other matters the declarant deems appropriate.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

§ 33–1216. Leasehold condominiums

A. Any lease, the expiration or termination of which may terminate the condominium or reduce its size, shall be recorded. Unless the lease otherwise specifically provides for the creation of a leasehold condominium and the rights and benefits set forth in this section, each lessor of those leases shall sign or otherwise consent to the provisions of the declaration. The declaration shall state all of the following:

1. The recording data for the lease.

2. The date on which the lease is scheduled to expire.

3. A legal description of the real estate subject to the lease.

4. Any right of the unit owners to acquire title to their units free of the lease or a statement that they do not have this right.

5. Any right of the unit owners to remove any improvements within a reasonable time after the expiration or termination of the lease or that they do not have this right.

6. Any rights of the unit owners to renew the lease and the conditions of any renewal or that they do not have those rights.

B. After the declaration for a leasehold condominium is recorded, neither the lessor nor his successor in interest may terminate the leasehold interest of a unit owner who makes timely payment of his share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. A unit owner's leasehold interest is not affected by failure of any other person to pay rent or fulfill any other covenant.

C. Acquisition of the leasehold interest of any unit owner by the owner of the reversion or remainder does not merge the leasehold and fee simple interests unless the leasehold interests of all unit owners subject to that reversion or remainder are acquired.

D. If the expiration or termination of a lease decreases the number of units in a condominium, the allocated interests shall be reallocated in accordance with § 33–1206, subsection A as though those units had been taken by eminent domain.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

Cross References

Amended declarations, see § 33–1227.

§ 33–1217. Allocation of common element interests, votes and common expense liabilities

A. The declaration shall allocate a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, and a portion of the votes in the association, to each unit and state the formulas used to establish those allocations. Except as otherwise provided in this chapter, the allocations shall not discriminate in favor of units owned by the declarant.

B. If units may be added to or withdrawn from the condominium, the declaration must state the formulas to be used to reallocate the allocated interests among all units included in the condominium after the addition or withdrawal.

C. The declaration may provide:

1. That different allocations of votes shall be made to the units on particular matters specified in the declaration.

2. For cumulative voting only for the purpose of electing members of the board of directors.

3. For class voting on specified issues affecting the class if necessary to protect valid interests of the class.

D. Except for minor variations due to rounding, the sum of the undivided interests in the common elements and common expense liabilities allocated at any time to all the units must each equal one if stated as fractions or one hundred per cent if stated as percentages. If a discrepancy exists between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

E. Except as otherwise permitted by the provisions of this chapter, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

Added by Laws 1985, ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

§ 33–1218. Limited common elements

A. Except for the limited common elements described in § 33–1212, paragraphs 2 and 4, other than porches, balconies, patios and entryways, the declaration shall specify to which unit or units each limited common element is allocated. The allocation shall not be altered without the consent of the unit owners whose units are affected.

B. Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration. The amendment shall be executed by the unit owners between or among whose units the reallocation is made, shall state the manner in which the limited common elements are to be reallocated and, before recording the amendment, shall be submitted to the board of directors. Unless the board of directors determines within thirty days that the proposed amendment is unreasonable, which determination shall be in writing and specifically state the reasons for disapproval, the association shall execute its approval and record the amendment.

C. A common element not previously allocated as a limited common element shall not be so allocated except pursuant to provisions in the declaration. The allocations shall be made by amendments to the declaration.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

Cross References

Amended declarations, see § 33–1227.

§ 33–1219. Plat

A. The plat is a part of the declaration. The plat must be clear and legible.

B. The plat shall show:

1. The name of the condominium.

2. The boundaries of the condominium and a legal description of the real estate included in the condominium.

3. The extent of any encroachments on any portion of the condominium.

4. To the extent feasible, the location and dimensions of all easements serving or burdening any portion of the condominium.

5. The location and dimensions of the vertical boundaries of each unit, and each unit's identifying number.

6. Any horizontal unit boundaries, with reference to an established datum, and each unit's identifying number.

7. Any units with respect to which the declarant has reserved the right to create additional units or common elements, identified appropriately.

8. The location and dimensions of all real estate subject to the development right of withdrawal identified as such.

9. The location and dimensions of all real estate in which the unit owner will only own an estate for years labeled as a "leasehold condominium".

10. The distance between noncontiguous parcels of real estate comprising the condominium.

11. The location and dimensions of limited common elements, including porches, balconies, patios and entryways, other than the limited common elements described in § 33–1212, paragraphs 2 and 4.

12. Any other matters the declarant deems appropriate.

C. Unless the declaration provides otherwise, the horizontal boundaries of a part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part and need not be depicted on the plat.

D. On exercising any development right, the declarant shall record a new plat conforming to the requirements of subsections A and B of this section. No new plat need be recorded if the development right exercised was clearly depicted on the original plat and a document is recorded which references the declaration and original plat and declares that the development right has been exercised.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

§ 33–1220. Exercise of development rights

A. To exercise a development right the declarant shall prepare, execute and record an amendment to the declaration which shall include a new plat conforming to the requirements of § 33–1219, subsections A and B, if the previously recorded plat does not show the boundaries of the parcel or parcels as to which the development right is exercised. The amendment to the declaration shall assign an identifying number to each new unit created and, except in the case of subdivision or conversion of units described in subsection C of this section, reallocate the allocated interests among all units. The amendment shall describe any common elements and any limited common elements created and, in the case of limited common elements, designate the unit to which each is allocated as required by § 33–1218.

B. Development rights may be reserved within any real estate added to the condominium if the amendment adding that real estate includes all matters required by § 33–1215

or 33–1216, whichever is applicable, and the plat includes all matters required by § 33–1219. This subsection does not extend any time limit on the exercise of development rights imposed by the declaration pursuant to § 33–1215, subsection A, paragraph 6.

C. Whenever a declarant exercises a development right to subdivide or convert a unit previously created into additional units or common elements, or both:

1. If the declarant converts the unit entirely to common elements, the amendment to the declaration must reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain.

2. If the declarant subdivides the unit into two or more units, whether any part of the unit is converted into common elements, the amendment to the declaration shall reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.

D. If the declaration provides that all or a portion of the real estate is subject to the development right of withdrawal:

1. If all the real estate is subject to withdrawal and the declaration does not describe separate portions of the real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser without the written consent of all unit owners in the condominium and any mortgagees or beneficiaries of deeds of trust or sellers under a contract, as defined in § 33–741, for conveyance of real property encumbering the units.

2. If a portion or portions are subject to withdrawal, a portion shall not be withdrawn after a unit in that portion has been conveyed to a purchaser without the written consent of all unit owners in the condominium and any mortgagees or beneficiaries of deeds of trust or sellers under contract, as defined in § 33–741, for conveyance of real property encumbering the units.

E. No development right shall be exercised in any manner which would eliminate or materially reduce in size any tennis court, swimming pool, clubhouse or other recreational facility which is part of the common elements and which was specified in the public report issued on the condominium by the commissioner of the state real estate department, unless the exercise of the development right is approved by an affirmative vote of the unit owners to which at least eighty per cent of the votes in the association are allocated.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

Cross References

Amended declarations, see § 33–1227.

§ 33–1221. Alterations of units

Subject to the provisions of the declaration and other provisions of law, a unit owner:

1. May make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium.

2. Shall not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the condominium, without written permission of the association.

3. After acquiring an adjoining unit or, if the declaration expressly permits, an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures in intervening partitions, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33-1201.

§ 33-1222. Relocation of boundaries between adjoining units

If the declaration expressly permits, the boundaries between or among adjoining units may be relocated by an amendment to the declaration. The owners of the units shall prepare an amendment to the declaration, including the plat, that identifies the units involved, specifies the altered boundaries of the units and their dimensions and includes the units' identifying numbers. If the owners of the adjoining units have specified a reallocation between their units of the allocated interests, the amendment shall state the proposed reallocation in a reasonable manner. The amendment shall be executed by the owners of those units, shall contain words of conveyance between or among them and, before recording the amendment, shall be submitted to the board of directors. Unless the board of directors determines within thirty days that the proposed amendment is unreasonable, which determination shall be in writing and specifically state the reasons for disapproval, the association shall execute its approval and record the amendment.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33-1201.

Cross References

Amended declarations, see § 33-1227.

§ 33-1223. Subdivision of units

If the declaration expressly permits, a unit may be subdivided into two or more units. A unit owner shall prepare an amendment to the declaration, including the plat, which identifies the unit involved, specifies the boundaries of each unit created and its dimensions, assigns an identifying number to each unit created and allocates the allocated interests formerly allocated to the subdivided unit to the new units in a reasonable manner. The amendment shall be executed by the owner of the unit to be subdivided and, before recording, submitted to the board of directors. Unless the board of directors determines within thirty days that the proposed amendment is unreasonable, which determination shall be in writing and specifically state the reasons for disapproval, the association shall execute its approval and record the amendment.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33-1201.

Cross References

Amended declarations, see § 33-1227.

§ 33-1224. Easement for encroachments

To the extent that any unit or common element encroaches on any other unit or common element as a result of original construction, shifting or settling, or alteration or restoration authorized by the declaration, a valid easement for the encroachment exists.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33-1201.

§ 33-1225. Use for sale purposes

A declarant may maintain sales offices, management offices and models in units or on common elements in the condominium unless:

1. The declaration provides otherwise.

2. Such use is prohibited by another provision of law or local ordinances.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

§ 33–1226. Easement to facilitate exercise of special declarant rights

Subject to the provisions of the declaration, a declarant has an easement through the common elements as may be reasonably necessary for the purpose of discharging a declarant's obligations or exercising special declarant rights, whether arising under this chapter or reserved in the declaration.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

§ 33–1227. Amendment of declaration

A. Except in cases of amendments that may be executed by a declarant under § 33–1220, by the association under § 33–1206 or § 33–1216, subsection D, or by certain unit owners under § 33–1218, subsection B, § 33–1222, § 33–1223 or § 33–1228, subsection B, and except to the extent permitted or required by other provisions of this chapter, the declaration, including the plat, may be amended only by a vote of the unit owners to which at least sixty-seven per cent of the votes in the association are allocated, or any larger majority the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential use. The declaration may also provide that the consent of the declarant is required to an amendment during any period of declarant control pursuant to § 33–1243. Within thirty days after the adoption of any amendment pursuant to this subsection, the association shall prepare, execute and record a written instrument setting forth the amendment.

B. An action to challenge the validity of an amendment adopted by the association pursuant to this section shall not be brought more than one year after the amendment is recorded.

C. An amendment to the declaration shall be recorded in each county in which any portion of the condominium is located and is effective only on recordation in the same manner as required for the declaration under § 33–1211.

D. Except to the extent expressly permitted or required by other provisions of this chapter, an amendment shall not create or increase special declarant rights, increase the number of units or change the boundaries of any unit, the allocated interests of a unit or the uses to which any unit is restricted, in the absence of unanimous consent of the unit owners.

E. An amendment shall not terminate or decrease any unexpired development right, special declarant right or period of declarant control unless the declarant approves.

F. Amendments to the declaration required by this chapter to be executed by the association shall be executed on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

§ 33–1228. Termination of condominium

A. Except in the case of a taking of all the units by eminent domain, a condominium may be terminated only by agreement of unit owners of units to which at least eighty per

cent of the votes in the association are allocated, or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units in the condominium are restricted exclusively to nonresidential uses.

B. An agreement to terminate shall be evidenced by the execution or ratifications of a termination agreement, in the same manner as a deed, by the requisite number of unit owners. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement and all ratifications of a termination agreement shall be recorded in each county in which a portion of the condominium is situated and is effective only on recordation.

C. A termination agreement may provide that all the common elements and units of the condominium shall be sold following termination. If, pursuant to the agreement, any real estate in the condominium is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

D. The association, on behalf of the unit owners, may contract for the sale of real estate in the condominium, but the contract is not binding on the unit owners until approved pursuant to subsections A and B. If any real estate in the condominium is to be sold following termination, title to that real estate on termination vests in the association as trustee for the holders of all interest in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds of the sale distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to unit owners and lienholders as their interests may appear, in proportion to the respective interests of unit owners as provided in subsection G. Unless otherwise specified in the termination agreement, as long as the association holds title to the real estate, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit. During the period of that occupancy, each unit owner and his successors in interest remain liable for all assessments and other obligations imposed on unit owners by this chapter or the declaration.

E. If the real estate constituting the condominium is not to be sold following termination, title to all the real estate in the condominium vests in the unit owners on termination as tenants in common in proportion to their respective interests as provided in subsection G, and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and his successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted his unit.

F. Following termination of the condominium, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units as their interests may appear. Following termination, creditors of the association holding liens on the units which were recorded before termination may enforce those liens in the same manner as any lienholder.

G. The respective interests of unit owners referred to in subsections D, E and F are as follows:

1. Except as provided in paragraph 2, the respective interests of unit owners are the fair market values of their units, limited common elements and common element interests immediately before the termination, as determined by an independent appraiser selected by the association. The determination of the independent appraiser shall be distributed to the unit owners and becomes final unless disapproved within thirty days after distribution by unit owners of units to which fifty per cent of the votes in the association are allocated. The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and common element interest by the total fair market values of all the units and common elements.

2. If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value of the unit or element before destruction cannot be made, the interests of all unit owners are their respective common element interests immediately before the termination.

H. Except as provided in subsection I, foreclosure or enforcement of a lien or encumbrance against the entire condominium does not of itself terminate the condomin-

ium, and foreclosure or enforcement of a lien or encumbrance against a portion of the condominium does not withdraw that portion from the condominium. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate does not of itself withdraw that real estate from the condominium, but the person taking title may require from the association, on request, an amendment excluding the real estate from the condominium.

I. If a lien or encumbrance against a portion of the real estate comprising the condominium has priority over the declaration, and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance may, on foreclosure, record an instrument excluding the real estate subject to that lien or encumbrance from the condominium.

J. The provisions of subsections C through I do not apply if the original declaration, an amendment to the original declaration recorded before the conveyance of any unit to an owner other than the declarant or an agreement by all of the unit owners contain provisions inconsistent with such subsections.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

Cross References

Amended declarations, see § 33–1227.

§ 33–1229. Rights of secured lenders

The declaration may require that all or a specified number or percentage of the mortgagees, beneficiaries of deeds of trust or sellers under contracts, as defined in § 33–741, for conveyance of real property encumbering the units approve specified actions of the unit owners or the association as a condition to the effectiveness of those actions, but requirement for approval shall not operate to either:

1. Deny or delegate control over the general administrative affairs of the association by the unit owners or the board of directors.

2. Prevent the association or the board of directors from commencing, intervening in or settling any litigation or proceeding, or receiving and distributing any insurance proceeds pursuant to § 33–1253.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

§ 33–1230. Merger or consolidation of condominiums

A. Any two or more condominiums, by agreement of the unit owners as provided in subsection B, may be merged or consolidated into a single condominium. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant condominium is, for all purposes, the legal successor of all of the preexisting condominiums and the operations and activities of all associations of the preexisting condominiums shall be merged or consolidated into a single association which shall hold all powers, rights, obligations, assets and liabilities of all preexisting associations.

B. An agreement of two or more condominiums to merge or consolidate pursuant to subsection A shall be evidenced by an agreement prepared, executed, recorded and certified by the president of the association of each of the preexisting condominiums following approval by owners of units to which are allocated the percentage of votes in each condominium required to terminate that condominium. Any such agreement shall be recorded in each county in which a portion of the condominium is located and is not effective until recorded. A merger or consolidation of two or more condominiums shall be considered an amendment to the declaration of each of the condominiums merged or consolidated.

C. Every merger or consolidation agreement shall provide for the reallocation of the allocated interests in the new association among the units of the resultant condominium either by stating:

1. The reallocations or the formulas on which they are based.

2. The percentage of overall allocated interests of the new condominium which are allocated to all of the units comprising each of the preexisting condominiums, and providing that the portion of the percentages allocated to each unit formerly comprising a part of the preexisting condominium must be equal to the percentages of allocated interests allocated to that unit by the declaration of the preexisting condominiums.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

ARTICLE 3. MANAGEMENT OF THE CONDOMINIUM

Article 3, consisting of §§ 33–1241 to 33–1259, was added by Laws 1985, Ch. 192, § 3, effective January 1, 1986.

§ 33–1241. Organization of unit owners' association

A unit owners' association shall be organized no later than the date the first unit in the condominium is conveyed. The membership of the association at all times shall consist exclusively of all the unit owners or, following termination of the condominium, of all former unit owners entitled to distributions of proceeds under § 33–1228, or their heirs, successors or assigns. The association shall be organized as a profit or nonprofit corporation or as an unincorporated association.

Added by Laws 1985, Ch. 192, § 3, eff. Jan. 1, 1986.

Historical Note

For provisions of Laws 1985, Ch. 192 regarding interpretation of act, short title, and effective date, see Historical Note preceding § 33–1201.

§ 33–1242. Powers of unit owners' association

Subject to the provisions of the declaration, the association may:

1. Adopt and amend bylaws and rules.

2. Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from unit owners.

3. Hire and discharge managing agents and other employees, agents and independent contractors.

4. Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the condominium.

5. Make contracts and incur liabilities.

6. Regulate the use, maintenance, repair, replacement and modification of common elements.

7. Cause additional improvements to be made as a part of the common elements.

8. Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, except that common elements may be conveyed or subjected to a security interest only pursuant to § 33–1252.

9. Grant easements, leases, licenses and concessions through or over the common elements.

the Colorado river and of works necessary for the diversion and transportation of water from the Colorado river to areas in Arizona; provided that not to exceed the sum of one hundred thousand dollars shall be used for the investigation of Bridge Canyon Dam and of works necessary for the diversion of Colorado river water to the Central Arizona Project area; and provided further that the contract with the bureau of reclamation shall provide that the investigations and studies shall be restricted to only that quantity of water which may be available for use in Arizona, after the satisfaction of all existing water delivery contracts between the secretary of interior and users in Arizona for the delivery of main stream water, and that nothing shall be done thereunder which will impair existing rights in Arizona for the diversion and use of Colorado river water. The commission shall make an annual report to the legislature and the governor on the 15th of January of each year, showing the amounts expended, and the results of their investigations and studies in all categories, coming under the provisions of this act.

"**Sec. 3. Exemption.** The appropriation made by this act is exempt from the provisions of §§ 35-173 and 35-190, Arizona Revised Statutes, relating to quarterly allotments and lapsing appropriations.

"**Sec. 4. Emergency.** To preserve the public peace, health and safety, it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure to take effect as provided by law."

§ 45-108. Evaluation of subdivision water supply

A. In areas outside of active management areas established pursuant to chapter 2, article 2 of this title,[1] the developer of a proposed subdivision including dry lot subdivisions, regardless of subdivided lot size, prior to recordation of the plat, shall submit plans for the water supply for the subdivision and demonstrate the adequacy thereof to meet the needs projected by the developer to the director. The director shall evaluate the plans and issue a report thereon. The director may designate service areas where an adequate water supply exists by reporting such designation to the water department of the city or town or private water company and the state real estate commissioner. A developer shall not be required to submit plans for the water supply in such service areas. The director may revoke such designation when the director finds that the water supply may become inadequate.

B. The director shall evaluate the proposed source of water for the subdivision to determine its ability to meet proposed uses for a period of years commensurate with normal practices in other areas of the state and forward a copy of such evaluation to the state real estate commissioner.

C. The state of Arizona and the director or department shall not be liable for any report, designation or evaluation prepared in good faith pursuant to this section.

Added as § 45-513 by Laws 1973, Ch. 94, § 3, eff. May 1, 1973. Renumbered as § 45-108 and amended by Laws 1980, 4th S.S., Ch. 1, § 37, eff. June 12, 1980.

[1] Section 45-411 et seq.

Historical Note

For impairment of obligations and nonseverability provisions of Laws 1980, 4th S.S., Ch. 1, effective June 12, 1980, see Historical Note preceding § 45-401.

Laws 1981, Ch. 203, § 1 provides:

"**Section 1. Exemption from requirement of certificate of assured water supply**

"**A.** A person who proposes to offer subdivided or unsubdivided lands, as these terms are defined in § 32-2101, Arizona Revised Statutes, for sale or lease in an active management area is not required to obtain a certificate of assured water supply pursuant to § 45-576, Arizona Revised Statutes, but shall proceed

pursuant to the requirements of § 45–108, Arizona Revised Statutes, as if the lands were located outside the active management area, if the real estate commissioner and the director of water resources find by June 30, 1981 that all of the following apply:

"1. The person has made substantial capital investment toward the construction of the proposed project before June 12, 1980 in addition to the original cost of acquiring the real property.

"2. The person has shown that he was ignorant of the proposed requirement for a certificate of assured water supply at the time the investment was made.

"3. The proposed project complied in all other respects with existing law as of June 12, 1980.

"B. This section applies notwithstanding § 9–463.01, subsection I, § 11–806.01, subsection B, § 32–2181, subsection C, § 32–2183, subsection C, § 32–2195.01, subsection D, § 32–2195.03, subsection C and § 45–476, Arizona Revised Statutes."

Former § 45–108, providing for departmental fees collected for services, derived from Laws 1919, Ch. 164, §§ 21, 51; Laws 1921, Ch. 64, §§ 10, 22; Rev.Code 1928, § 3316; Code 1939, § 75–137; and Laws 1979, Ch. 139, § 13, was repealed by Laws 1980, Ch. 1, § 30, eff. June 12, 1980.

See, now, § 45–113.

Cross References

Certificate of assured water supply, see § 45–576.
Notice of intention to subdivide lands, requirements, see § 32–2181.

Law Review Commentaries

Arizona Real Estate Sales Act: A developer's view. 13 Ariz.Bar J. No. 1, 42 (1977).

Public regulation of private land use. Milton R. Schroeder, Ariz.State L.J., 1974, p. 163.

Notes of Decisions

Construction with other laws 1
Plot approval 2

1. Construction with other laws

Subdividers who, in an active groundwater management area, had complied with all local requirements and had commenced construction prior to the effective date of the 1980 Groundwater Management Law, § 45–401 et seq., could, under the prior law, have vested rights which might serve to exempt them from the new requirement under the 1980 law requiring subdividers to obtain a certificate of assured water supply from the director of water resources before the state real estate commissioner could issue a public report authorizing the sale of subdivided lands. Op.Atty.Gen. No. I80–206.

2. Plat approval

County recorder may record a subdivision plat without requiring evidence that developer has submitted water supply plans to State Water Commission, but county board of supervisors, by appropriate regulation, may require evidence that developer has done so as a condition precedent to approval of the subdivision plat by the board. Op.Atty.Gen. No. 73–51–L.

§ 45–109. Division of state into water districts; district water superintendent

A. The director shall divide the state into water districts with reference to drainage watersheds in order to secure the best protection to claimants to water and the most economical supervision by the state. Districts shall not be created until necessary but shall be created as the claims from the streams or supply of the state are determined.

B. The director shall appoint one water superintendent for each district, who is eligible to receive such compensation as the director fixes, which shall be paid by the water users of the district. Each superintendent shall keep an account of the time spent by the superintendent and assistants in performing

§ 45–576. Certificate of assured water supply; designated areas; exemptions; definition

A. A person who proposes to offer subdivided or unsubdivided lands, as these terms are defined in § 32–2101, for sale or lease in an active management area shall apply for and obtain a certificate of assured water supply from the director prior to presenting the plat for approval to the city, town or county in which the land is located, where such is required, and prior to filing with the state real estate commissioner a notice of intention to offer such lands for sale or lease, pursuant to §§ 32–2181 and 32–2195.01, unless the subdivision is located within an area designated as having an assured supply pursuant to subsection D, E, G or I of this section.

B. A city, town or county may approve a subdivision plat only if the subdivider has obtained a certificate of assured water supply from the director unless the subdivision is located within an area designated as having an assured water supply pursuant to subsection D, E, G or I of this section. The city, town or county shall note on the face of the approved plat that a certificate of assured water supply has been submitted with the plat or that the proposed subdivision is located within an area designated as having an assured supply, pursuant to subsection D, E, G or I of this section.

C. The state real estate commissioner may issue a public report authorizing the sale or lease of subdivided or unsubdivided lands only if the subdivider, owner or agent has obtained a certificate of assured water supply from the director, unless the lands are located within an area designated as having an assured water supply pursuant to subsection D, E, G or I of this section.

D. The director shall designate service areas of private water companies in active management areas where an assured water supply exists. An allocation for central Arizona project water by the United States secretary of the interior to a private water company is deemed a presumption of an assured water supply upon a finding by the director that the private water company has made an unconditional offer to enter into a contract for central Arizona project water sufficient to supply the intended use and is proceeding to develop the necessary delivery system and treatment works. The presumption of an assured water supply for a private water company ceases if the private water company refuses to enter into a contract for central Arizona project water during the contract period, as determined by the director. If a city or town acquires a private water company which has contracted for central Arizona project water, the city or town shall assume the private water company's contract for central Arizona project water.

E. The director may designate service areas of private water companies in active management areas where an assured water supply exists before an allocation of central Arizona project water as stated in subsection D of this section, on the written request of a person who proposes to offer for sale or lease subdivided or unsubdivided lands and the private water company that would serve the lands. The director shall determine in his best judgment

whether, in addition to other available supplies, sufficient central Arizona project water will be allocated to the private water company to meet the water requirements of all existing development within its franchised area and the requirements of the specific proposed development or developments, taking into account the total request for central Arizona project water from all applicants, the reasonable foreseeability of an allocation by the secretary of the interior as recommended by the director and any need for reserving a portion of the total amount of central Arizona project water requested by all applicants in order to achieve the management goal within the active management area. The determination by the director shall be based upon a finding:

1. That the private water company has made an unconditional offer to enter into a contract for that amount of central Arizona project water determined by the director to be allocable.

2. That the private water company has submitted a plan generally describing the treatment works and facilities for the delivery and treatment of the central Arizona project water and a tentative schedule of major actions which the company will proceed with upon an allocation of central Arizona project water.

3. That the private water company will be able to finance and construct the necessary delivery system and treatment works.

4. If the method of delivery or treatment is by the use of works or facilities of another or by an exchange of water with another, either that there is an existing agreement for the use of the works or facilities or an exchange agreement or that there is a written understanding between the parties of the general terms and criteria for such use or exchange.

F. A determination by the director pursuant to subsection E of this section that a sufficient amount of central Arizona project water can be so allocated is deemed a conditional presumption of an assured water supply for all existing development within its franchised area and the proposed development or developments specified in the director's determination. At the time the secretary of the interior has ordered central Arizona project allocations for private water companies, the director's authority to make determinations which create conditional presumptions of assured water supply terminates. A conditional presumption created under this subsection terminates on the date of an allocation of central Arizona project water by the secretary of the interior to the private water company. Thereafter, the provisions of subsection D of this section apply.

G. The director may designate the service area of a private water company as an area where an assured water supply exists if the director finds all of the following:

1. The private water company serves an incorporated city.

2. The private water company has received an allocation for central Arizona project water sufficient to supply the intended uses within the area covered by the private water company's certificate of convenience and necessity.

3. The city has passed a resolution expressing its unconditional intent to:

(a) Contract for central Arizona project water sufficient to supply the intended uses within the area covered by the private water company's certificate of convenience and necessity in the event the private water company refuses to enter into a contract for central Arizona project water during the contract period, as determined by the director.

(b) Make the central Arizona project water available to supply the intended uses within the area covered by the private water company's certificate of convenience and necessity.

4. There is a high probability that the city will receive an allocation for central Arizona project water from the United States secretary of the interior sufficient to supply the intended uses within the area covered by the private water company's certificate of convenience and necessity if the private water company refuses to enter into a contract for central Arizona project water during the contract period.

H. A designation made pursuant to subsection G of this section terminates if any of the following occur:

1. The director designates the service area of the private water company pursuant to subsection D of this section.

2. The director designates the service area of the city pursuant to subsection I of this section.

3. The city does not receive an allocation for central Arizona project water sufficient to supply the intended uses within the area covered by the private water company's certificate of convenience and necessity or refuses to enter into a contract for central Arizona project water during the contract period, as determined by the director.

I. The director shall designate service areas of cities and towns in active management areas where an assured water supply exists. If a city or town has received an allocation from the United States secretary of the interior for central Arizona project water or has signed a letter of intent with the director to contract for central Arizona project water, the service area and extensions of the service area of such city or town are deemed to have an assured water supply. If the city or town refuses to enter into a contract for central Arizona project water during the contract period, as determined by the director, the determination that the city or town has an assured water supply is subject to review by the director and the director may determine that a city or town does not have an assured water supply within its service area. If a city or town enters into a contract for central Arizona project water, the service area and extensions of the service area of such city or town are deemed to continue to have an assured water supply until December 31, 2000. Commencing on January 1, 2001, the determination that the service area of a city or town has an assured water supply is subject to review by the director and the director may determine that a city or town does not have an assured water supply within its service area.

J. A map identifying and describing the designated service areas of cities, towns and private water companies where an assured water supply exists shall be on file in the department and shall be available for examination by the public during regular business hours. The director shall notify the mayors of all cities and towns in active management areas and the chairmen of the boards of supervisors of counties in which active management areas are located of the service areas where an assured water supply exists and any modification of such areas within thirty days of the designation or modification. Persons proposing to offer subdivided or unsubdivided lands located within such designated service areas for sale or lease are exempt from applying for and obtaining a certificate of assured water supply.

K. This section does not apply in the case of:

1. The sale of lands for developments which are subject to a mineral extraction and processing permit or an industrial use permit pursuant to §§ 45–514 and 45–515.

2. The sale of lands to which irrigation grandfathered rights are appurtenant which the director finds are being divided into parcels each of which is thirty-six or more acres, including to the center line of dedicated roads or easements, if any, contiguous to the parcel, and will be used only for the growing of agricultural products.

L. For purposes of this section, "assured water supply" means:

1. Sufficient groundwater or surface water of adequate quality will be continuously available to satisfy the water needs of the proposed use for at least one hundred years;

2. The projected water use is consistent with the management plan and achievement of the management goal for the active management area; and

3. The financial capability has been demonstrated to construct the delivery system and any treatment works necessary to make the supply of water available for the proposed use.

Added by Laws 1980, 4th S.S., Ch. 1, § 86, eff. June 12, 1980. Amended by Laws 1981, Ch. 192, § 17, eff. April 22, 1981; Laws 1982, Ch. 191, § 22, eff. April 22, 1982; Laws 1984, Ch. 103, § 8.

Historical Note

The 1981 amendment inserted subsecs. E and F.

For legislative intent regarding termination of provisions added or amended by Laws 1981, Ch. 192, see Historical Note following § 9–463.01.

For provision of Laws 1981, Ch. 203 relating to exemption to the requirement of a certificate of assured water supply for subdivided or unsubdivided lands, see Historical Note following § 45–108.

The 1982 amendment inserted par. 2 of subsec. I (now subsec. K).

For legislative intent regarding termination of provisions added or amended by Laws 1982, Ch. 191, see Historical Note following § 9–463.01.

Laws 1983, Ch. 306, § 17 provides:

"Sec. 17. Late filings for grandfathered groundwater rights

"A. A person claiming the right to withdraw or receive and use groundwater pursuant to a grandfathered right who failed to file an application on or before September 14, 1981 as required by § 45–576, subsection A, Arizona Revised Statutes, may file an application for a

certificate of grandfathered right with the department of water resources on a form provided by the department. The application must be postmarked or received by the department not later than July 1, 1983. The department may not accept, but shall return, any applications postmarked or received after this date.

"B. The application for a certificate of grandfathered right shall include the information required in § 45-476, Arizona Revised Statutes. The fee for filing an application after September 14, 1981 is one hundred dollars.

"C. Within fifteen days after the effective date of this act, the director of water resources shall give notice of the opportunity to apply for a certificate of grandfathered right once each week for two consecutive weeks in a newspaper of general circulation in each county in which an active management area is located.

"D. The director shall establish a registry of all applications for a certificate of grandfathered right received after September 14, 1981, pursuant to this section. Within fifteen days after July 1, 1983, the director shall give notice once each week for two consecutive weeks in a newspaper of general circulation in each county in which an active management area is located that the registry is available in the offices of the department of water resources for public inspection during regular business hours.

"E. Within sixty days after the last publication of notice required by subsection D of this section, any person residing in the active management area may file a written objection to any application for a certificate of grandfathered right and may request a hearing on the application. Objections may be made only on the basis that the information in the application is incorrect or insufficient to issue a certificate.

"F. The director shall process applications received pursuant to this section in the manner provided in § 45-480, Arizona Revised Statutes. All certificates of grandfathered rights issued to persons who applied pursuant to this section shall be included in the registry of certificates established pursuant to § 45-481, Arizona Revised Statutes.

"G. A holder of a certificate of grandfathered right issued pursuant to the procedures set forth in this section has the same rights and duties as a holder of a certificate issued pursuant to the procedures set forth in title 45, chapter 2, article 5, Arizona Revised Statutes. For purposes of this section, "holder" means a person to whom a certificate of grandfathered right is issued or a person to whom a certificate of grandfathered right is conveyed.

"H. A person who claims the right to withdraw or receive and use groundwater pursuant to a grandfathered right but who fails to file an application for a certificate of grandfathered right as provided in this section or title 45, chapter 2, article 5, Arizona Revised Statutes, is deemed to waive and relinquish any right to withdraw or receive and use groundwater pursuant to title 45, chapter 2, article 5, Arizona Revised Statutes.

"I. This section applies notwithstanding § 45-476, subsection A and § 45-477, Arizona Revised Statutes."

The 1984 amendment inserted subsecs. G and H.

1984 Reviser's Note:

Pursuant to authority of § 41-1304.02, in the heading of this section "; definition" was added.

Cross References

Addition and exclusion of area by irrigation districts in initial active management areas, see § 45-494.01.
Assured water supply certificate,
Preliminary subdivision plat prerequisite, exemption, see § 9-463.01.
Subdivision within groundwater active management area, see §§ 9-463.01 and 11-806.01.
Evaluation of subdivision water supply, see § 45-108.
Reports by real estate commissioner,
Subdivision, see § 32-2183.
Unsubdivided land, see § 32-2195.03.
Subdivision plats,
County approval, see § 11-806.01.
Municipal approval, see § 9-463.01.

Law Review Commentaries

Groundwater rights in Arizona. 21 Ariz.Bar J. No. 4, p. 8 (1986).

MARICOPA COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT
111 So. 3RD AVENUE, ROOM 300, PHOENIX, ARIZONA 85003

RECOMMENDED LAND USE RATIOS

LAND USE		ACRES OF LAND PER 1000 PEOPLE (PROJECTED)
Residential Open Space		9.5
Neighborhood Park	2.0	
Playfields/Playgrounds	3.0	
Open Space/Drainage	3.5	
Community Recreation Facilities	1.0	
Commercial		10.5
Retail	5.5	
General	5.0	
Industrial		8.0
Public/Quasi Public		5.0

Advance Planning
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LAND USE SUMMARY TABLE
FOR DEVELOPMENT MASTER PLANS

PARCEL*	LAND USE CATEGORY	TYPE OF LAND USE	GROSS ACRES	GROSS DENSITY

* Use only one land use type per parcel.

LAND USE CATEGORY	TOTAL GROSS ACRES	AVERAGE GROSS DENSITY

TOTAL ACRES FOR DEVELOPMENT:	
AVERAGE DENSITY FOR RESIDENTIAL PARCELS: *	

* Including open space parcels related to residential use.

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LAND USE CATEGORIES

o Open Space, OS

The Open Space category denotes areas which would be best precluded from development except as open space and recreational areas. However, such environmentally sensitive areas as steep slopes and flood plains may be developed when in compliance with the Hillside Regulations and Flood Plain Development Regulations. Additional uses in this category include parks, recreation areas, drainage ways and scenic areas.

Residential

The Land Use Categories which permit residential development are divided into two areas based upon the availability of urban services (sewer, water, law enforcement, fire protection, schools, parks, etc.). Those categories in which some or all of these services do not exist and are not anticipated to be provided have been defined as rural, while those categories in which these services exist or are anticipated to be provided have been defined as suburban and urban. Permitted uses in all residential use categories include schools and churches. Special attention to the location of these uses should be given with regard to access, traffic and proximity to arterials.

0 Rural Residential/Low Density, RR/L, (0-0.2 Dwelling Units per Acre)

The Rural Residential/Low Density category denotes areas where very low density residential development is desirable, particularly where urban services (sewer, water, fire, police, schools, parks, etc.) are not available. Suitability is determined on the basis of location, access, existing land use patterns and natural or man-made constraints. Within any particular development, densities greater than 0.2 du/acre may be permitted, but only if areas of lower densities off-set the increase such that an average of less than 0.2 du/acre is maintained. Uses in this category include agricultural and single family residential.

o Rural Residential/High Density, RR/H, (0-1.0 Dwelling Units per Acre)

The Rural Residential/High Density category denotes areas where single family residential development is desirable but urban services (sewer, water, law enforcement, fire protection, schools, parks, etc.) are limited. Suitability is determined on the basis of location, access, existing land use patterns, and natural or man-made constraints. Within any particular development, densities greater than 1.0 du/acre may be permitted, but only if areas of lower densities off-set the increase such that an average of less than 1.0 du/acre is maintained. Uses in this category include agricultural and single family residential.

o Suburban Residential, SR, (0-2.0 Dwelling Units per Acre)

The Suburban Residential category denotes areas where single family residential development is desirable and urban services (sewer, water, law enforcement, fire protection, schools, parks, etc.) are available or will be provided. Suitability is determined on the basis of

location, access, existing land use patterns and natural or man-made constraints. Within any particular development, densities greater than 2.0 du/acre may be permitted, but only if areas of lower densities off-set the increase such that an average of less than 2.0 du/acre is maintained. In addition to residential uses, limited convenience commercial uses may also be permitted, provided there is direct access to arterial streets. A community sewer and water system will be required for developments above 1.0 du/acre and may be required for those below 1.0 du/acre.

- Urban Residential/Very Low Density, UR/VL (0-4.0 Dwelling Units per Acre)

  The Urban Residential/Very Low Density category denotes areas where higher density residential development is appropriate and all urban services (sewer, water, law enforcement, fire protection, schools,-parks, etc.) are available or will be provided. Single family development may be permitted, provided overall development densities do not exceed 4.0 du/acre. Within any particular development densities greater than 4.0 du/acre may be permitted, but only if areas of lower densities off-set the increase such that an average of 4.0 du/acre or less is maintained. Convenience commercial development may be located within the area with direct arterial street access. A community sewer and water system will be required for development at these densities.

- Urban Residential/Low Density, UR/L, (0-6.0 Dwelling Units per Acre)

  The Urban Residential/Low Density category denotes areas where higher density residential development is appropriate and all urban services (sewer, water, law enforcement, fire protection, schools, parks, etc.) are available or will be provided. Single family development may be permitted, provided overall development densities do not exceed 6.0 du/acre. Within any particular development densities greater than 6.0 du/acre may be permitted, but only if areas of lower densities off-set the increase such that an average of 6.0 du/acre or less is maintained. Convenience commercial development may be located within the area with direct arterial street access. A community sewer and water system will be required for development at these densities.

- Urban Residential/Medium Density, UR/M, (0-12.0 Dwelling Units per Acre)

  The Urban Residential/Medium Density category denotes areas where higher residential development densities are appropriate and where all urban services (sewer, water, law enforcement, fire protection, schools, parks, etc.) are available or will be provided. Two family and multi-family developments may be permitted. Residential densities for specific projects may exceed 12.0 du/acre, but only if areas of lower densities off-set the increase such that an average of 12.0 du/acre or less is maintained. Neighborhood commercial development may be located within the area at arterial street intersections, if demand permits. A community sewer and water system will be required for development at these densities.

- Urban Residential/High Density, UR/H, (0-25.0 Dwelling Units per Acre)

  The Urban Residential/High Density category denotes areas where the County's highest residential development densities are appropriate and where all urban services (sewer, water, law enforcement, fire protection, schools, parks, etc.) are available or will be provided. High density multi-family developments may be permitted. Residential densities for specific projects may exceed 25.00 du/acre, but only if areas of lower densities offset the increase such that an average of 25.00 du/acre or less is maintained. Neighborhood commercial development may be located within the area at arterial street intersections, if demand permits. A community sewer and water system will be required for development at these densities.

Commercial

Four Land Use Categories have been developed which permit different intensities of commercial activities. Direct frontage on arterial streets is an essential element for each category.

- Convenience Commercial, CC

  The Convenience Commercial category denotes areas for the location of small convenience shops and services for the benefit of local residents. This category permits developments of 1 acre or less. Convenience Commercial locations are designated in areas having a more rural character. Permitted uses in this category include gasoline stations, minor auto repair and maintenance, convenience food marts, barber shops, beauty shops, package liquor stores, laundromats, and eating and drinking establishments. Urban level services are not required, however uses allowed should be appropriate for the services available.

- Neighborhood Commercial, NC

  The Neighborhood Commercial category denotes areas providing for the sale of convenience goods (food, drugs, and sundries) and personal services which meet the daily needs of an immediate neighborhood trade area. Such a trade area shall have a minimum population of approximately 5,000 people. This category permits developments of 5 acres or less per trade area. A limited number of permitted activities should be provided. A market analysis may be required. A community sewer and water system will be required for development. All uses within this category are subject to plan review and approval.

- Multi-Neighborhood Commercial, MNC

  The Multi-Neighborhood Commercial category denotes areas providing for the sale of convenience goods (food, drugs, and sundries) and personal services which meet the daily needs of a multi-neighborhood trade area. Such a trade area shall have a minimum population of approximately 10,000 people. Use of this category in a trade area shall prohibit the

use of the Neighborhood Commercial category in the trade area. This category permits developments of 10 acres or less per trade area. A broader number of activities may be provided than those in a Neighborhood Commercial category. A market analysis may be required. A community sewer and water system will be required for development. All uses within this category are subject to plan review and approval.

- General Retail Commercial, GRC

  The General Retail Commercial category includes a full spectrum of retail and service uses of a community-wide and/or regional scale. This category should only be designated in urban areas likely to be annexed and only after the consent of the annexing municipality has been obtained. Uses and location shall be based upon market needs. A market analysis may be required. A community water and sewer system will be required for development. All uses within this category are subject to plan review and approval.

Employment Centers

The Employment Center categories denote areas for the concentration of major employers. In recognition of the diverse nature of major employers, three categories have been developed which attempt to group uses by their impacts on the surrounding area.

- Mixed Use Center, MUC

  The Mixed Use Center category denotes areas for the location of major employment centers which would have minimal impacts on surrounding areas outside of increased traffic demands. Uses permitted in this category would include offices, light industrial parks, business parks, research parks, government facilities, post secondary educational facilities, hospitals and major medical facilities. Access to a principal arterial or freeway will be required. No noise, vibration, smoke, dust, odor, heat or glare will be permitted. Only the minimum of truck traffic will be allowed. Urban services are available or will be provided. A community sewer and water system will be required for development. All uses within this category are subject to plan review and approval.

- Light Industrial Center, LIC

  The Light Industrial Center category denotes areas for the location of major employment centers which would have greater impacts on surrounding areas than those uses in a Mixed Use Center. Uses permitted in this category would include warehousing, storage, wholesale distribution activities limited manufacturing and assembly. Access to a principal arterial or freeway will be required. Very limited noise, vibration, smoke, dust, odor, heat or glare will be permitted. Limited truck traffic will be allowed. Urban services are available or will be provided. A community sewer and water system will be required for development. All uses within this category are subject to plan review and approval.

- Heavy Industrial Center, HIC

  The Heavy Industrial Center category denotes areas for the location of major employment centers. Uses permitted in this category would include general warehousing, storage, distribution activities, general manufacturing and assembly of small parts. Uses not permitted include refining or rendering of fats and oils, wood planing mills, and paint manufacturing which employs a boiling process. Urban services are available or will be provided. A community sewer and water system will be required for development. Access to a principal arterial or freeway will be required. All uses within this category are subject to plan review and approval.

APPENDIX D

SCHOOL AND PARK PRINCIPLES AND STANDARDS

	Desirable Design Capacity	Size of Site	Service Area	Remarks
Elementary School Grades K-8	Variable (1) See local school district	10 acres plus an additional acre for each 100 pupils of ultimate enrollment (2)	1/4 to 1/2 mile with a density of 10 or more persons per acre	Site should not be located on major traffic artery.
Secondary School	Variable (1) See local school district	30 acres plus an additional acre for each 100 persons of ultimate enrollment (2)	1 mile or more	Site should be located on or close to a major street.
Neighborhood Park		5 acres minimum	1/4 to 1/2 mile with a density of 10 or more persons per acre	Site should be adjacent to or near an elementary school. It should provide passive recreation facilities for people of all ages residing in the neighborhood.
Playfield		10 to 12 acres minimum and 20 to 30 acres is desirable	Should be within 1/2 mile to 1 mile of every home. One playfield serves 4 or 5 neighborhoods or 20,000 persons maximum.	Site should be located at or adjoining a high school. It should provide for field games or sports, court games, areas for lawn games, swimming pool, parking areas, picnic areas.

1. Minimum, Maximum, Optimum pupil capacities vary with local school district practices or standards.
2. Source: 1964 National Council on Schoolhouse Construction, Guide for Planning School Plants.

MARICOPA COUNTY HIGHWAY DEPARTMENT

GUIDE FOR IMPROVEMENT OF PERIMETER STREETS

The development of perimeter streets of new subdivisions shall follow the guidelines shown below. The criteria of the level of improvements required is a function of level of roadway development existing prior to the improvement and whether or not Maricopa County Highway Department has a project for improvement of the roads in the vicinity in its 5-year Capital Improvement Program. Terms used are defined as follows:

Present Improvements:

None: Unopened; graded and drained; no stabilized wearing course.
BST: Bituminous Surface Treatment, usually penetration chip seal pavement or equivalent.
Strip: Strip pavement, usually asphalt concrete, generally 28' wide over full aggregate base.
Full: Asphalt concrete pavement with curbs, to full ultimate width.
Ultimate Section: As per Maricopa County Highway Department Supplement to MAG Standard Details.

Five Year Program: Approved five year road improvement program of the Maricopa County Highway Department.

Penetration Chip Seal Pavement: 4" minimum compacted depth of aggregate base; asphalt penetration; chip seal; all in accordance with applicable specifications of Maricopa County Highway Department.

SECTION LINE OR ARTERIAL TYPE ROADS

General right-of-way width is 55' half-width or 75' half-width with a frontage road (not recommended but required if lots face section line road). The frontage road, if required, shall be improved to the same specifications as the interior streets of the subdivision. The section line roadway shall be improved as follows:

Present Improvements				5 Year Program		
None	BST	Strp.	Full	Yes	No.	Improvement of Section Line Road Required
x					x	24' Half-width penetration chip seal pavement.
x				x		24' Half-width adequate dustproofing such as penetration and chip seal over graded native material, or alternate as approved by the County Engineer.
	x				x	Widen and improve as necessary to 24' half-width penetration chip seal pavement from the edge of the existing improvement to the 24' width. Chip seal shall cover full 24' half-width.
	x			x		Grade unimproved portion to 24' half-width, penetrate and apply chip seal wearing course to 24' half-width, or alternate as approved by the County Engineer.
		x			x	Widen to 34' to face of curb on side of subdivision in accordance with specification of the Maricopa County Highway Department, complete with concrete curb and gutter. If on an F.A.S. Route, the applicable curb section of the Arizona Department of Transportation shall be used.
		x		x		Same as above, except the developer may be required to post bond for the improvement until such time as the plans for the improvement are fully approved.
			x	N/A	N/A	No further improvements to section line road required.

MIDSECTION LINE OR MAJOR COLLECTOR TYPE ROADS

General right-of-way width is 40-foot half width. The ultimate fully improved section consists of 44 feet of pavement, plus two feet (2') wide vertical concrete curbs and gutters both sides. If the subdivision borders on a midsection line or major collector type road, the improvements required are as follows:

Present Improvements				
None	BST	Strp.	Full	Improvement to Perimeter Road Required
x				22-foot half-width pavement to full specification, plus vertical concrete curbs and gutters for subdivisions with lot sizes less than 18,000 square feet; 24-foot half-width strip pavement in subdivisions with lot sizes of 18,000 square feet or greater, but smaller than 70,000 s.f.; 24-foot half-width strip pavement of penetration chip seal pavement in subdivisions with lot sizes of 70,000 s.f. or greater.
	x			Remove existing BST for half-width and improve as specification above for all subdivisions with lot sizes less than 70,000 s.f. For subdivisions with lot sizes of 70,000 s.f. or greater, the BST is to be widened to 24 feet, if applicable, and the entire 24-foot width penetrated and chip sealed.

MIDSECTION LINE OR MAJOR COLLECTOR TYPE ROADS (continued)

Present Improvements				
None	BST	Strip	Full	Improvement to Perimeter Road Required
		x		Regardless of lot size in the subdivision, the road is to be improved to the ultimate section of 22-foot half-width pavement, plus vertical concrete curb and gutter.
			x	No further improvements required.

QUARTER MILE OR RESIDENTIAL COLLECTOR TYPE STREETS

General right-of-way width is 30-foot half-width. The ultimate fully improved section consists of 36 feet of pavement, plus two feet (2') wide roll curbs both sides. If the subdivision borders on a quarter mile or residential collector type road, the improvements required are as follows:

Present Improvements				
None	BST	Strip	Full	Improvement to Perimeter Road Required
x				If lot size is less than 18,000 s.f., improve with 18-foot half-width full pavement, plus two feet (2') wide concrete roll curb, lot size of 18,000 s.f. or greater, but smaller than 70,000 s.f., improve with 18 feet of strip pavement; lot size of 70,000 s.f. or greater, improve with 20-foot width of penetration chip seal pavement.
	x			Remove existing BST for half-width and improve as specification above for all subdivisions with lot sizes less than 70,000 s.f. For subdivisions with lot sizes of 70,000 s.f. or greater, the BST is to be widened, if necessary, on the subdivision side to a half width of 20 feet.
		x		If subdivision lot size is smaller than 18,000 s.f., the road shall be widened to 18-foot half-width pavement, if applicable, plus two-feet (2') wide concrete roll curb on subdivision side. Lot sizes of 18,000 s.f. or larger, no further improvements required.
			x	No further improvements required.

RESIDENTIAL STREETS

General right-of-way width is 25-foot half-width. The ultimate fully improved section consists of 28 feet of pavement, plus two feet (2') wide roll curbs both sides. If the subdivision borders on a residential street, the improvements required are as follows:

x				If lot size is less than 18,000 s.f., improve with 14-foot half-width of full pavement, plus two feet (2') wide concrete roll curb; lot size of 18,000 s.f. or greater, but smaller than 70,000 s.f., improve with 14-foot half-width of strip pavement; lot size of 70,000 s.f. or greater, improve with 14-foot half-width of penetration chip seal pavement.
	x			Remove existing BST for half-width and improve as specification above for all subdivisions with lot sizes less than 70,000 s.f. For subdivisions with lot sizes of 70,000 s.f. or greater, the BST is to be widened, if applicable, on the subdivision side to a half width of 14 feet.
		x		If subdivision lot size is smaller than 18,000 s.f., the road shall be widened to 14-foot half-width, if applicable, plus two feet (2') wide concrete roll curb on subdivision side. Lot sizes of 18,000 s.f. or greater, no further improvements required.
			X	No further improvements required.

Adopted: September 6, 1983

SUBDIVISION REGULATIONS
ADMINISTRATIVE GUIDELINES
APPENDIX G (Page 2 of 2)

RESOLUTION

MARICOPA COUNTY BOARD OF SUPERVISORS

WHEREAS, it is necessary in the interest of public health, safety, welfare and convenience that standards and specifications be adopted for the construction and improvement of streets and utilities in areas under the jurisdiction of the Maricopa County Board of Supervisors, and

WHEREAS, the laws of the State of Arizona authorize the Board of Supervisors to regulate the extent and conditions of these improvements.

NOW THEREFORE BE IT RESOLVED that the "Maricopa County Special Provisions for Construction of Street Improvements" and "Maricopa County Special Provisions for Installation of Underground Utilities" attached hereto and made part hereof as though recited in their entirety, are hereby declared adopted.

BE IT FURTHER RESOLVED that adoption of these aforementioned Special Provisions in no way voids the requirements of the Special Provisions originally adopted by the Board of Supervisors on February 7, 1972, and subsequently revised on July 17, 1972 and October 20, 1975, but merely revises those Special Provisions.

BE IT FURTHER RESOLVED that these Special Provisons are intended to complement the Subdivision Regulations for Maricopa County, as well as the MAG Uniform Standard Specifications for Public Works Construction and Maricopa County Highway Department Supplements as currently in effect.

BE IT FURTHER RESOLVED that these Special Provisions shall be effective immediately upon adoption.

ADOPTED by the Maricopa County Board of Supervisors in public session this 2nd day of August, 1982.

/s/ George Campbell
Chairman, Maricopa County
Board of Supervisors

ATTEST:

/s/ Cherie Pennington
Clerk of the Board of
Supervisors

MARICOPA COUNTY
SPECIAL PROVISIONS FOR CONSTRUCTION
OF
STREET IMPROVEMENTS

I. STREET IMPROVEMENTS.

A. Subdivisions.

1.a. Streets in residential subdivisions with net lot areas smaller than 18,000 square feet shall be improved to cross sections as shown in Maricopa County Highway Department Supplement to MAG Uniform Standard Details 2017, 2018 and 2019, including curb and gutter. Streets in residential subdivisions with net lot areas of 18,000 square feet or larger but smaller than 70,000 square feet shall be improved with a 28' wide pavement without curbs and gutters (Standard Detail 2020). Streets in residential subdivisions with net lot areas of 70,000 square feet or larger shall be improved to a 28' wide pavement of penetration and chip seal per Standard Detail 2020, except where grades exceed five percent (5%), two inches (2") of asphalt concrete on required base.

b. Streets in Industrial Parks/Commercial Subdivisions with net lot areas smaller than 18,000 square feet shall be improved per MCHD Supplement to MAG Uniform Standard Detail 2021 (vertical curb and gutter - widths per table). Streets in Industrial Parks/Commercial Subdivisions with net lot areas greater than 18,000 square feet shall be improved per Standard Detail 2021.

2. Access to subdivisions shall be improved as required by the Subdivision Regulations.

3. All utility services in new subdivisions shall be installed prior to placement of pavement, or have provision made to eliminate later pavement cuts.

4. Concrete curbs and gutters are required in residential subdivisions with net lot sizes smaller than eighteen thousand square feet (18,000 sq. ft.). Residential and residential collector streets may have roll curb. Others shall have vertical curb. Curb returns shall be vertical curb, (four, six or seven inch). Transitioning between different height curbs may be done in return or in curb transition of lesser height curb.

5. Perimeter streets shall be improved as required by the County Engin

ADOPTED: August 2, 1982

B. General.

1. Unless covered under paragraph I.A. of these Special Provisions, improvements within County right-of-way shall conform to applicable Standards and Specifications of MAG and adopted Maricopa County Highway Department Supplements.

2.a. Street pavement in residential subdivisions shall consist of a minimum of two (2) inches compacted depth of asphalt concrete over aggregate base course (ABC) as determined from laboratory soil test results per Maricopa County Highway Department Supplement to MAG Uniform Standard Details 2015 and 2016, with a minimum depth of ABC of nine (9) inches on arterial type roads and six (6) inches on all other roads. On arterial type roads, the County Engineer may have a predetermined design which will govern. Maximum pavement cross slope shall be 2%. Before placing ABC material, all vegetation must be removed. If required by the County Engineer, the soil shall be sterilized. Applicable uses of the penetration and chip seal specification shall conform to Maricopa County Highway Department requirements. ABC shall be determined from laboratory soil test results per Standard Detail 2016 with a minimum depth of four (4) inches.

2.b. Street pavement in Industrial Parks/Commercial Subdivisions shall consist of a minimum of two (2) inches of compacted depth of asphalt concrete over aggregate base course (ABC) as determined from laboratory soil test results per Standard Detail 2015, with a minimum depth of ABC of nine (9) inches.

3. Channels used for surface drainage onto a paved street shall be lined with a non-erosive material or improved as required by the County Engineer.

4. All asphalt concrete shall receive a preservative seal in accordance with Sections 334 and 718 of the MAG Specifications.

5. Drainage must be provided as per the approved plans.

6. Irrigation and Utilities.

   a. All private irrigation facilities and other private utilities must be relocated onto private easements at no cost to the County. Unused facilities in the right-of-way must be removed to the satisfaction of the County Engineer.

b. Public utility facilities existing at the time of the improvements shall be relocated to non-conflicting locations at no cost to the County, if required by the County Engineer.

c. Attention is called to the requirements for notification to utilities before the start of excavation operations.

II. SPECIFICATIONS.

All work and materials shall conform to the current "Uniform Standard Specifications and Details for Public Works Construction - Maricopa Association of Governments", with adopted Maricopa County Highway Department Supplements, EXCEPT as noted in these Special Provisions. In case of conflict between the Uniform Standard Specifications and these Special Provisions, the Special Provisions shall govern.

It is not the intention of the Maricopa County Highway Department to prohibit use of other materials, methods or designs for street improvements. Other agency specifications will be considered as satisfactory alternates upon written approval of the County Engineer, based on prior submission of structural designs, tests and other supporting data.

III. ENGINEERING.

A. All preparation of plans, stakeout, construction and inspection within County right-of-way shall be performed under the supervision of a Civil Engineer registered in the State of Arizona.

B. Plans shall be submitted on a sheet size of 24" x 36" and must be neat, clear, legible and complete in all respects to a plan scale not smaller than 1" = 50'.

Street Improvement plans shall be submitted on plan profile sheets with a horizontal scale no smaller than 1" = 50' and a vertical scale no smaller than 1" = 5'. The scale must be adequate to clearly show all grade breaks and details.

Pre-development and final grades must be shown either as contours or spot elevations.

Plans should be submitted at least ten (10) working days prior to any submission of an application for a construction permit.

C. Continuous field inspection shall be required during construction operations involving placement of road wearing course, Portland Cement concrete and seal coating operations and shall be performed under the supervision of a Civil Engineer registered in the State of Arizona.

D. Upon completion of all work, the engineer shall certify in writing to the Maricopa County Highway Department, that such work was done in accordance with the approved plans and specifications. He shall also furnish one sealed set of prints reflecting "as-built" conditions.

IV. PERMITS.

All work performed within County right-of-way must be under permit from the Maricopa County Highway Department. Three (3) sets of approved plans must be submitted with the application at least three (3) working days before work is scheduled to begin. If plans not previously approved are submitted with the permit application, additional review time is required.

V. PUBLIC UTILITIES.

It shall be the owner's responsibility to arrange for all necessary installation, relocation or removal of conflicting Public Utilities. Satisfactory test reports as required by the "Maricopa County Special Provisions for Installation of Underground Utilities" must be received by the Maricopa County Highway Department prior to issuance of approval for paving or curb operations. The County Engineer will give approval for paving operations only after compliance with all requirements for utility installation, grading and subgrade compaction. The latest edition of "Maricopa County Special Provisions for Installation of Underground Utilities" is incorporated herein and made a part hereof.

VI. DUST CONTROL.

Existing regulations, namely Regulation II, Rule 20-A-3 of the Maricopa County Health Department, Bureau of Air Pollution Control, shall be rigidly observed and enforced. Water or other approved dust palliative in sufficient quantities shall be applied during all phases of construction involving open earth work to prevent the unnecessary discharge of dust and dirt into the air.

VII. COMPACTION.

A. Subgrade - Top six inches (6") of pavement subgrade shall be compacted to a minimum of ninety-five percent (95%) of the maximum density of the material. Sidewalk and curb subgrade shall be compacted to a minimum of ninety percent (90%) of the maximum density of the material. Uncurbed sections shall be compacted as required above, between centerlines of roadside drainage ditches.

B. Base Material - The base course shall not be placed on subgrade until compaction tests of the subgrade have been completed and found to meet the specifications contained herein. Base material shall be compacted, full depth, to a minimum of one hundred percent (100%) of the maximum density of the material being used.

C. Asphalt concrete pavement shall be compacted to 95% of the specific gravity of test specimens compacted by the 75 blow method of ASTM D-1559 (MAG Section 321). A rolling pattern may be established for this required density only with the approval of the County Engineer.

D. Requests for variances from A and B will require certified material tests and designs.

VIII. CONTRACTION AND EXPANSION JOINTS FOR CURBS, GUTTER AND SIDEWALKS.

Expansion joints shall conform to Section 729 of the Uniform Standard Specifications and placed only at driveways and at ends of curb returns. Contraction joints shall conform to MAG Standard Detail 220 and be placed at sixteen-foot (16') intervals on straight runs and within curb returns.

IX. TESTING.

A. All requirements of this section shall be performed under the supervision of a Civil Engineer registered in the State of Arizona. All test reports are to be submitted to the Maricopa County Highway Department. Each report shall indicate the location at which the test was made, the date of the test, type and source of material tested, test designation being used and the name of the person performing the test.

B. The following soil tests are the minimum required for pavement design purposes:

1. Samples shall be taken to a minimum depth of eight (8) inches below proposed subgrade elevation. Depths of up to three (3) feet on arterial type roads may be required in certain instances.

2. One (1) test per eight hundred (800) lineal feet with at least one test per proposed street. An additional test may be ordered by the County Engineer at apparent visible changes in soil type.

3. Each sample shall have a sieve analysis per AASHTO T27 with results reported as percent passing #200 sieve, plus a plasticity index per AASHTO T90.

4. Test results shall be forwarded to the Maricopa County Highway Department together with the paving plans.

5. Additional tests may be ordered by the County Engineer for purposes of assurance of design information in cases of submittal of pavement designs other than the Standard.

C. The following compaction tests shall be performed:

1. Pavement subgrade - 1 test per 800 lineal feet of roadway with at least 1 test per street, minimum.

2. Curb subgrade - 1 test per 500 lineal feet of curb with at least 1 test per street, minimum.

3. Base material - 1 test per 800 lineal feet of roadway with at least 1 test per street, minimum.

Maximum densities for the materials being compacted shall be determined in the laboratory on the same materials in accordance with AASHTO Designations T-99, Method A. Field density tests shall be performed in accordance with AASHTO Designation T-191, T-238 or T-239.

Test locations must be staggered within the limits of the improvements.

D. See MAG Specifications 725.10 and Maricopa County Highway Department Supplements for required concrete tests.

E. The following tests shall be taken for asphaltic concrete:

1. Gradation - Expressed as % by weight passing, using AASHTO T-30.

2. Asphalt content - Expressed as % by weight of total mixed material, sampled and tested per AASHTO T-164 and T-168.

3. Compaction - As previously specified in paragraph VII-C. above.

A minimum of one (1) sample per 1200 tons of material, but no less than one (1) sample from each source is required for each day's paving. Additional samples may be ordered by the County Engineer or Inspection Engineer whenever obvious visual changes occur in the mix.

X. MATERIALS.

A. Base Material - Material shall meet MAG Uniform Standard Specifications, Section 702.2. If "Select" material is used, the upper 3" of base must be Aggregate Base. The total thickness shall be determined by laboratory tests of the subgrade materials, with a minimum of 6".

B. Asphaltic Concrete - Material shall meet MAG Uniform Standard Specifications, Section 710, Mix C-3/4 for single course construction.

C. Preservative Seal Coat - Material shall meet MAG Uniform Standard Specification 718.

D. Concrete - Concrete for all curb, gutter, sidewalks, driveway entrances, wash crossings and street related concrete construction shall be Class B, conforming to the applicable requirements of Section 725 of the MAG Uniform Standard Specifications. Concrete for structures shall be in accordance with MAG Section 725 and adopted Maricopa County Highway Department Supplement.

E. Reinforced Concrete Pipe - Shall meet MAG Uniform Standard Specifications, Section 735.

F. Corrugated Metal Pipe - Shall meet MAG Uniform Standard Specifications, Section 621.

G. Miscellaneous - Any other items shall conform to the applicable section of the MAG Uniform Standard Specifications.

XI. CONSTRUCTION.

All construction shall conform to the applicable section of the MAG Uniform Standard Specifications unless modified in writing by the County Engineer.

XII. STREET SIGNS AND SURVEY MONUMENTS.

A. The developer of a subdivision shall be responsible for purchase and erection of street name signs at all intersections within a subdivision, including intersections with perimeter streets. All street name signs shall conform to Maricopa County Highway Department Supplement Standard Detail 2054, and shall be furnished and installed at no cost to the County, at locations as shown on the approved plans.

ADOPTED: August 2, 1982

B. Survey monuments shall conform to the applicable MAG Standard Detail 120-2 and shall be furnished and set by the owner at no cost to the County, at locations as shown on the approved plans or as required by the Maricopa County Highway Department. All monuments shall be properly punched by the engineer.

C. No approval or acceptance of a project will be given until these items are complete in place.

XIII. TRAFFIC CONTROL DEVICES.

The existence of any traffic control device within the limits of the construction area shall be shown on the plans and detailed as to legend or purpose. Under no circumstances shall the owner, his agent, or contractor, be allowed to distrub any device so shown on the plans except with approval of the County Engineer. The owner or his agent shall make known to the Maricopa County Highway Department his desire for removal or relocation of any such device by telephone or other suitable means and it shall be so noted on the plans.

XIV. MAIL BOXES.

Individual mail boxes are permitted to be placed only in such locations that will not interfere with traffic, either vehicular or pedestrian, or create a hazard of any nature. If a sidewalk is constructed adjacent to the curb, the box shall be located behind the sidewalk and clear of the vertical projection of the back edge of the sidewalk by a minimum of one foot (1'). If no sidewalk is constructed, the box must clear the vertical projection of the back edge of the curb by a minimum of one foot (1'). If no curb is constructed, the box must clear the vertical projection of the edge of the pavement by a minimum of three feet (3'). Installation of individual mail boxes in the County right-of-way shall be done under permit from the Maricopa County Highway Department.

XV. SIDEWALKS, BICYCLE PATHS, RIDING AND BIKING TRAILS AND SPECIAL USES.

Sidewalks are not required by Maricopa County but may be installed at the option of the developer to the Maricopa County Highway Department standards. Maricopa County does not maintain and does not assume any responsibility concerning the sidewalks.

Sidewalks may be located either adjacent to the curb or one foot clear of the property line. Either installation must be consistent within the area and existing adjacent developments. Monolithic curb, gutter and sidewalk is permitted in accordance with MAG Standard Detail 221.

Bicycle paths, riding and hiking trails are not required by Maricopa County. If constructed in County right-of-way, such construction must be approved by the County Engineer and under permit from the Maricopa County Highway Department.

XVI. PROJECT APPROVAL.

The project will not be considered ready for final inspection until all drainage items, grading, and backfill are complete and pavement, curbs, and sidewalks are swept clean of all dirt and debris. The area behind curbs shall be totally backfilled, compacted and neatly dressed to a maximum 4:1 slope. The contractor shall furnish a water truck at the time of final inspection for the purpose of testing street drainage. Any ponding in excess of ten square feet in surface area or 1/2 inch in depth shall require corrective action by the contractor. The "as-built" plans as called for in Item III above must be submitted before final project approval.

XVII. DECLARATION.

Within one year after approval of the improvements in a subdivision, an inspection will be made by the Maricopa County Highway Department to determine if any, and to what extent damage may have been caused by construction operations. Any such damaged sections must be repaired or replaced at no cost to the County prior to being eligible for declaration into the County Highway System.

A petition addressed to the Board of Supervisors signed by ten (10) or more resident taxpayers must be presented requesting declaration of the roads or streets into the County Highway System. Petition forms are available from the Real Estate Division of the Maricopa County Highway Department.

XVIII: CHANGES.

No variation from these Special Provisions or approved plans and specifications will be permitted unless submitted to and approved in advance by the County Engineer.

XIX: GUARANTEES.

The contractor shall guarantee all work against defective workmanship or materials for a period of one (1) year from the date of acceptance, as evidenced by release of the permit, except for ordinary wear and tear or unusual abuse or neglect.

Revised August 2, 1982.

ADOPTED: August 2, 1982

MARICOPA COUNTY
SPECIAL PROVISIONS
FOR
INSTALLATION OF UNDERGROUND UTILITIES

I. SPECIFICATIONS AND DETAILS.

All work and materials shall conform to the current "MAG Uniform Standard Specifications for Public Works Construction - Maricopa Association of Governments", with adopted Maricopa County Highway Department supplement, as these Uniform Standard Specifications apply to trench backfill material, backfill compaction and roadway surface restoration, except as noted in these Special Provisions. In case of conflict between the Uniform Standard Specifications and these Special Provisions, the Special Provisions shall govern.

Other agency specifications for construction material or methods which are equal to the MAG Uniform Standard Specifications, may be substituted as satisfactory alternates, only with prior written approval of the County Engineer.

Engineering reports and laboratory tests may be required by the County Engineer at no cost to Maricopa County.

II. PLANS, SPECIFICATIONS, ENGINEERING.

A. Preparation of plans, specifications, construction and inspection shall be performed under the supervision of a Civil Engineer, registered in the State of Arizona and employed by the owner, except that plans prepared by utility companies for distribution of gas, electric power or for communication service need not be prepared by a registered Civil Engineer.

B. Plans shall be submitted on a maximum size sheet of 24" x 36" and must be neat, clear, legible and complete in all respects. The scale shall be commensurate with the detail and in no case smaller than 1" = 200' plan, and 1" = 5' profile. Profiles will be required on projects involving installation of sewer and underground irrigation lines in dedicated right-of-way. Power facilities must also be submitted in profile where the trade size of a single conduit exceeds six inches (6") in diameter or where multiple conduits including the concrete encasements are sixty (60) square inches or greater in cross-sectional area. In addition, profiles may be required by the County Engineer in cases of possible alignment or grade conflicts, cover

ADOPTED: August 2, 1982

problems or crossing conflicts. Plans may be submitted concurrently with the application for construction permit but at least seven (7) working days will be required for review.

The County Engineer may require submission of a set of "as-built" plans, if any field changes were effected.

III. EXCAVATION, BACKFILL COMPACTION, LINE DEPTH AND TESTING.

A. Excavation - All excavation shall conform to the requirements of Section 601 of the MAG Uniform Standard Specifications, except as modified in the Special Provisions. Attention is called to necessary notification of all utilities.

B. Backfill Materials - Backfill shall be per MAG Section 601.4.3. When "select" material or "aggregate base course (A.B.C.)" is substituted or specified, it shall conform to the applicable specification of the MAG Uniform Standard Specification.

C. Compaction.

1. That portion of the backfill from the bottom of the trench to twelve inches (12") compacted depth, over the top of the pipe or conduit shall be backfilled with ABC if owning utility does not have their own bedding material specification. This material shall be uniformly jetted to insure proper bedding of pipe. Backfill around underground electric and communication lines must meet the specification of the responsible utility owner.

2. For a trench under any existing or proposed pavement, curb or gutter, or when the distance from the edge of pavement or back of curb to the centerline of the trench is one-half the depth of trench or less, the backfill shall consist of ABC or select material. The material from twelve inches (12") above the top of the pipe to two feet (2') below finished grade shall be mechanically compacted to not less than eighty-five percent (85%) of the maximum density of the material. The upper two feet (2') of the material shall be mechanically compacted to not less than ninety-five percent (95%) of the maximum density of the material, with the upper minimum ABC requirement for roadway pavement compacted to not less than 100% of the maximum density of the material. Sufficient water may be added to raise the moisture content to optimum only.

3. For a trench in an unpaved road where the distance from the edge of the traveled way to the centerline of the trench is one-half the depth of the trench or less, the backfill shall consist of ABC or select material. The material from twelve inches (12") above the top of the pipe to two feet (2') below finished grade shall be mechanically compacted to not less than 85% of the maximum density of the material. The upper two feet (2') of the material shall be mechanically compacted to not less than 95% of the maximum density of the material. Sufficient water may be added to raise the moisture content to optimum only.

4. For a trench where the centerline is more than one-half the depth of the trench from the edge of existing pavement, back of curb, or edge of the traveled way on an unpaved road, the material from twelve inches (12") above the top of the pipe to finished grade shall consist of sound earth material as previously specified, compacted to not less than 85% of the maximum density of the material. Water settling as defined herein is permissible.

5. For trenches in alleys and other miscellaneous traveled ways, the backfill and compaction as per paragraph III.C.4. shall be followed.

6. For trenches in utility easements the backfill may consist of sound earth material. Water settling as defined herein is permissible.

7. Water settling as permitted herein shall be performed with lifts not exceeding eight feet (8') in depth. The backfill shall be leveled, the trench flooded and the material jetted to:

   (a) Within one foot (1') of the pipe if the lift is eight feet (8') or less from the top of the pipe, or

   (b) at least one foot (1') into the previous lift if multiple lifts are necessary.

   Sufficient water must be used with a pressure of at least 30 p.s.i. to insure filling of all voids with backfill material. Intervals of jetting shall be not more than six feet (6') along the trench and transversely across the trench. The water shall not be shut off until the jet has been completely withdrawn from the material.

ADOPTED: August 2, 1982

8. Water settling is permitted in new subdivisions but no paving will be permitted over water settled trenches until compaction test results have been approved by the County Engineer.

D. Minimum Depth of Lines.

The minimum cover for utility lines shall be thirty-six inches (36") other than direct burial cable which shall be twenty-four inches (24"). The minimum cover for storm drainage or irrigation pipe shall be eighteen inches (18"). Cover is defined as the difference in elevation between the top of the line or pipe and the ultimate gutter grade of the roadway. If paving is not completed within thirty (30) days after installation of the underground facilities, a temporary earth cover sufficient to meet the above requirements must be placed and maintained.

For facilities outside the limits as defined in paragraph III.C.4. above cover is defined as the difference in elevation between the top of the line or pipe and the natural or regraded ground surface whichever is less.

E. Testing.

1. Procedures.

a. AASHTO T99, Method A - Maximum Density.
b. AASHTO T191, T238 or T239 - Field Density.
c. AASHTO T27 - Sieve analysis.

2. Frequency.

The tests shall be made at the locations and depths specified by the County Engineer or his representative. A minimum of one set of tests will be required for each four feet (4') of trench depth for trenches within a paved road or within one-half the trench depth measured from back of curb or edge of pavement to centerline of the trench. Otherwise, one set of tests will be required for each eight feet (8') of trench depth. The minimum number of passing tests per set anticipated for specification compliance may be estimated as follows:

a. Pavement cut crossing - one (1) set of tests per crossing.

b. Longitudinal pavement cuts or the centerline of the trench within one-half the trench depth as previously explained - one set of tests per three hundred feet (300') with one set of tests minimum.

c. All other locations - one set of tests per four hundred feet (400') with one set of tests minimum.

3. Tests may be taken at four foot (4') vertical increments in the same vertical plane at the option of the inspection engineer. Copies of all test reports shall be identified as to project and location by the testing laboratory and forwarded to the inspection engineer who shall forward one set of all test results to the Maricopa County Highway Department.

4. At his discretion, the County Engineer may order load tests performed to determine the suitability and adequacy of backfill before placement of pavement. Such tests shall be performed with vehicle loaded to approximately eighteen thousand pound (18,000#) axle load. Excessive movement or settlement of backfill shall be cause for rejection of the work by the County. Initial load tests shall be at the expense of the County. If the work is rejected, load retests shall be at the expense of the owner or contractor.

IV. PAVEMENT CUTTING AND RESTORATION.

A. All cuts in asphalt or concrete pavement shall have saw cut or neat and straight edges. All transverse or diagonal pavement shall extend at least one foot beyond either side of the trench. Excavated pavement material shall be removed from the site.

B. Pavement cut replacement: The asphaltic material used for replacement of pavement cuts shall conform to the applicable MAG Uniform Standard Specification for mix C-3/4, Section 710. The thickness of the pavement and aggregate base replaced shall be consistent with the thickness of the existing asphalt pavement and base but shall not be less than two inches (2") of asphaltic pavement over nine inches (9") compacted depth, of aggregate base compacted to 100% of maximum density for the material.

For portland cement concrete paving cut replacement, this same specification will apply. The existing pavement shall be trimmed to a neat edge and the edge shall be treated with a proper emulsion to insure a bond between the existing pavement and the patch.

It is required that all roadway crossing of lines four inches (4") in diameter or less be bored or pushed under pavement which is less than two years old.

V. SURFACE RESTORATION OF GRAVELED OR EARTH SURFACE ROADS.

The surface replacement for gravel surfaced roads shall be consistent with the existing surface material in place, and may consist of Select Material or A.B.C. as directed by the County Engineer.

Fill placed on existing gravel surfaced roads or earth surfaced roads to obtain minimum allowable cover over the pipe or utility lines shall be placed to proper grade for the full widths of the existing roadway and shall be compacted and graded to the satisfaction of the County Engineer.

VI. MISCELLANEOUS.

The contractor shall secure a County Highway Use Permit prior to start of any construction operations within county right-of-way. Three (3) sets of approved plans must be submitted with the application at least three (3) working days before work is scheduled to begin.

The permittee shall notify the property owner or resident of adjoining occupied property at least twenty-four (24) hours prior to disruption of access to the property, and at no time deny access to the property longer than eight (8) hours, and shall provide plank for crossings, if necessary.

The permittee shall maintain all existing traffic control signs within the construction area, and shall reset all signs in their original locations as soon as construction operations will permit. The permittee shall place and maintain traffic warning devices during the course of work, as required by the County Engineer.

Only rubber-tired equipment shall be used on pavement except that crawler equipment using street pads may be used.

Existing regulations, namely Regulation II, Rule 20-A-3, of the Maricopa County Health Department, Bureau of Air Pollution Control, as applicable, shall be rigidly observed and enforced. Water or approved dust palliative in sufficient quantities shall be applied during all phases of construction involving open earth work to prevent the unnecessary discharge of dust and dirt into the air.

ADOPTED: August 2, 1982

During the course of work, the permittee shall maintain the work area in a clean and orderly condition. Excess excavation, debris, etc., will not be permitted to accumulate on the road surface or shoulders. Work shall progress in such a manner that no condition such as soft trenches, dropoffs from the edge of pavement, etc., will exist. Upon completion of installation, the permittee shall clean the pavement surface, pull and dress shoulders, and otherwise put in order the entire work area to the satisfaction of the County Engineer.

Revised August 2, 1982.

ADOPTED: August 2, 1982

SUPPLEMENT

to the

MAG UNIFORM STANDARD DETAILS for PUBLIC WORKS CONSTRUCTION

SPONSORED and DISTRIBUTED by the

MARICOPA COUNTY HIGHWAY DEPARTMENT

1982

MARICOPA COUNTY HIGHWAY DEPARTMENT
SUPPLEMENT TO
MAG UNIFORM STANDARD DETAILS

1000 SERIES
GENERAL INFORMATION

1010	ROAD PLANS STANDARD (6 sheets)
1011	PLANS SYMBOLS (3 sheets)
1012	PLAN PREPARATION

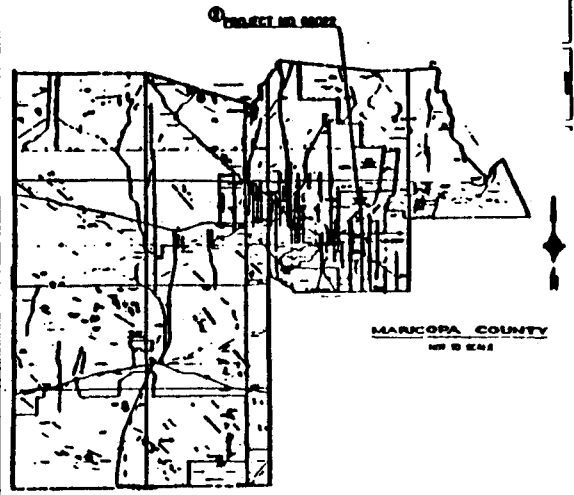
2000 SERIES
STREET INFORMATION

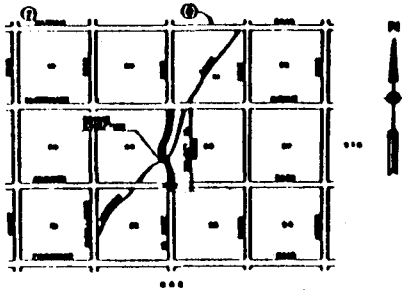
2015	DEPTH OF FLEXIBLE BASE COURSE FOR ARTERIAL HIGHWAYS
2016	DEPTH OF FLEXIBLE BASE COURSE FOR RESIDENTIAL STREETS
2017	TYPICAL CROSS SECTION - MAJOR ARTERIAL STREETS
2018	TYPICAL CROSS SECTION - COLLECTOR STREETS
2019	TYPICAL CROSS SECTION - RESIDENTIAL STREET & FRONTAGE ROADS
2020	TYPICAL CROSS SECTION - RESIDENTIAL STREETS & ACCESS ROADS
2021	TYPICAL CROSS SECTION - INDUSTRIAL PARK / COMMERCIAL STREETS
2050	CATTLE GUARD
2051	RUBBER RAILROAD CROSSING
2052	SHOPPING CENTER SITE & DRIVEWAY ENTRANCE
2053	SERVICE STATION SITE & DRIVEWAY ENTRANCE
2054	STREET NAME SIGNS
2055	BARRICADE (PORTABLE)
2056	ROADWAY MARKERS

MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	COVER SHEET & INDEX	DATE: AUG. 2, 1982

MARICOPA COUNTY HIGHWAY DEPARTMENT

PLANS FOR THE CONSTRUCTION OF
NO NAME ROAD - JOHNSON ROAD TO McCORMACK AVENUE
PROJECT NO. 68022





DRAFTING LETTERING GUIDE

APPROVED
DATE
DEPUTY COUNTY ENGINEER

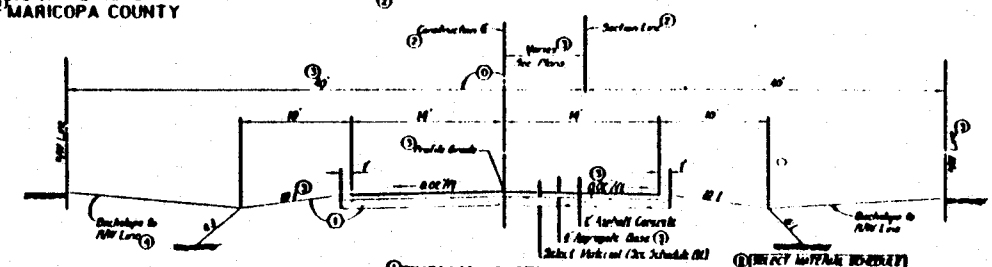
COUNTY BOARD OF SUPERVISORS

APPROVED
CHAIRMAN
DATE

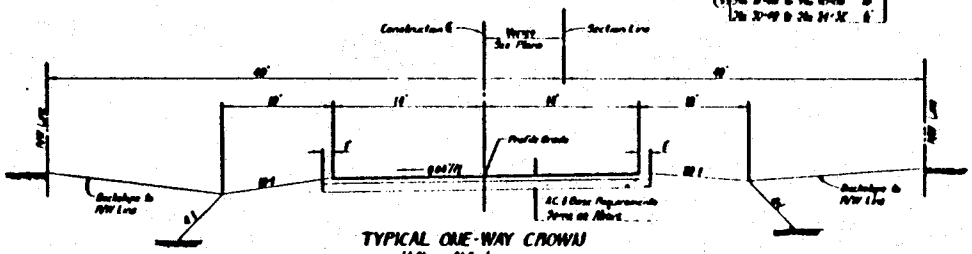
PROJECT NO 68022

MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	ROAD PLANS STANDARD	DATE: AUG. 2, 1982	DETAIL NO. 1010-1

NO NAME ROAD- JOHNSON RD. TO McCORMACK AVE
MARICOPA COUNTY



TYPICAL SECTION



TYPICAL ONE-WAY CROWN

SUMMARY OF QUANTITIES

PRECAST PIPE

18" PIPE CP	40 L.F.
24" PIPE CP	40 L.F.

OTHER ITEMS

Catch Basin Type B, MAG 340 DWG 377	8 Each
Headwall - MAG 340 DWG 301-1 & 301-2	80 L.F.
Port Hole Diversion Model F100 or Equal	40 Each
Port Hole Diversion Model E12 or Equal	8 Each
Concrete Lined Ditch DWG 340 B	2400 L.F.
Earth Ditch DWG 340 A	270 L.F.
Survey Marker MAG 340 DWG 370 Type B	1 Each
Survey Marker MAG 340 DWG 370 Type C	1 Each

DATE: CONSTANT

LENGTH OF PROJECT

INDEX OF SHEETS

Sheet	Item
1	Cover Sheet
2 & 3	Special Drainage Summary
4	Special Details
5	Plan & Profile
6	Special Details

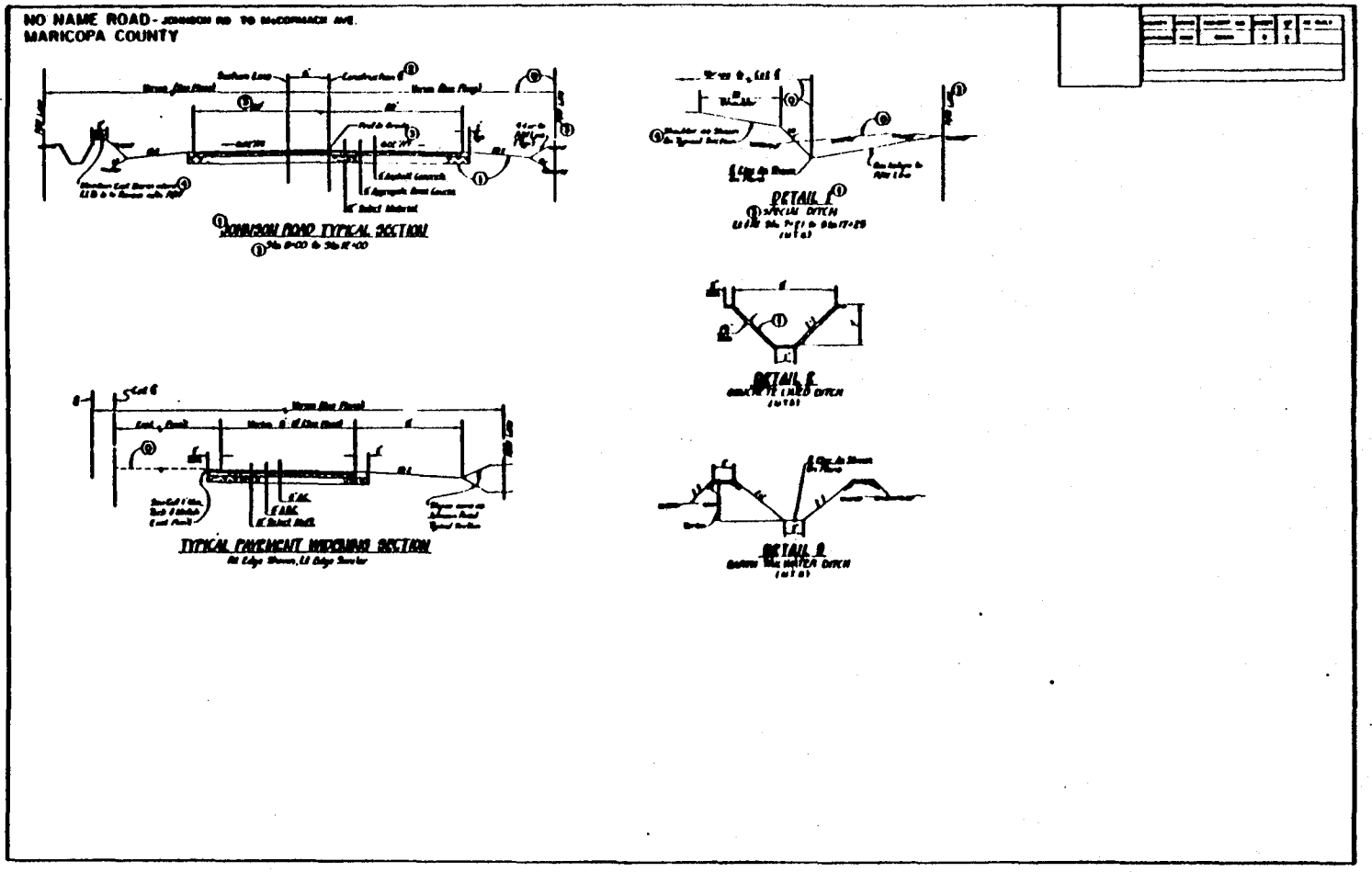
ROADWAY STANDARDS

MAG 340 DWG	Description
100 C	Survey Marker
200	Street Barricade
301-1	Headwall
301-2	Headwall
301	Catch Basin - Type B

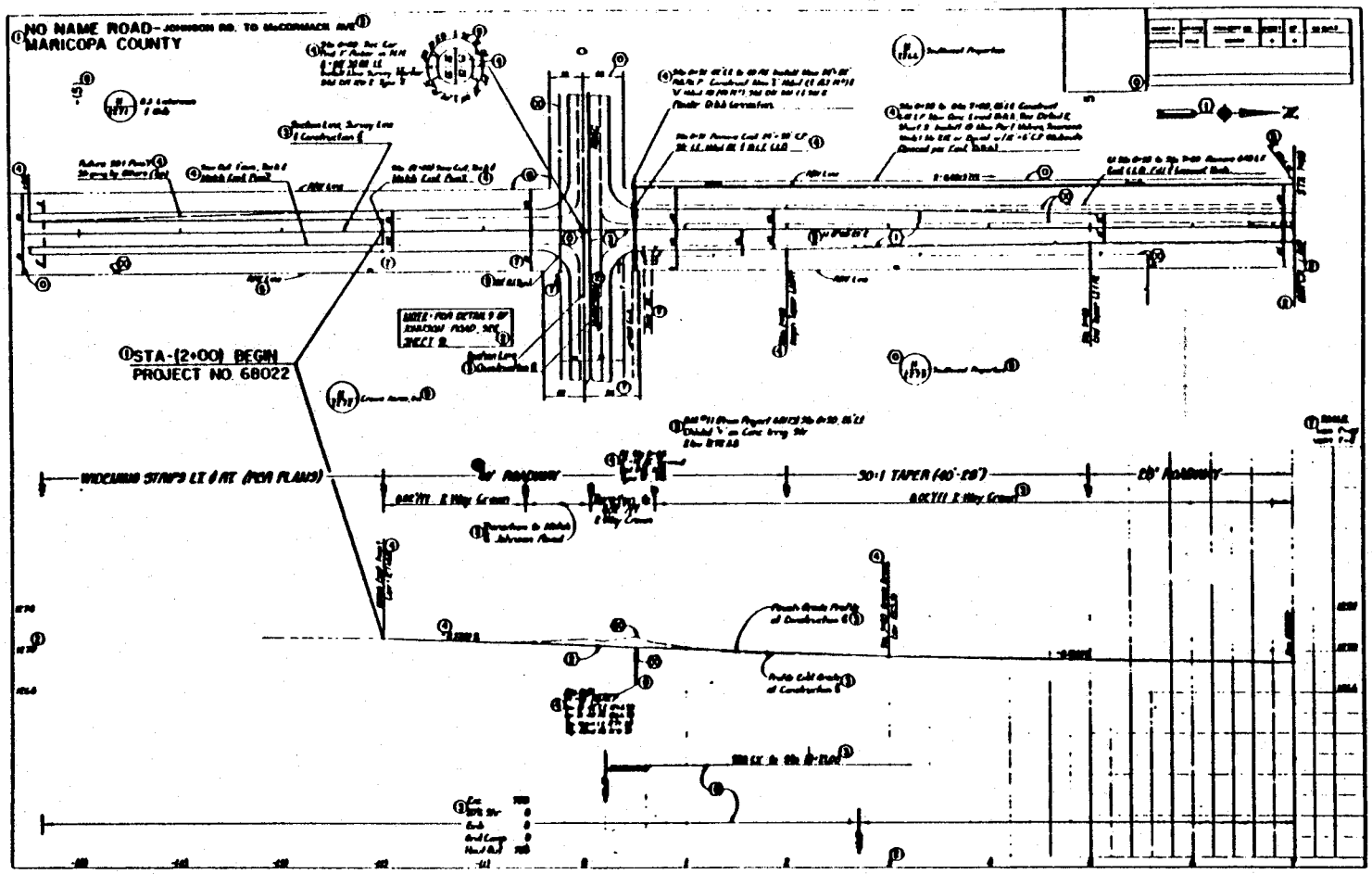
GENERAL NOTES

1. All work to conform to the MAG Uniform Standard Specifications for Public Works Construction dated 1979 and current revisions thereto, together with the MCHD Supplement to the MAG Uniform Standard Specifications and the Special Provisions.
2. Standard Details refer to the MAG Standard Details for Public Works Construction unless otherwise noted.
3. All existing utility lines shown on plans are from available utility records. Contractor shall verify the actual field location before starting construction.
4. Disposal of all waste material, broken concrete, etc. will be the responsibility of the Contractor, subject to the approval of the Engineer.
5. All stationing is Construction ℄ stationing unless otherwise noted.
6. All actual distances ⊥ ℄ RW are from Construction ℄ unless otherwise noted.
7. All road boxes interfering with construction will be relocated by the Contractor so as to provide uninterrupted road service. This is a non-pay item.
8. All trees, bushes, & heavy brush in the R/W which interferes with construction will be removed or relocated by MCHD unless otherwise noted.
9. All paved brooms shall have the same base requirements as adjacent roadway.
10. All other utility and [illegible] the same as MCHD shall be Outdoor Central Substation Cabinets Plan, Lines [illegible].
11. The Contractor will obtain any necessary permits from the Local Government for work within the jurisdiction.

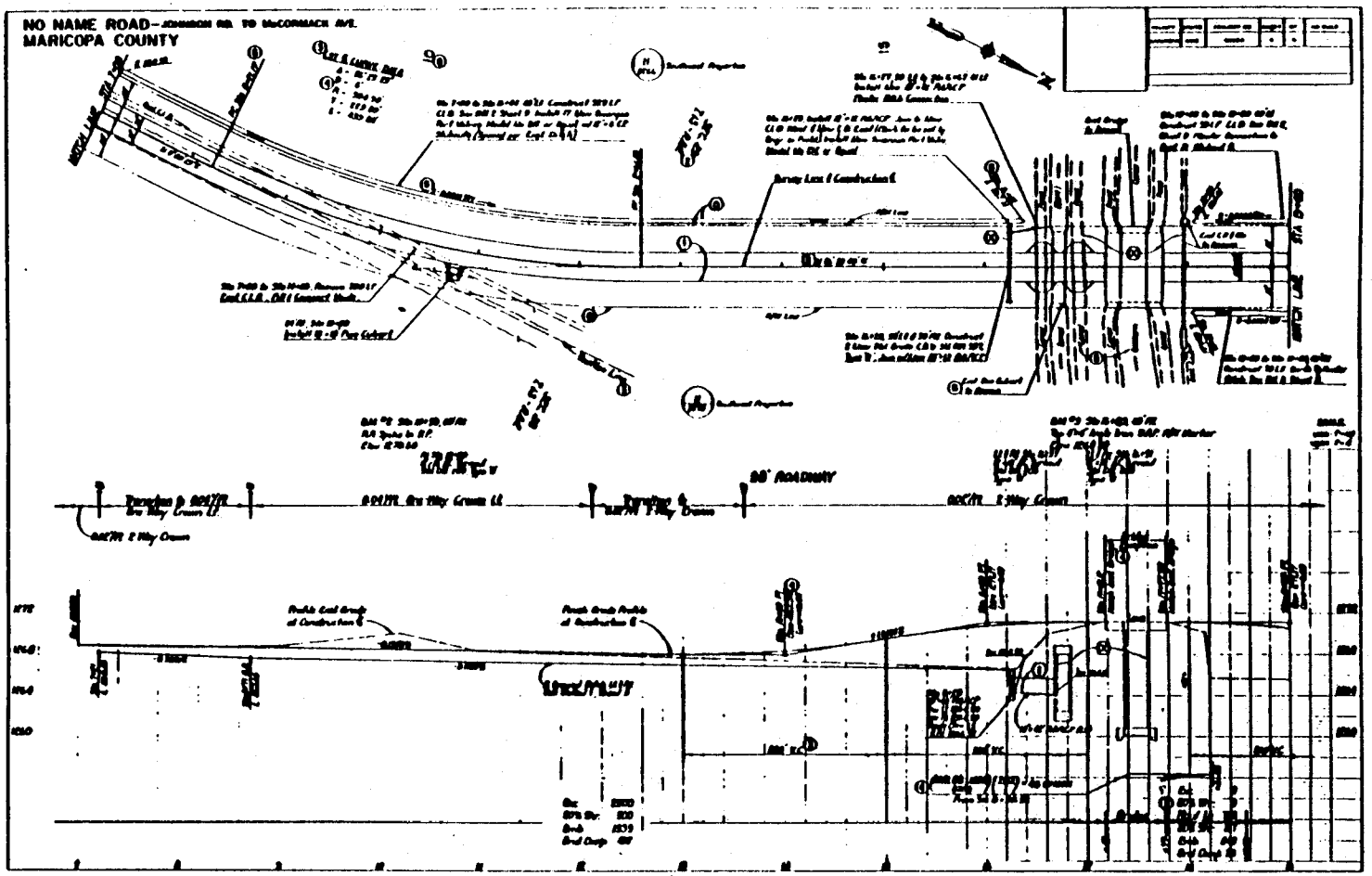
MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	ROAD PLANS STANDARD	DATE: AUG. 2, 1982	DETAIL NO. 1010-2



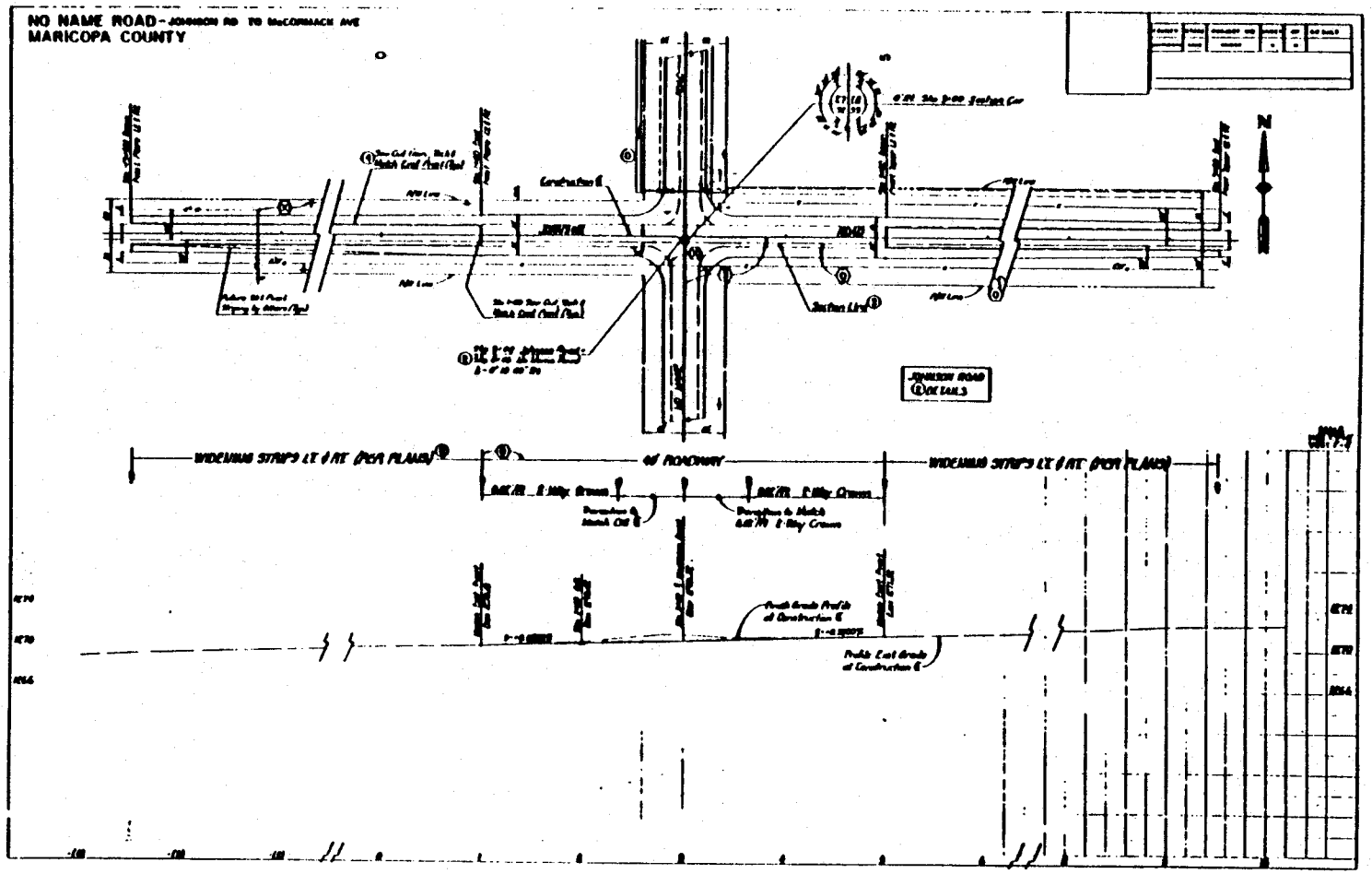
MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	ROAD PLANS STANDARD	DATE: AUG. 2, 1982	DETAIL NO. 1010-3



MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	ROAD PLANS STANDARD	DATE: AUG. 2 1982	DETAIL NO. 1010-4



MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	ROAD PLANS STANDARD	DATE: AUG. 2 1982	DETAIL NO. 1010-5



MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	ROAD PLANS STANDARD	DATE: AUG. 2 1982	DETAIL NO. 1010-6

	Pen Size	NEW	Pen Size	EXISTING
City Limits			1	
County Line			2	
Forest or Reservation Boundary – Line Shading, Shade Inside			2	
Property Line			0	P/L
Quarter Section Line			0	
Right-Of-Way Line			0	R/W Line
Section Line			0	
Station Marks (on Cst. ℄ or Section Line)	0			
Survey Monument	0		00	
Point of Intersection (P.I.)	0		00	
Construction ℄	3			
Quarter Corners			00	
Section Corners			00	
Survey Control Point	0		00	
Curb & Gutter with Depressed Curb	0	1'* 2'*	00	1'* 2'*
Curb, Single with Depressed Area	0	1'*	00	1'*
Pavement & Sidewalk Edge	1		00	
Turnout (Indicate size & surface mat'l)	1		00	
*Drawn to Plan Scale				

	Pen Size	NEW	Pen Size	EXISTING
Cut	0	C—C		
Fill	0	F—F		
Transition; Cut to Fill	0	C—F		
Railroad Track			00	
Railroad Track (1"=100')			00	
Bank Protection	0	XXXXXX	00	
Bridge	0		00	
Building	0	FLOOR ELEV 1984.69'	00	FLOOR ELEV 1984.69'
Catch Basin, Curb & Gutter	0		00	
Catch Basin, Off Roadway, Flush	0		00	
Catch Basin, Single Curb	0		00	
Cattle Guard	0		00	
Concrete Box Culvert	0		00	
Dike	0		00	
Downdrain, one way	0		00	
Downdrain, two way	0		00	
Manhole	0		00	
Manhole Frame & Cover, reset	00			
Retaining Wall	1		00	
Rock Riprap	1		00	

MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	PLAN SYMBOLS	DATE: AUG. 2, 1982	DETAIL NO. 1011-1

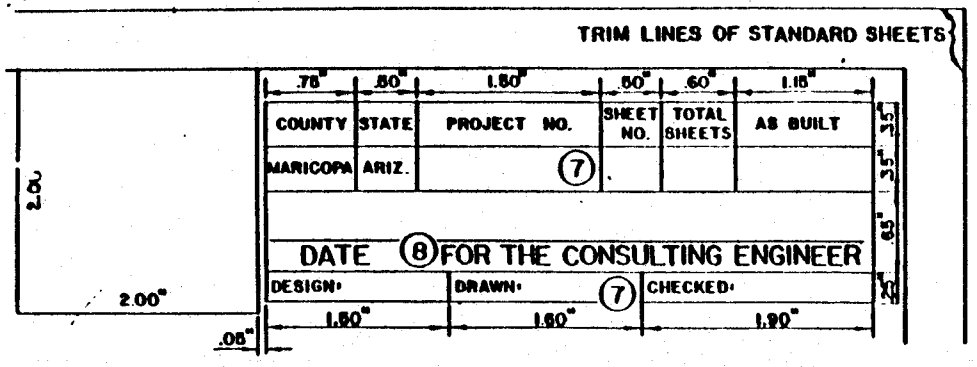
	Pen Size	NEW	Pen Size	EXISTING
Spillway, one way	0		00	
Spillway, two way	0		00	
Straight Headwall with End Section	0		00	
Straight Headwall with End Section (1"=100')	1		00	
"U" Headwall with End Section	0		00	
"U" Headwall with End Section (1"=100')	1		00	
Wing Headwall with End Section	0		00	
Wing Headwall with End Section (1"=100')	1		00	
Plan, Aggregate Surface (Zip-a-Tone No. 309 or equiv.)	1		00	
Bituminous Pavement (Zip-a-Tone No. 275-20 or equiv.)	1		00	
Concrete Pavement (Zip-a-Tone No. 340 or equiv.)	1		00	EXIST. CONC.
Graded Surface	1		00	
Obliterate Pavement (Zip-a-Tone No. 438 or equiv.)	1			
Section, Asphaltic Concrete Friction Course	1		00	ACFC
Bituminous Pavement	1		00	BITUMINOUS
Concrete Pavement	1		00	CONCRETE
Aggregate Base	1		00	AGGREGATE
Select Material	1		00	SELECT
Subgrade Seal	1		00	SUBGRADE
Ground Line Section	1		00	
Barbed Wire Fence & Gate	0		00	

	Pen Size	NEW	Pen Size	EXISTING
Chain Link Fence & Gate	0		00	
Guard Rail & Breakaway Cable Terminal	0		00	
Gas Line				6"G
Irrigation Ditch, Concrete	0		00	
Irrigation Ditch, Earth	0		00	
Pipe Line	0		00	
Pipe Line (1"=100')	1		00	
Power or Joint Use Line	0		00	
Sanitary Sewer			00	12" S
Telephone Line (underground)			00	T
Power Line (underground)			00	P
Street Light with Mast Arm	0		00	
Fire Hydrant	0		00	
Telephone Booth or Pedestal	0	T	00	T
Telephone Line (aerial)	0		00	
Utility Pole with Down Guy & Anchor	0		00	
Water or Gas Valve	0	W or G	00	W or G
Water Line			00	6"W
Water or Gas Meter Box		W or G	00	W or G
Major Wash			00	NAME
Minor Wash			00	
Palm Tree			00	
Shrubbery or Hedge			00	
Unclassified Tree			00	

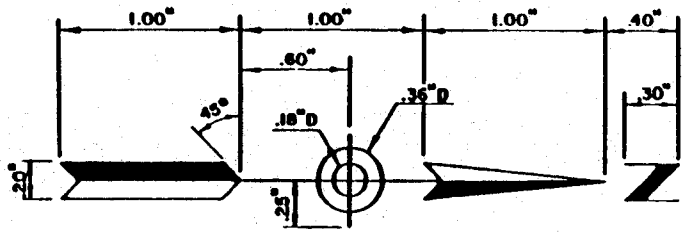
MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	PLAN SYMBOLS	DATE: AUG. 2, 1982	DETAIL NO. 1011-2

	Pen Size	NEW	Pen Size	EXISTING		Pen Size	NEW	Pen Size	EXISTING
Advertising Sign, Large			00						
Advertising Sign, Small			00						
Traffic Sign, Single Post	0		00						
Traffic Sign, Two or More Posts	0		00						
Finished Grade, Profile	2								
Profile Grade (Pavement)			00						
Profile Grade (Earth)			00						
Dimensions	0								
Visible Outlines, Sections, etc.	1								

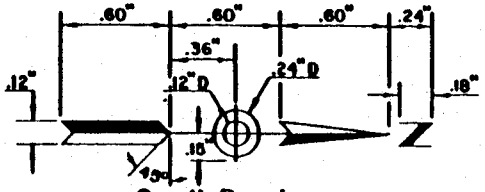
MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	PLAN SYMBOLS	DATE: AUG. 2, 1982	DETAIL NO. 1011-3



REGISTRANT SEAL BOX, PROJECT BOX, AND CONSULTING ENGINEER'S BOX



Large Drawings



Small Drawings

NORTH ARROWS

NOTE: Face Sheet for County Projects, Sample Set of Drafting Plans, and Sample Earthwork Computations available at the MCHD Offices 3325 W. Durango Street, Phoenix

NOTE: Prints to be stamped "PRELIMINARY PLANS" until approved as FINAL PLANS.

DRAFTING LETTERING GUIDE

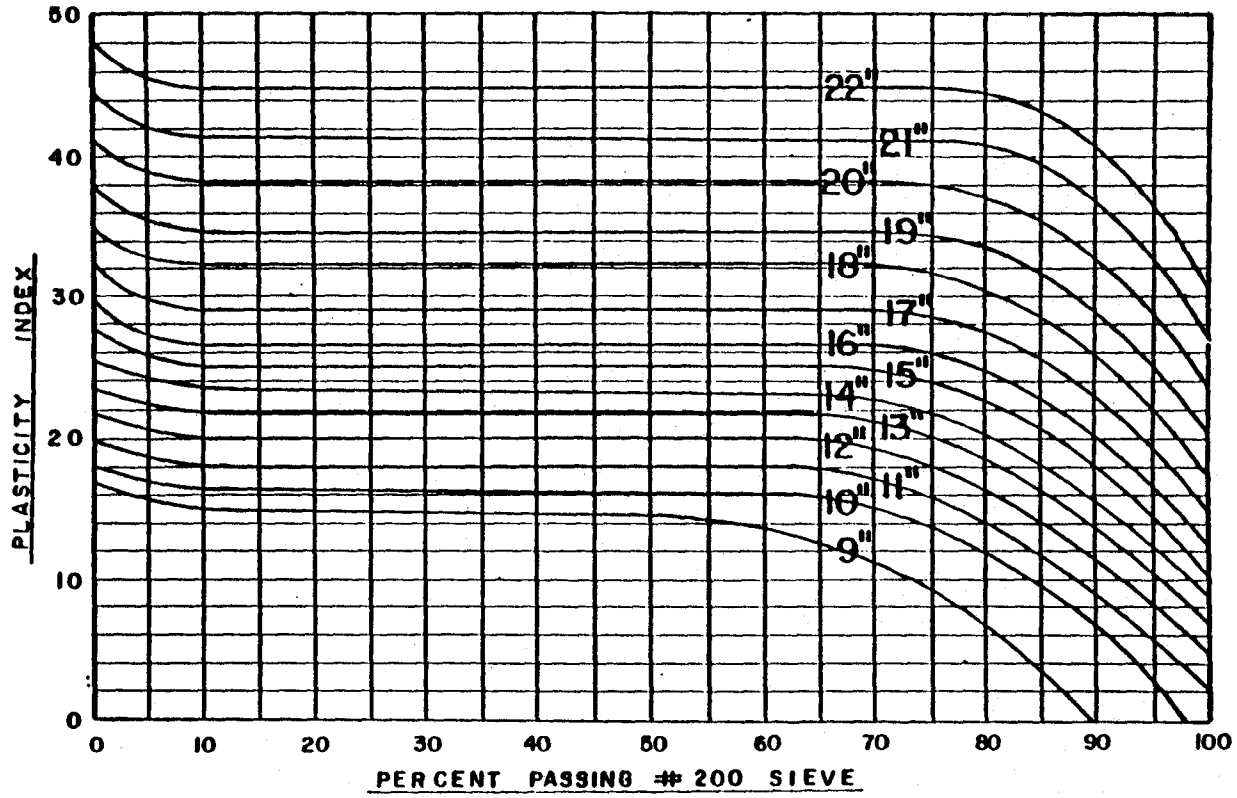
1. No. 290 Leroy, No. 8 Ames, No. 3 Rapidograph
2. No. 200 Leroy, No. 6 Ames, No. 2 Rapidograph
3. No. 200 Leroy, No. 6 Ames, No. 1 Rapidograph
4. No. 175 Leroy, No. 5 Ames, No. 1 Rapidograph
5. No. 140 Leroy, No. 5 Ames, No. 0 Rapidograph
6. No. 140 Leroy, No. 5 Ames, No. 1 Rapidograph
7. No. 120 Leroy, No. 4 Ames, No. 0 Rapidograph
8. No. 240 Leroy, No. 7 Ames, No. 3 Rapidograph
9. No. 350 Leroy, No. 4 Rapidograph

(Na) Indicates Rapidograph Size For Line Work

MASTER LETTERING GUIDE AND USER NOTES

MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	PLAN PREPARATION	DATE: AUG. 2, 1982	DETAIL NO. 1012

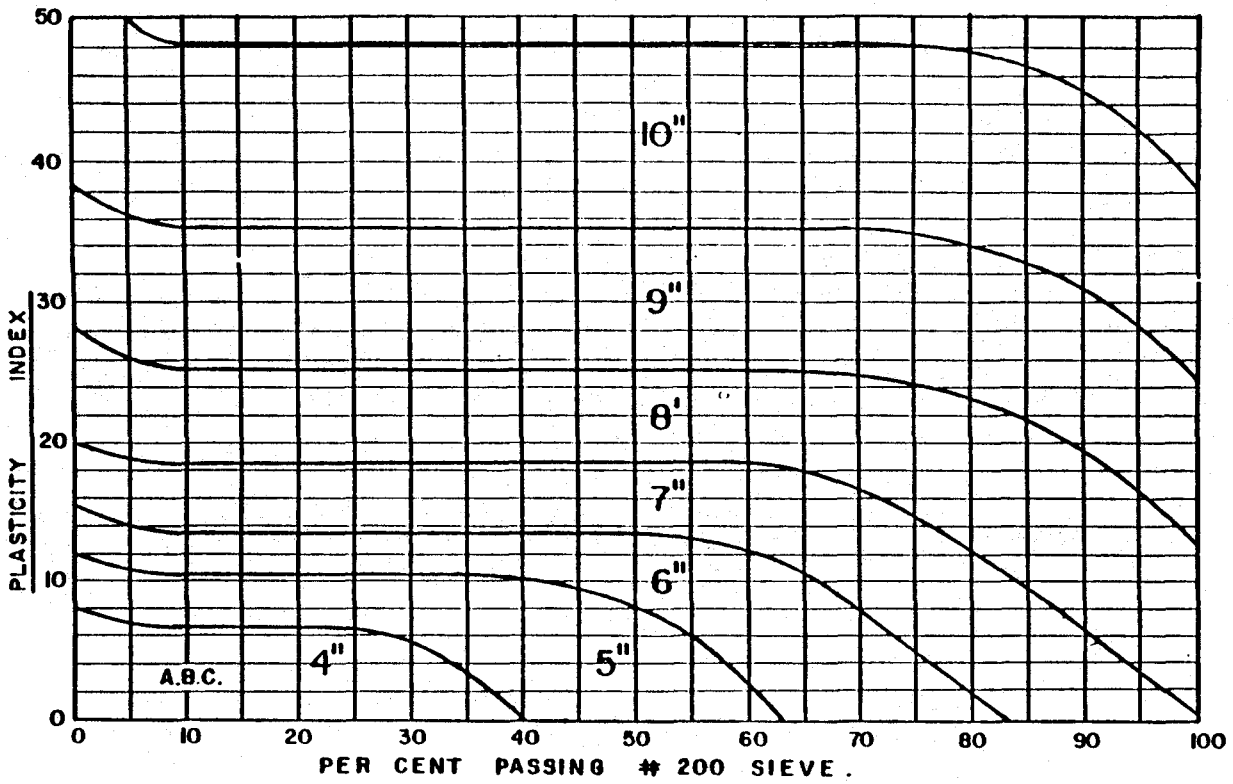
DEPTH OF FLEXIBLE BASE COURSE REQUIRED UNDER
2" (MIN.) ASPHALTIC CONCRETE FOR ARTERIAL HIGHWAYS



NOTES: (1) This detail is applicable only when County Engineer does not have a design for the Arterial Highway.
(2) County Engineer may require additional data for Arterial Highway design.
(3) This detail is applicable for Industrial Park / Commercial Streets. (See Detail 2021)

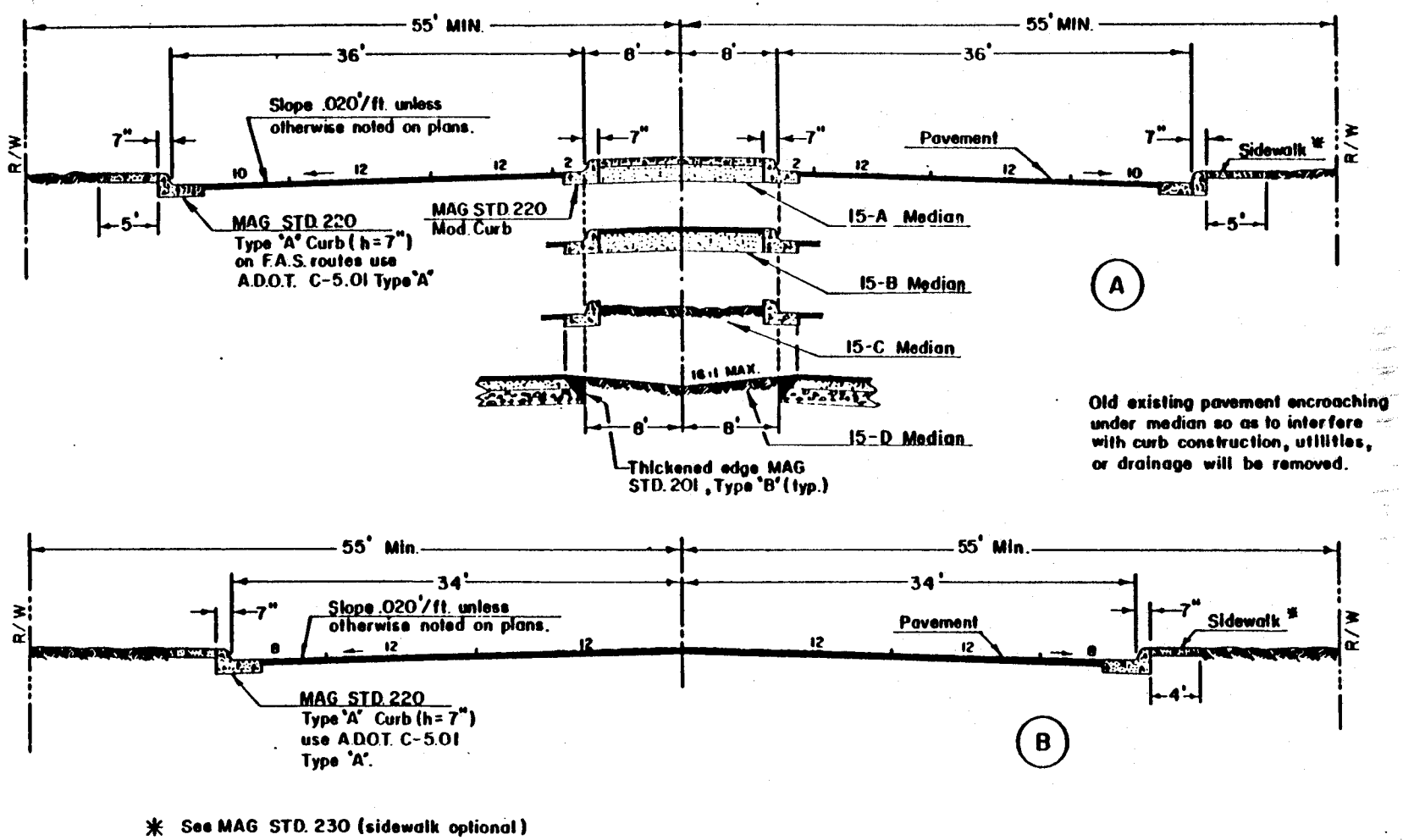
MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	DEPTH OF FLEXIBLE BASE COURSE FOR ARTERIAL HIGHWAYS	DATE: AUG. 2, 1982	DETAIL NO. 2015

DEPTH OF FLEXIBLE BASE COURSE
REQUIRED UNDER 2" (MIN.) ASPHALTIC CONCRETE
FOR RESIDENTIAL STREETS.



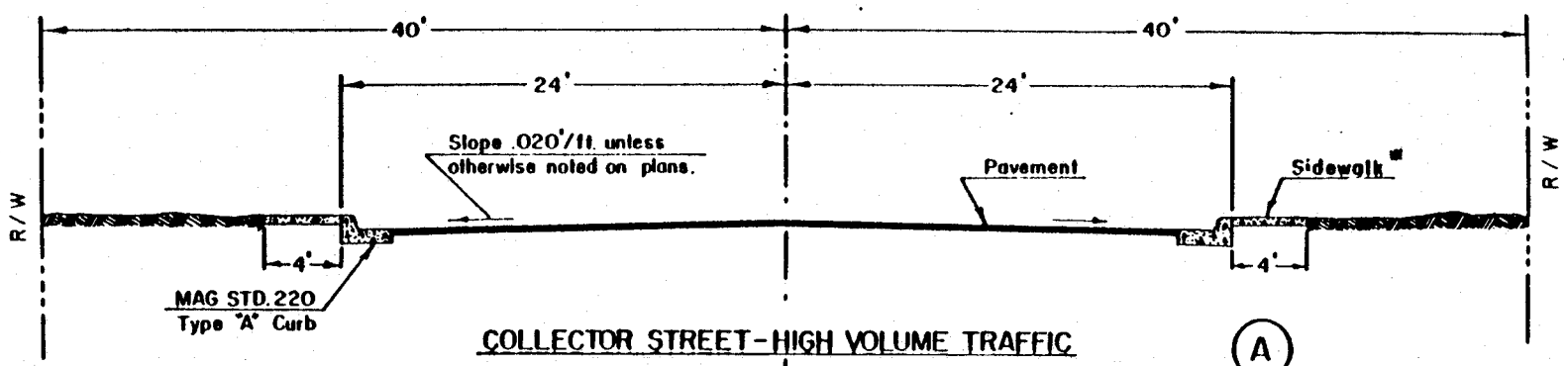
Note: (1.) This detail is applicable for Collector Streets.
(2.) This detail is applicable for Base Requirement for Penetration and Chip Seal Pavements.

MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	DEPTH OF FLEXIBLE BASE COURSE FOR RESIDENTIAL STREETS	DATE: AUG. 2, 1982	DETAIL NO. 2016



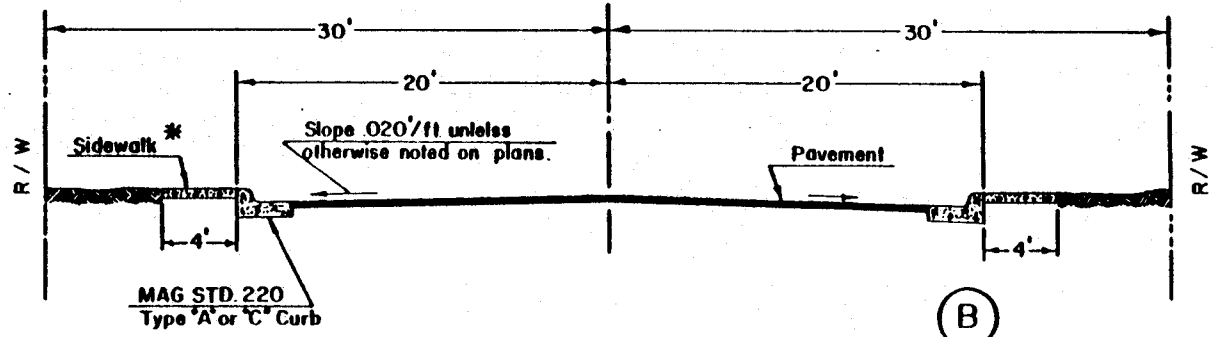
* See MAG STD. 230 (sidewalk optional)

MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	TYPICAL CROSS SECTIONS MAJOR ARTERIAL STREETS	DATE: AUG. 2, 1982	DETAIL NO. 2017



COLLECTOR STREET-HIGH VOLUME TRAFFIC

(A)

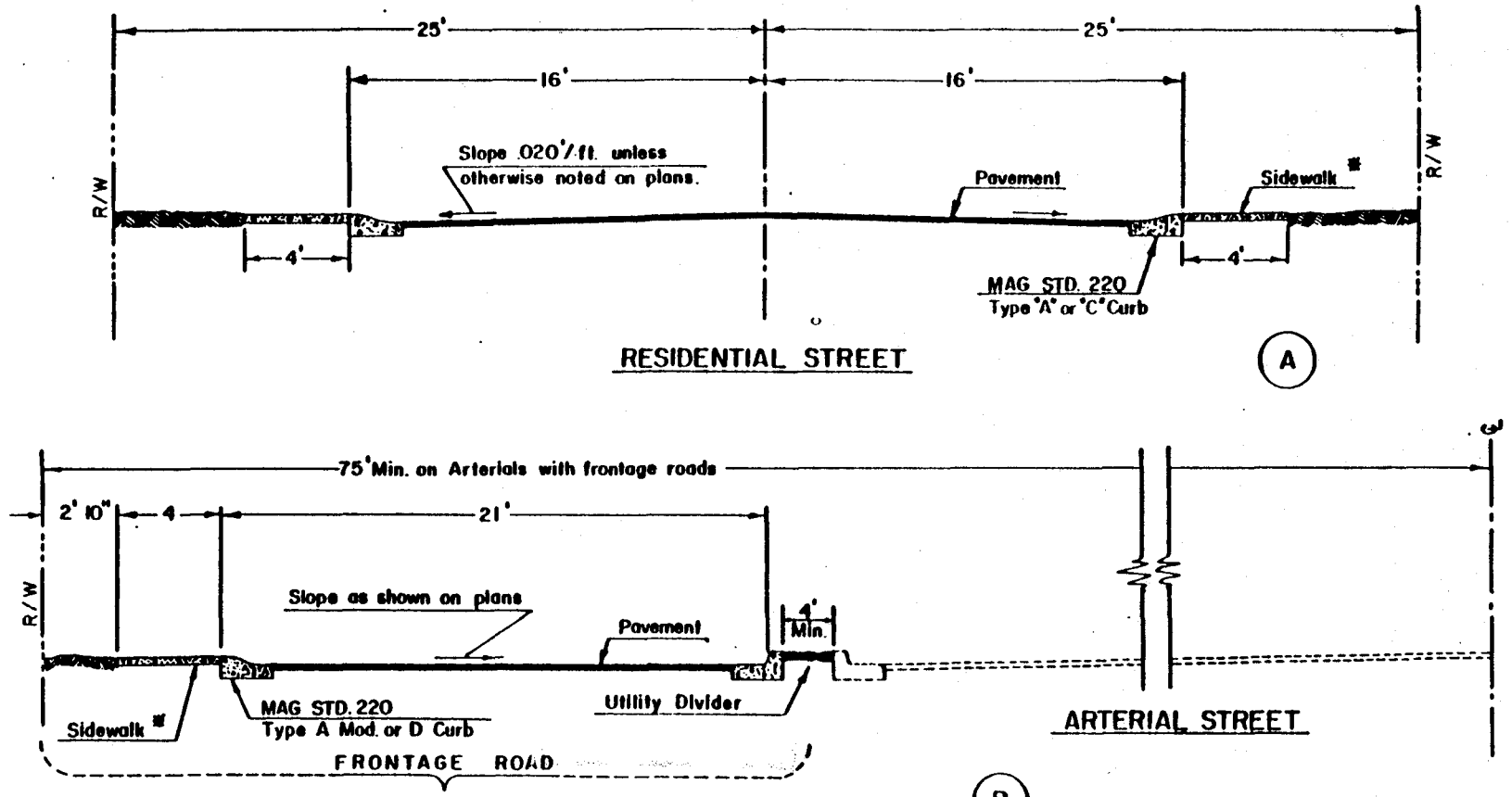


(B)

COLLECTOR STREET-RESIDENTIAL AREA

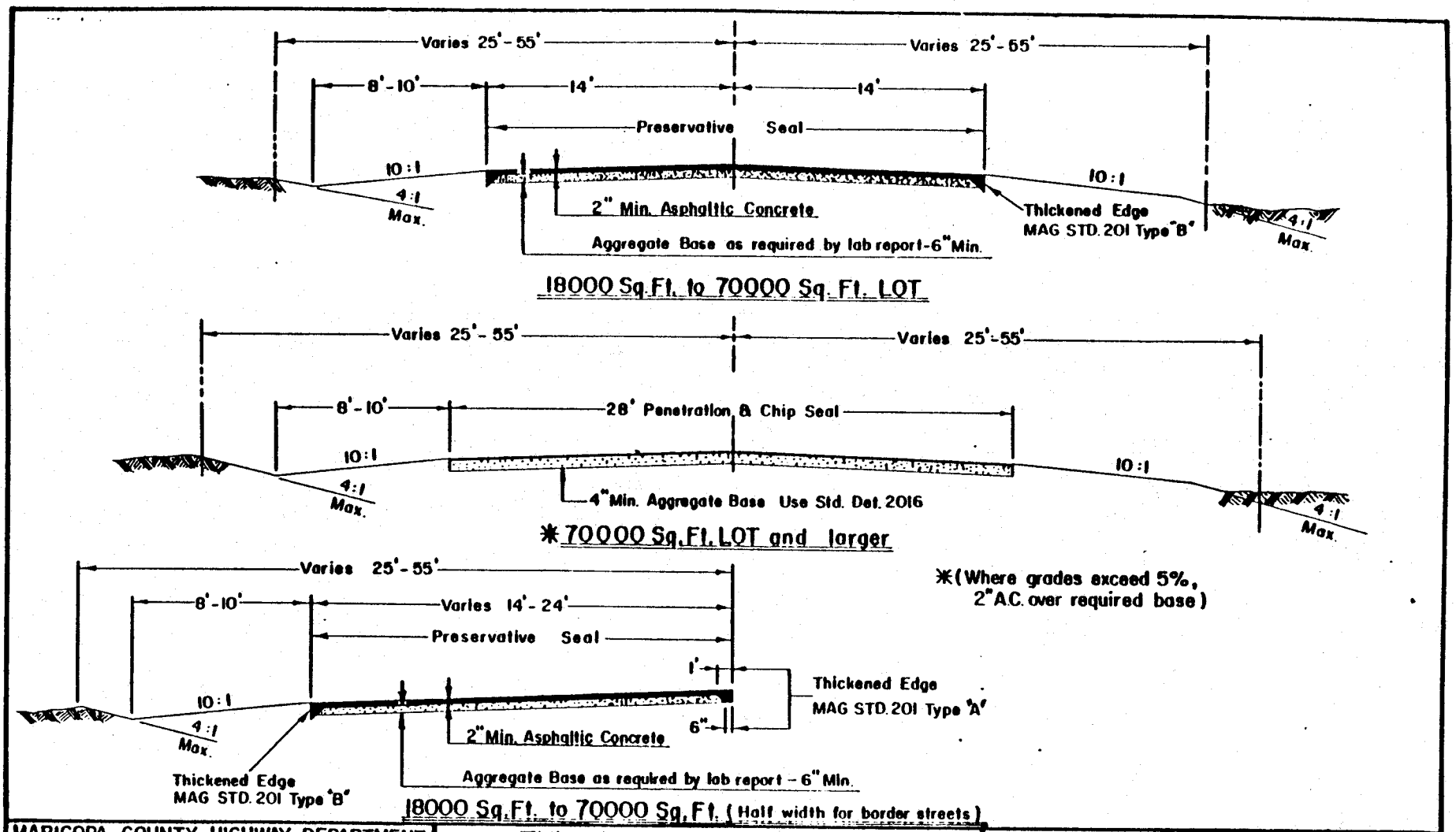
* See MAG STD. 230 (sidewalk optional)

MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	TYPICAL CROSS SECTIONS COLLECTOR STREETS	DATE: AUG. 2, 1982	DETAIL NO. 2018

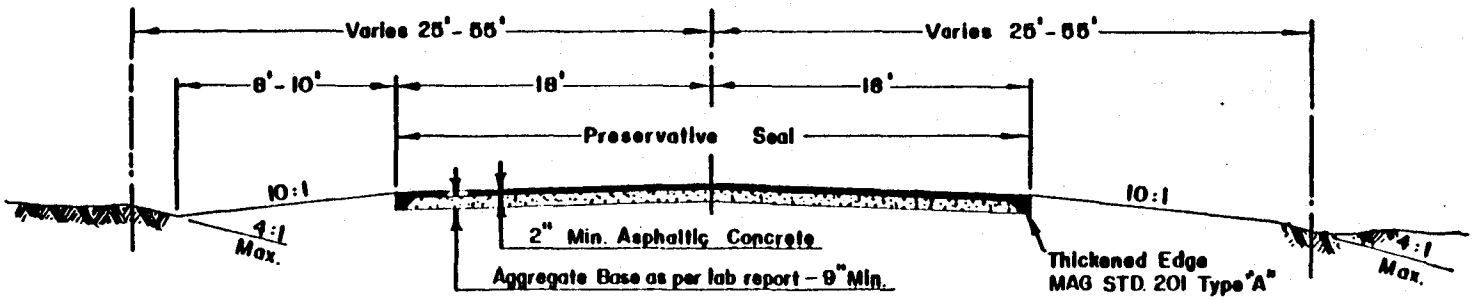


* See MAG STD. 230 (sidewalk optional)

MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	TYPICAL CROSS SECTIONS RESIDENTIAL STREETS & FRONTAGE RDS.	DATE: AUG. 2, 1982	DETAIL NO. 2019



MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	TYPICAL CROSS SECTIONS RESIDENTIAL STS. & ACCESS ROADS	DATE: AUG. 2, 1982	DETAIL NO. 2020

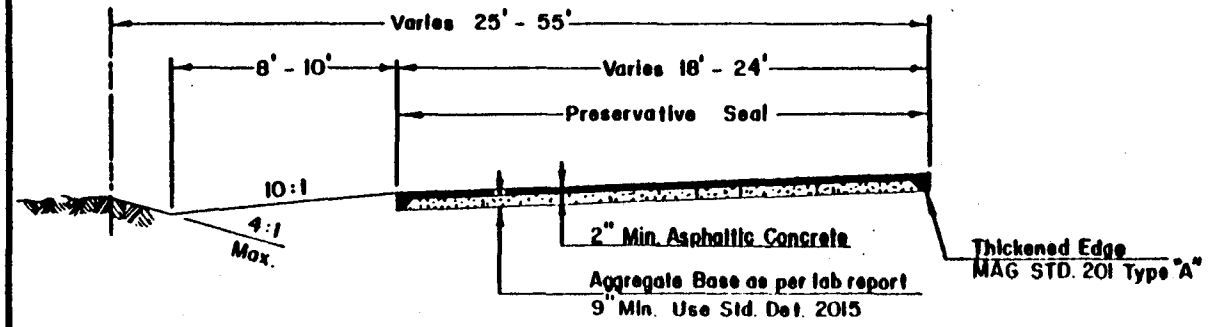


FOR INDUSTRIAL PARK or COMMERCIAL LOTS
of 18000 Sq. Ft. or GREATER

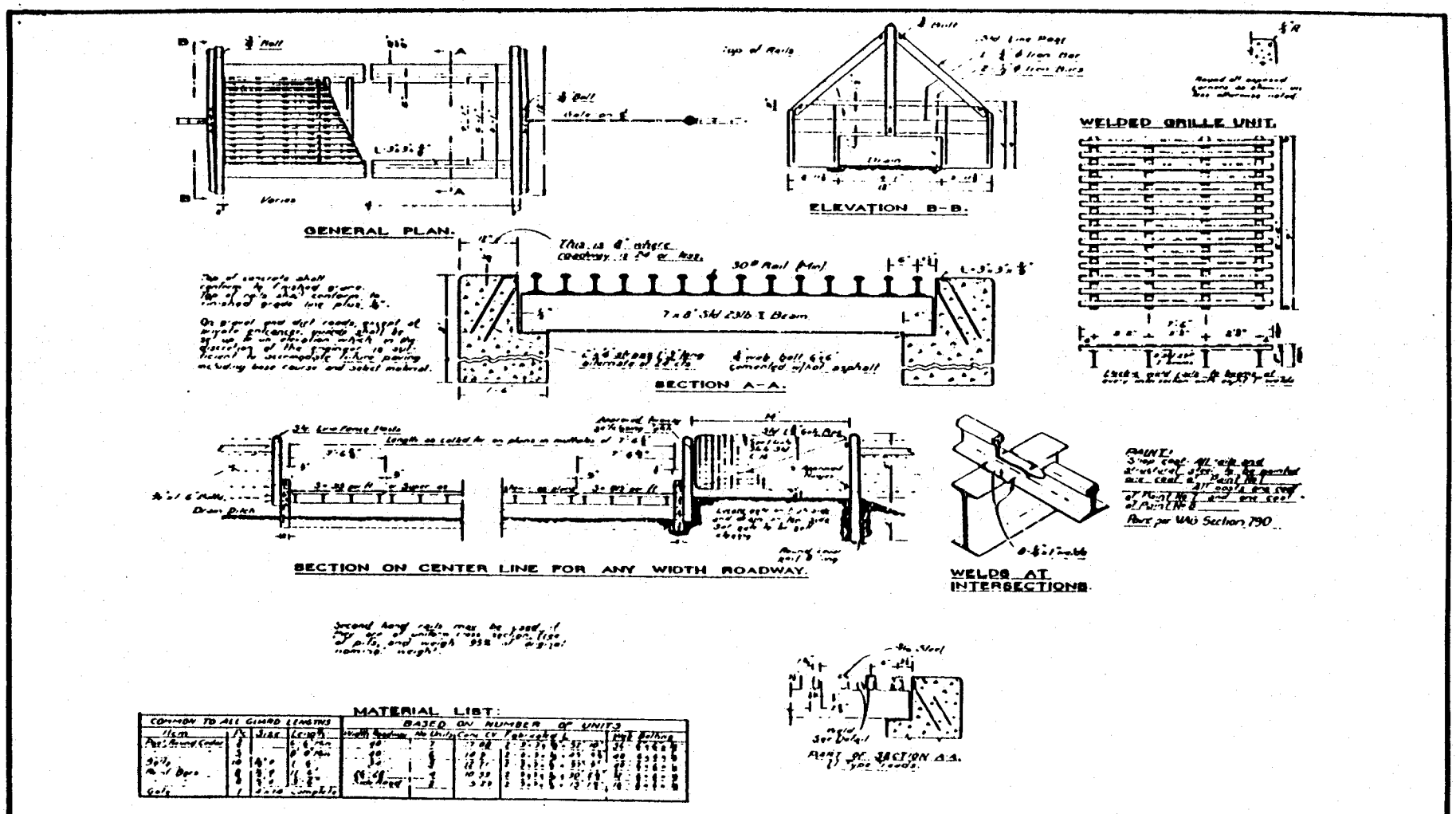
FOR INDUSTRIAL PARK or COMMERCIAL LOTS of AREA LESS THAN 18000 Sq. Ft., Six Inch Vertical Curb and Gutter is Required (MAG Std.220 Type A), See Following Table For Width Requirements.

RIGHT-OF-WAY	BC TO BC *	STD. DETAIL
50-60 FEET	40 FEET	2018 ✱
60 FEET	48 FEET	2018 ✱

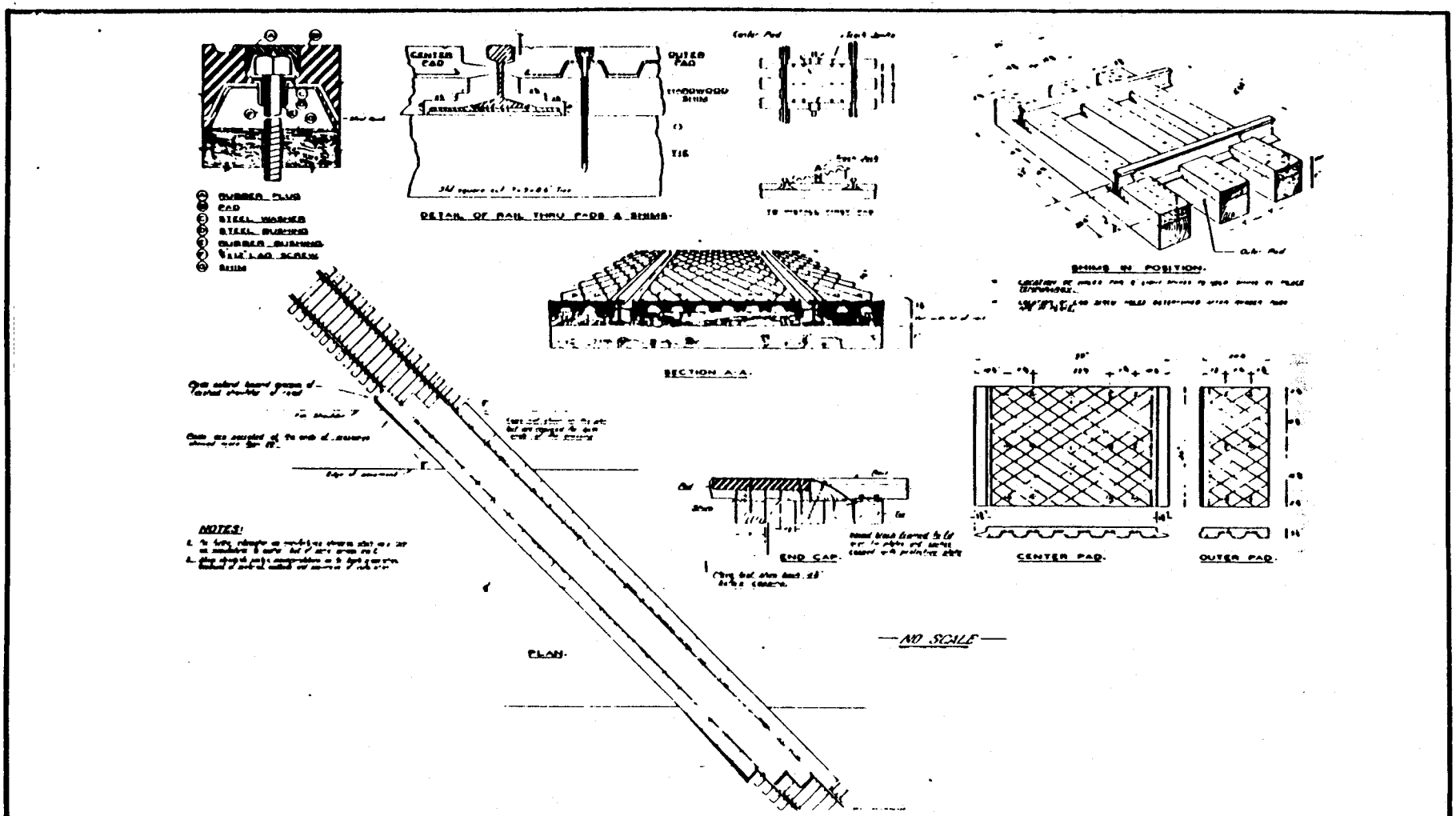
BC TO BC = BACK OF CURB TO BACK OF CURB
✱ AGGREGATE BASE AS REQUIRED BY LAB REPORT (9" MIN.) USE STD. DET. NO. 2015



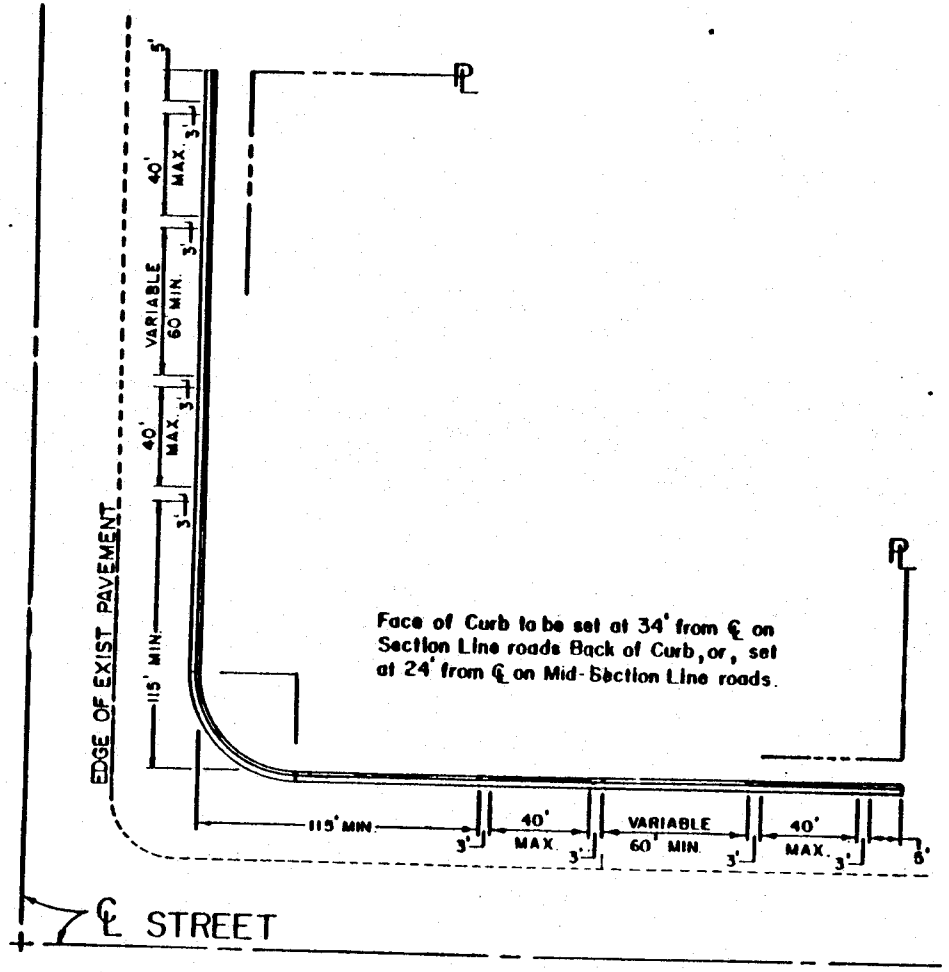
MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	TYPICAL CROSS SECTION—INDUSTRIAL PARK / COMMERCIAL STREETS	DATE: AUG. 2, 1982	DETAIL NO. 2021



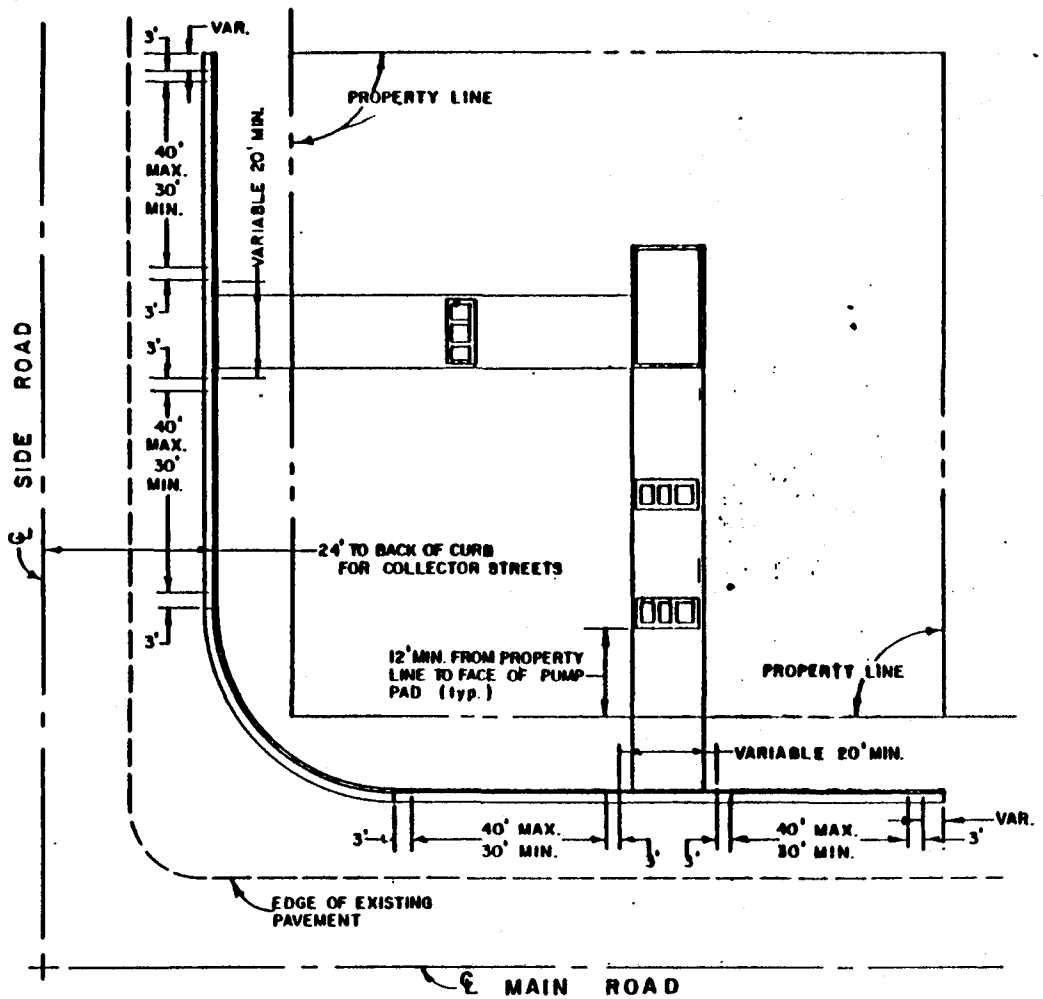
MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	CATTLE GUARD	DATE: AUG. 2, 1982	DETAIL NO. 2050



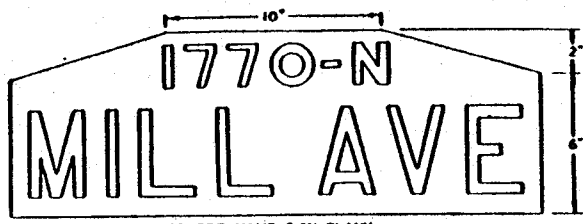
MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	RUBBER PAD RAILROAD CROSSING	DATE: AUG. 2, 1982	DETAIL NO. 2051



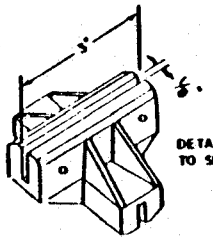
MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	SHOPPING CENTER SITE and DRIVEWAY ENTRANCE	DATE: AUG. 2, 1982	DETAIL NO. 2052



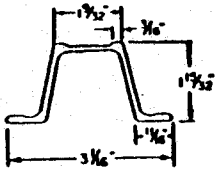
MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	SERVICE STATION SITE and DRIVEWAY ENTRANCE	DATE: AUG. 2, 1982	DETAIL NO. 2053



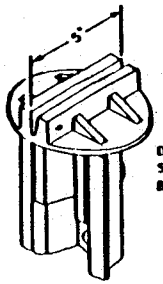
STREET NAME SIGN BLANK



DETAIL "B" SIGN TO SIGN BRACKET



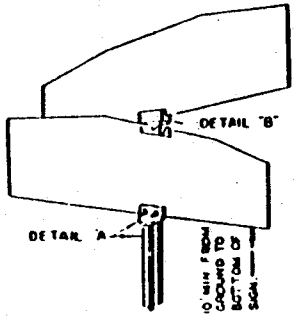
DETAIL "A" ALTERNATE STEEL CHANNEL (2.0 LB PER FOOT)

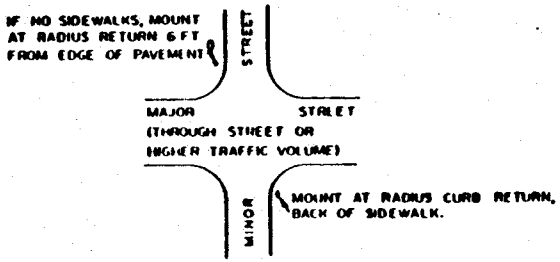


DETAIL "A" ALTERNATE SIGN TO STEEL CHANNEL BRACKET

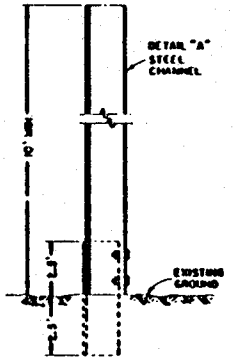
NOTES

1. SIZE OF SIGNS TO BE 8 INCHES BY 24, 30, 36 OR 42 INCHES AS REQUIRED BY THE NUMBER OF LETTERS.
2. ALL SIGNS TO HAVE 4 INCH REFLECTIVE WHITE OR SILVER LETTERING ON A REFLECTIVE INTERSTATE GREEN BACKGROUND.
3. ALL SIGNS TO BE MOUNTED ON A 2.0LB. PER FOOT GREEN PAINTED STEEL CHANNEL.
4. THICKNESS OF ALL SIGN BLANKS TO BE 0.08 INCHES.
5. WHEN BLOCK NUMBERING IS USED THEY SHALL BE 2 INCH REFLECTIVE WHITE OR SILVER NUMBERS.
6. ALUMINUM CHANNEL IS NOT ACCEPTABLE.
7. CHANNEL SHOULD BE DRIVEN INTO THE GROUND 2.5 FT. MIN.
8. SIGNS TO BE INSTALLED PER STANDARD LOCATION BELOW LEFT.



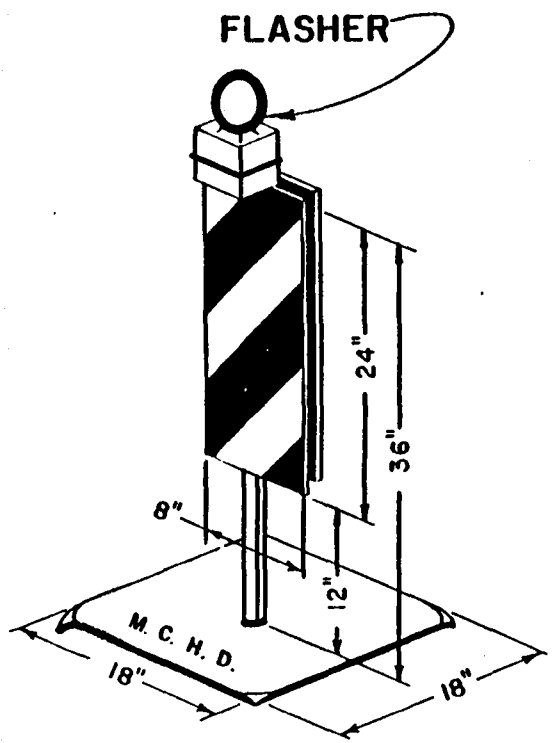


STANDARD LOCATION OF STREET NAME SIGNS

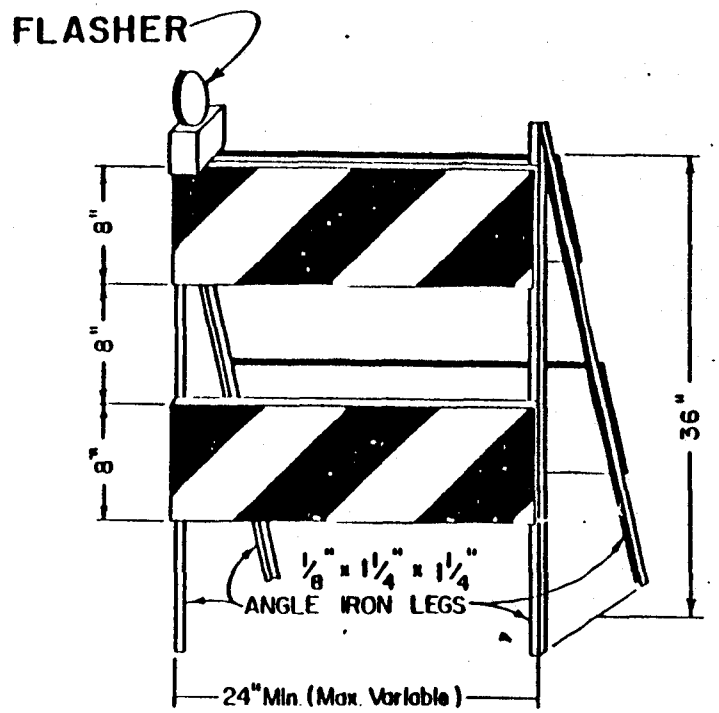


SUGGESTED CHANNEL INSTALLATION

MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	STREET NAME SIGNS	DATE: AUG. 2, 1982	DETAIL NO. 2054



VERTICAL BARRICADE

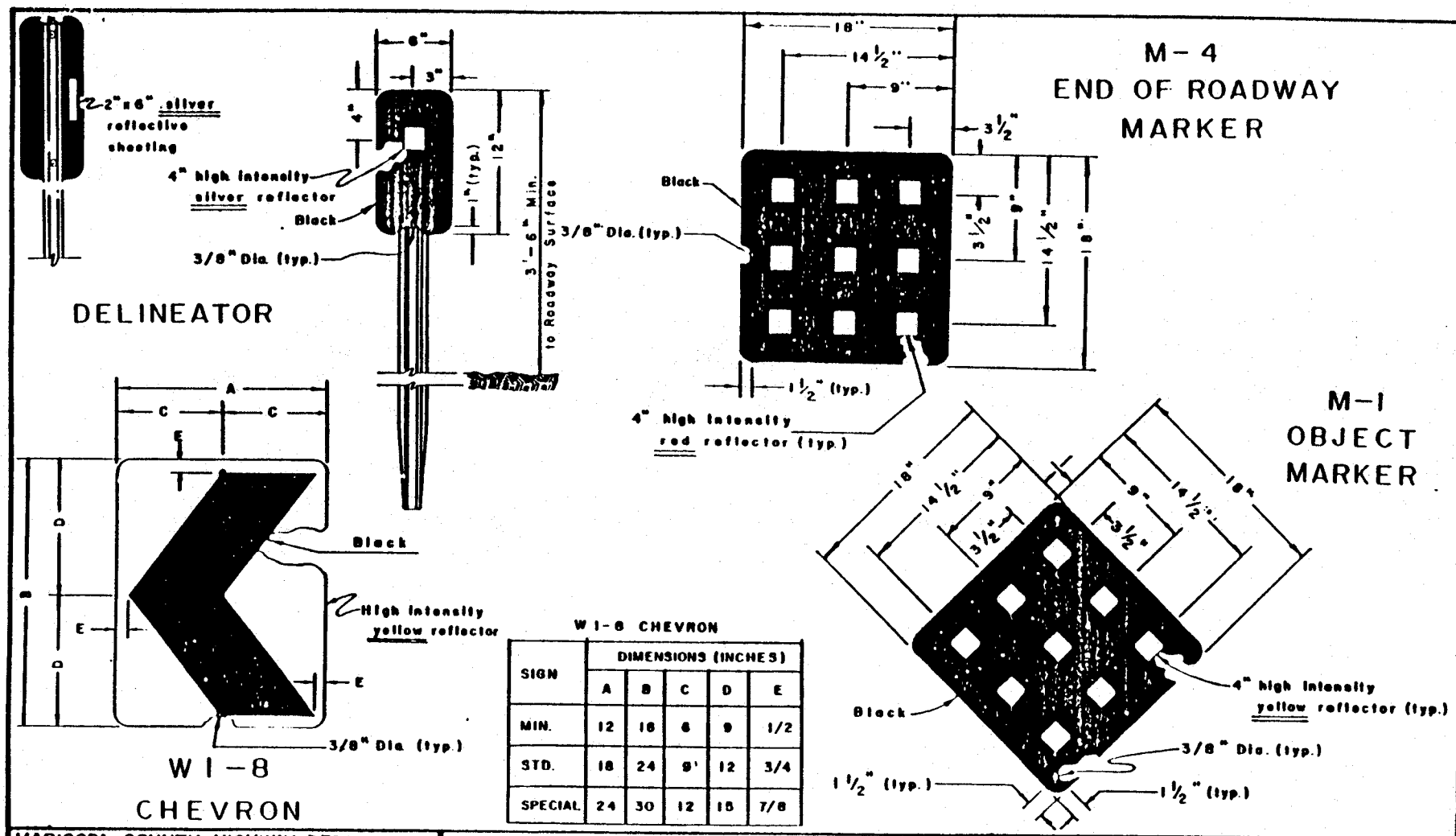


HINGED BARRICADE

NOTES

1. PANELS TO BE CONSTRUCTED OF WOOD, METAL OR OTHER COMPONENTS OR A COMBINATION THERE OF; FRAME "A" TYPE.
2. STRIPES TO BE ALTERNATE ORANGE and WHITE, 6" WIDTH AT 45° ANGLE IN THE DIRECTION TRAFFIC IS TO PASS.
3. THE ENTIRE AREA OF WHITE and ORANGE SHALL BE REFLECTORIZED.
4. RAIL WIDTH – 8" MIN., 12" MAX. RAIL LENGTH – 2' MIN. VARIABLE MAX.
5. FLASHER TO BE 12 VOLT, HAVE A SOLAR SWITCH and HAVE A CONCEALED, MANUAL ON-OFF SWITCH. FLASHER LENS TO BE MIN. 7" DIA. AMBER, 2 WAY and BE ABLE TO ROTATE 360°.
6. ALL OTHER PARTS TO BE PAINTED WHITE.

MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	BARRICADE (PORTABLE)	DATE: AUG. 2, 1982	DETAIL NO. 2055



W1-8 CHEVRON

SIGN	DIMENSIONS (INCHES)				
	A	B	C	D	E
MIN.	12	18	6	9	1/2
STD.	18	24	9'	12	3/4
SPECIAL	24	30	12	15	7/8

MARICOPA COUNTY HIGHWAY DEPARTMENT STANDARD DETAIL	ROADWAY MARKERS	DATE: AUG. 2, 1982	DETAIL NO 2056

INTERIM INFORMATION AND GUIDELINES
FOR DEMONSTRATION OF
ASSURED WATER SUPPLIES
WITHIN DESIGNATED ACTIVE MANAGEMENT AREAS
PURSUANT TO A.R.S. §45-576

September 8, 1982

DEPARTMENT OF WATER RESOURCES

15 S. 15TH AVENUE

PHOENIX, ARIZONA 85007

(602) 542-1586

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*These guidelines should be read in conjunction with the March 24, 1989 "Guidelines for Applications for Certificates of Assured Water Supply" and with the July 10, 1990 "Statement of Policy on Assured Water Supply Financial Capability."

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SUMMARY OF REQUIREMENTS FOR OBTAINING A CERTIFICATE OF ASSURED WATER SUPPLY

I. Introduction

A.R.S. §45-576 requires that a person who proposes to offer subdivided or unsubdivided lands for sale or lease in an Active Management Area (AMA) must apply for and obtain a certificate of assured water supply from the Department of Water Resources prior to obtaining plat approval from the city, town or county in which the land is located and prior to filing with the Department of Real Estate a notice of intent to offer such lands for sale or lease. However, it is not necessary to obtain a certificate of assured water supply if the subject lands lie within a water service area which has been designated by the Department as having an assured water supply. A list of such service areas can be obtained from the Department upon request.

According to the Groundwater Management Code, "Assured Water Supply" means:

1. Sufficient groundwater or surface water of adequate quality will be continuously available to satisfy the water needs of the proposed use for at least 100 years;
2. The projected water use is consistent with the management plan and achievement of the management goal for the Active Management Area; and
3. The financial capability has been demonstrated to construct the delivery system and any treatment works necessary to make the supply of water available for the proposed use.

II. Application for a Certificate of Assured Water Supply

In order to obtain a certificate of assured water supply, it is necessary to submit to the Department a complete and correct application in accordance with the provisions of A.R.S. §45-577. The pertinent application forms are attached. Among the required information are the plat(s) or master plan of the development, applicable water service agreements and evidence of the developer's financial capability to construct the delivery system and any necessary treatment works. If surface water is the proposed source of water supply, it is necessary to provide evidence of the legal right to use the water.

If groundwater is the proposed source of supply, it is necessary to provide a copy of a hydrological study on the groundwater resources which demonstrates an assured water supply for the proposed use. This study should be presented in the form of a narrative report which details the source of the proposed water supply and includes the essential hydrologic data as well as an evaluation of the long-term ability of the supply to meet the proposed use. The report should consist basically of the following elements: 1) evaluation of the development's projected demand for water; 2) a quantitative description of the available water supply be delineation of the aquifer and its properties; and 3) an analysis of the impact of the projected pumpage on the source of supply. The scope and complexity of the study will generally be dependent on the size and nature of the proposed development, but will also depend on the type and amount of available hydrologic data.

The Department suggests that a proposal be submitted prior to submittal of the assured supply report. The purpose of this proposal is to obtain the Department's recommendations and suggestions before conducting the study so that time is not wasted on preparation of a report which will not satisfactorily demonstrate the availability of an assured supply.

Upon receipt of an application for a certificate of assured water supply, the Department will review and evaluate the application in a timely fashion, depending on the Department's work load. The Department may request additional information and analysis from the applicant and conduct independent investigations as may be necessary to determine whether an assured supply exists.

III. Public Notice Procedure/Issuance of Certificate

Pursuant to A.R.S. § 45-578, when an application for a certificate of assured water supply is determined to be complete and correct, the Department will give public notice of that application, once each week for two consecutive weeks in a newspaper of general circulation in the Active Management Area in which the land is located. After the second appearance of that notice, there will be a waiting period of 15 days during which time residents of the Active Management Area may file written objections to the issuance of the certificate of assured water supply. The grounds for objection are limited to whether the certificate application meets the criteria for determining an assured water supply. Objections should clearly set forth the reasons why the certificate

should not be issued and must contain some evidence that the certificate application does not meet the criteria for determining an assured water supply.

The Director of the Department may hold a hearing on the application at least 30 days, but not more than 60 days after the objection period has ended. After the hearing, or after the objection period if no hearing is held, the Director will determine whether an assured supply had been demonstrated and, subsequently, whether to issue or deny the certificate application. Appeals of the Director's decision may be made in accordance with the provisions of A.R.S. §45-578.E and §45-405.

INTERIM GUIDELINES

I. DEFINITIONS

Guideline 101. In this guideline, unless the context otherwise requires:

"ASSURED WATER SUPPLY" means a water supply that meets the criteria established herein and that the water supply is consistent with the definition set forth in A.R.S. 45-576; specifically that:

1. Sufficient groundwater or surface water of adequate quality will be continuously available to satisfy the water needs of the proposed use for at least one hundred years;

2. The projected water use is consistent with the management plan and achievement of the management goal for the active management area; and

3. The financial capability has been demonstrated to construct the delivery system and any treatment works necessary to make the supply of water available for the proposed use.

"INADEQUATE" means the subdivision's water supply does not meet the criteria established herein and that the water supply is inconsistent with the definition of an assured water supply.

"SERVICE AREA" means an area designated by the Department of Water Resources, pursuant to A.R.S. 45-576, as having an assured supply of water.

"DEPARTMENT" means the Department of Water Resources.

"DIRECTOR" means the Director of the Department of Water Resources or the Director's designated staff representatives.

"SUBDIVISION" or "SUBDIVIDED LANDS" means improved or unimproved land or lands as defined in A.R.S. 32-2101.31.

"UNSUBDIVIDED LANDS" means land or lands as defined in A.R.S. 32-2101.34.

"DRY LOT PROPERTIES" means subdivided or unsubdivided lands in which the lot buyer must drill a well or haul water to provide a water supply to each lot.

II. PROCEDURES AND REQUIREMENTS

Guideline 201. Applications for Certificates of Assured Water Supply.

A. Any developer of proposed subdivided or unsubdivided lands, including dry lot properties, seeking to have the water supply for such lands evaluated by the Department of Water Resources pursuant to A.R.S. 45-576 should initiate the request by submitting an application therefore to the Director in writing on forms prescribed by the Director.

B. Subdivided or unsubdivided lands of 20 lots or less.

Applications relating to subdivided or unsubdivided lands containing twenty lots or less should be completed and submitted with a plat of the subdivision. For dry lot properties, information pertaining to all wells on and within one mile of the properties should be provided.

C. Subdivided or unsubdivided lands of more than 20 lots.

Applications relating to subdivided or unsubdivided lands containing more than twenty lots should be completed and submitted in accordance with Guideline 201A. In addition, the applicant should submit a proposal for an assured water supply study which should include, but not be limited to, the following:

1. A general description of the projected demand for water.

2. A general description of the proposed water supply.

3. An outline of the methods of analysis by which the developer will calculate the impacts of the proposed demand on the supply.

4. A description of the type and amount of data on the water supply available to the developer. Do not submit the data at this time.

5. A description of the type and amount of data required to demonstrate an assured supply by the developer's chosen method.

6. A detailed description of additional data the developer will need to collect, if any. This should include who will collect the data and how, when and where the data will be collected.

Guideline 202. Actions by the Department following initial submittal.

A. Subdivided or unsubdivided lands of 20 lots or less.

The Department will, within a reasonable period of time after receipt of the application for a certificate of assured water supply for subdivided or unsubdivided lands containing twenty lots or less, respond to the developer with a decision as to whether the application is complete and correct for the proposed use or a request for additional data and evaluations which would be required to be submitted to the developer.

B. Subdivided or unsubdivided lands of more than 20 lots.

The Department, within a reasonable period of time after receipt of an application and proposal for an assured supply evaluation from a developer of subdivided or unsubdivided lands of more than twenty lots will respond to the developer with an evaluation of the proposed assured water supply study and any recommended modifications to be incorporated into the final report including, but not limited to requests for additional data collection such as well drilling, aquifer testing, well inventories, water level measurements, geologic framework evaluation and other established hydrologic investigatory methods which will have to be undertaken in order to allow an accurate evaluation of the water supply situation confronting a particular development.

C. Compliance by a developer with a course of action agreed upon with the Department or recommended by the Department does not in itself demonstrate or guarantee an assured water supply for a subdivision. The resulting evaluation may confirm either an assured supply, water supply inadequacy, or the need for additional information. Discoveries made during the data collection phase may require modifications to the study as it progresses.

Guideline 203. Data Collection Standards.

A. Hydrological, geological, and geophysical investigations, collection of basic hydrologic data, and aquifer testing undertaken to determine the hydrologic or geohydrologic framework of a proposed

water supply during a developer's demonstration of a water supply under these guidelines should be coordinated with the Department prior to the performance of the investigations or data collection so that, at its descretion, the Department may participate in planning the investigation or data collection and observe such investigation or data collection in the field. Additionally, the work should be conducted under the supervision of a person with a professional level of technical competence in such work.

B. Well Inventories.

Well inventories undertaken to collect basic hydrologic data should be coordinated with the Department as to the area to be inventoried and the number of wells to be inventoried in the area. Data to be collected during the inventory should include as available, but not limited to, drillers' logs, production tests, well location, well diameter, depth of well, casing record, depth to water in well, elevation of land surface at well, well yield, well specific capacity, and water quality information. The depth to water from the land surface in a well should be measured to an accuracy of ± 0.1 foot. The accuracy of the elevation of the land surface at a well should be specified on an individual basis by the Department.

C. Discharge Measurements.

Measurements of the rate of discharge through pipes and in open channels should be conducted using standard methods and with equipment capable of an accuracy of $\pm 5\%$. Variances from this should be approved by the Department prior to data collection.

D. Aquifer Tests.

Aquifer tests may be required to delineate physical aquifer properties in the vicinity of the proposed source of supply. The design of the tests should be mutually agreed to in advance. The intent is that the test be instrumented and performed to collect data necessary to solve the specific problem. Items of concern are capacity of test pump, number, location and depth of observation wells, duration of test, and the frequency of water level and pump discharge measurements during the test. Discharge of the pumping well should be measured

and regulated so as to vary less than ±5% during the test. A valve must be installed on the discharge pipe from the pump to provide this regulation. If recovery measurements are to be made after the test, a check valve should be provided. Detailed aquifer testing procedures and criteria are available from the Department on request.

E. Aquifer Test Data.

Aquifer test data should be submitted in both tabular and graphic form. Semi-logarithmic data plots should be submitted on K & E semi-logarithmic paper # 47 6010 or other similarly scaled paper (2.50 inches/log cycle). Logarithmic plots (log-log) should be on paper scaled at 3" per cycle. The analysis of the data plots should accompany the report unless waived by the Department.

F. Water Quality Analyses.

Water quality analyses submitted to demonstrate the potability of a water supply must be performed by a laboratory certified by the Arizona Department of Health Services as complying with Department requirements. The Department may collect its own samples of the water supply to verify the submitted analysis.

III. THE ASSURED WATER SUPPLY REPORT

Guideline 301. Receipt of a formal report.

The developer should submit to the Director a report which contains the information, the modifications, and additional data, if any, requested by the Director which represents the efforts to demonstrate an assured water supply for the proposed uses. The report should be in narrative form, should follow the format set forth in Guideline 302 below, and be presented in such a manner to set forth the data and then build through a logical progression to the demonstration of an assured water supply.

Guideline 302. Content of report.

A. In general, an assured water supply demonstration report is comprised of three elements: the determination of current and projected future demands for water; the quantification of supply characteristics; and evaluation of the future impact of the demand upon the source of supply. Finally, the determination of an assured water supply results

from comparison of the supply characteristics and projected impacts to the criteria for assured supplies established herein. The burden of proof is on the developer.

Although the level of detail necessary varies in each case, the assured supply report should treat each of the above elements. Following this paragraph is a partial list of some of the common factors that comprise each element. Documentation of all elements with supporting data or calculations is necessary for adequate review. The need to treat the following and any other factors varies with the individual situation. The guiding principle should be to portray, as accurately as possible, the future water supply conditions.

1. Elements of Demand
   a. Location and boundaries of subject properties
   b. Number of lots
   c. Size of lots
   d. Projected population
   e. Current domestic demand for water
   f. Current committed domestic demand (occupied and to be built)
   g. Additional water uses (golf courses, lakes, farming, commercial, etc.)
   h. Means of providing water (individual well, water company, etc.)
2. Elements of Supply
   a. Surface water supply
      i. statement of water rights
      ii. diversion point
      iii. description of diversion works
      iv. streamflow characteristics
   b. Groundwater supply
      i. well locations
      ii. well construction
      iii. drillers' logs
      iv. well tests
      v. aquifer (water bearing unit) characteristics: size, thickness, productivity, storage, etc.
   c. Chemical quality of water supply
   d. Wastewater disposal: method, amounts, distribution, reuse to increase supply

3. Elements of Adequacy

a. Surface water supply

i. low flow analysis
ii. storage analysis
iii. influence of upstream diversions and downstream senior rights
iv. evidence that diversions can be made legally and physically

b. Groundwater supply

i. current depth to water
ii. current water level trends
iii. analysis of impact of projected pumpage: determine and discuss rates and extent of water level declines; discuss longevity of supply under projected demands

Guideline 303. Required information.

An application and assured supply report which does not contain the information required under these guidelines will be determined to be inadequate.

IV. ASSURED WATER SUPPLY CRITERIA

Guideline 401. Assured water supply standards.

A. In determining an assured supply as used in A.R.S. 45-576, standards will be used which are intended to provide a water supply adequate to meet the proposed use of water for a period of 100 years as required by law. The criteria require that the water supply be available, that it be potable, that it be available when needed, that it be at a reasonable depth, and, if it meets the preceding criteria, it also be legally available for use.

Guideline 402. Quantity.

The proposed water supply will be determined assured if water can be obtained from the supply at rates which meet or exceed the projected average demand.

Guideline 403. Quality.

Water supply for dry lot properties will be determined to be assured if the quality of the water within the aquifer underlying the properties is either acceptable or provisionally acceptable as prescribed in water quality standards for public supply systems adopted by the Arizona Department of Health Services. Water supplies will be found

inadequate if contaminant levels exceed established standards for public supply systems.

Guideline 404. Dependability.

The proposed water supply must be continuously available. A determination of adequate dependability will be based on the following:

a. Surface water supply dependability will be based on the projected availability of the stream flow, considering variations with time, as it relates to the anticipated demands for water.

b. Groundwater supply dependability will be based on the ability of the groundwater source to provide a continuous source of supply to meet the anticipated demands of water, with the further consideration that the lifetime of the supply and the rates of water level decline during lifetime are to be within the range of normal practices in Arizona. As required by law, a lifetime of 100 years shall be used as a normal criterion for either total depletion or depletion to the maximum allowable depth to water specified in Guideline 405, whichever is lesser. A rate of decline of water level of ten feet per year will be considered as the maximum decline under normal practice. Variances from these limits may be granted by the Department.

Guideline 405. Depth to water.

On dry lot properties, the depth to water within the aquifer underlying the properties should not be greater than 400 feet during the evaluation period. This is based on the "normal" depth to water for individual domestic wells in Arizona. For public or common supply systems, the depth to water in the source aquifer should not exceed 1200 feet during the 100 year period. Variances from these limits may be granted by the Department.

Guideline 406. Water rights.

A water supply which is diverted from surface water either directly, or indirectly through pumpage of wells connected to and obtaining water from surface waters or the sub-flow of surface waters,

will be deemed assured only if such diversion is the exercise of a valid right to divert appropriable surface waters. A Certificate of Appropriation, a right granted by court decree, or a water right established prior to the enactment of the State Water Code, any of which has sufficient priority to reasonably assure the availability of the necessary supply, comprise a valid water right. The demonstration of a legal right to a proposed water supply has no consequence outside this program's eligibility.

GUIDELINES FOR APPLICATIONS

FOR

CERTIFICATES OF ASSURED WATER SUPPLY

ARIZONA DEPARTMENT OF WATER RESOURCES

These guidelines are a compilation of the Department of Water Resources' practices and policies in effect prior to November 4, 1988.

Persons applying for certificates of assured water supply should be aware of the following Department practices, policies and guidelines*:

1. Plats or Master Plans

   The Department will accept preliminary plats or master plans in such form as will be subsequently submitted by the developer for approval by the county. Plats and master plans should identify the exact number of lots or dwelling units and any improvements which are necessary for quantification of the long-term water demand of the development. Master plans for large developments should identify phases or units of the development.

2. Demonstration of Financial Capability to Construct the Water System

   The following methods are acceptable to the Department in the demonstration of financial capability to construct the water system:

   a. evidence that cash sufficient to finance the cost of the water system has been advanced to the water provider.

   b. evidence of a line of credit from a financial institution sufficient to finance the cost of the water system.

   c. evidence of a loan or loan commitment sufficient to finance the cost of the water system.

   d. a cash bond in amounts sufficient to finance the cost of the water system.

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*These guidelines should be read in conjunction with the hydrological requirements set forth in the Department's September 8, 1982 "Interim Information and Guidelines for Demonstration of Assured Water Supplies Within Designated Active Management Areas Pursuant to A.R.S. § 45-576." The reader may also wish to consult the Department's informational brochure entitled "Demonstrating Water Availability for New Developments."

3. Demonstration of the Feasibility of Build-out of the Development Within a 10-year Period

Proposed developments involving 1000 or more lots must demonstrate the reasonable likelihood that the development will be sold out in 10 years. Proposed developments involving 999 or less lots do not need to include such a demonstration in the initial application. However, the Department may request further documentation, as circumstances warrant, after review of the application.

4. Consistency of the Development's Water Demand with the Management Plan of an AMA

The water demand of the planned development must be consistent with conservation requirements, including "gallons per capita per day" limitations imposed on the municipal provider, which apply for any management period during which a substantial portion of the subdivision will be developed.

5. Exceptions

The Department may require or allow exceptions to its practices, policies and guidelines if the facts concerning a particular planned development indicate that other criteria are necessary or sufficient to fulfill the statutory requirements for an assured water supply.

March 15, 1989
Revised March 24, 1989

ARIZONA DEPARTMENT OF WATER RESOURCES
15 South 15th Avenue
Phoenix, Arizona 85007
Water Service Agreement

To be filled out and signed, where appropriate, and submitted with application.

WATER SERVICE AGREEMENT - An unconditional agreement which is effective this date has been made between the owners of:

_____
NAME OF SUBDIVISION

_____
NAME OF WATER SYSTEM OR MUNICIPALITY

to provide water service to each and every lot in the subdivision in accordance with all applicable rules and regulations.

The undersigned hereby certifies that the above statements are accurate and correct.

WATER PROVIDER:

DATE:_____ NAME_____ _____
TYPE OR PRINT SIGNATURE

TITLE_____

ADDRESS _____

CITY_____

DEVELOPER:

DATE:_____ NAME_____ _____
TYPE OR PRINT SIGNATURE

TITLE_____

ADDRESS _____

CITY_____