



## **Town Council Regular Session**

**Item # 2.**

**Meeting Date:** 10/01/2025

**Requested by:** Bayer Vella, Community and Economic Development

**Submitted By:** Michael Spaeth, Community and Economic Development

**Case Number:** 2500805

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### **SUBJECT:**

DISCUSSION REGARDING PROPOSED CODE AMENDMENTS TO REFLECT RECENT STATE LAW CHANGES REGARDING THE APPROVAL PROCESS FOR CERTAIN DEVELOPMENT APPLICATIONS

### **RECOMMENDATION:**

This item is presented for discussion only. The formal code amendment will be presented for discussion and possible action on December 3.

### **EXECUTIVE SUMMARY:**

The purpose of this item is to discuss upcoming zoning code amendments to reflect recent state law changes regarding the required review process of development and design review applications for permitted or entitled (non-discretionary) projects. More specifically, this includes the review of development plans, preliminary/final plats, architecture, art and other design-related development applications.

In House Bill (HB) 2447 (Attachment 1), the state recently enacted changes to ARS § 9-500.49 that impact the town's current approval process for permitted or entitled (non-discretionary) code-compliant projects. The new language includes the following:

*Notwithstanding any other law, the legislative body of a city or town SHALL by ordinance do the following:*

1. *Authorize administrative personnel to review and approve site plans, development plans, land divisions, lot line adjustments, lot ties, preliminary plats, final plats and plat amendments WITHOUT A PUBLIC HEARING [Emphasis added].*
2. *Authorize administrative personnel to review and approve design review plans based on objective standards WITHOUT A PUBLIC HEARING [Emphasis added].*
3. *Allow at-risk submittals for certain on-site preliminary grading and drainage work or infrastructure.*
4. *Allow applicants with a history of compliance with building codes and regulations to be eligible for expedited permit review.*

Town Council initiated a Zoning Code amendment in May directing staff to update code language to comply with the new state law.

The anticipated code amendments will include the following key elements:

1. Enabling administrative approval for permitted or entitled (non-discretionary) code-compliant applications
2. Utilizing the existing Board of Adjustment appeal process for administrative approval of permitted or entitled (non-discretionary) applications
3. Changes to other sections of code (Economic Expansion Zone, Design Standards)
4. Allow at-risk submittal of certain grading and drainage applications
5. Allow expedited review of zoning and grading applications
6. Require a Conditional Use Permit for building height increase requests in the Private School (PS) zoning district

Town staff have been in communication with both the League of Arizona Cities and Towns (League) and members of the City of Scottsdale planning department (who are similarly impacted by the new legislation) to discuss potential amendments that comply with the intent of the new legislation. The League drafted a model ordinance (Attachment 2) for communities impacted by the original legislation adopted in 2023 as a guide for potential changes. Staff anticipate the code amendments will draw on the general framework of this model code moving forward.

To ensure compliance with the new legislation, the town has until December 31, 2025, to adopt the new code amendments as the new law becomes effective on January 1, 2026. Once adopted, the new code will apply retroactively to non-discretionary applications currently under review.

The Planning and Zoning Commission discussed the proposed amendments at a study session on September 10, 2025, and had only minor questions and comments.

Staff is currently developing the proposed amendments, which will be formally presented to Town Council at a public hearing in December with the aim of becoming effective prior to the state-mandated deadline.

This item is presented for discussion only and more information is provided in the Background or Detailed Information section of this report.

#### **BACKGROUND OR DETAILED INFORMATION:**

In 2023, the state passed legislation giving local jurisdictions the option of making the approval process for non-discretionary development and design review applications (e.g. Development and Landscape Plans, Preliminary and Final Plats, etc.), administrative. This year, in HB 2447 (Attachment 1), the legislature made the process mandatory for all jurisdictions. The new language includes the following:

*Notwithstanding any other law, the legislative body of a city or town **SHALL** by ordinance do the following:*

1. *Authorize administrative personnel to review and approve site plans, development plans, land divisions, lot line adjustments, lot ties, preliminary plats, final plats and plat amendments WITHOUT A PUBLIC HEARING [Emphasis added].*
2. *Authorize administrative personnel to review and approve design review plans based on objective standards WITHOUT A PUBLIC HEARING [Emphasis added].*
3. *Allow at-risk submittals for certain on-site preliminary grading and drainage work or infrastructure.*
4. *Allow applicants with a history of compliance with building codes and regulations to be*

*eligible for expedited permit review*

The anticipated code amendments will have the following key elements.

**1. Administrative approval for non-discretionary code-compliant applications**

For the town, this will represent a change as many non-discretionary development or design review applications that currently require Town Council approval. While this represents a significant change for the town, to comply with state law, the proposed amendments will include the following:

The "non-discretionary" development or design review applications listed below will be reviewed and approved administratively when deemed code-compliant:

- Development Plans and Master Development Plans
- Preliminary Plats
- Final Plats
- Commercial Architecture
- Model Home Architecture
- Public Art
- Other design review applications (e.g. Alternative Parking Ratio's, etc.)

The following "discretionary" applications where new entitlements or uses are requested will continue to require Planning and Zoning Commission recommendation and Town Council approval:

- General Plan Amendments
- Rezoning/PAD Amendments
- Conditional Use Permits
- Grading Exceptions
- Other Use Requests like Alternative Parking Analysis

All applications will continue to be reviewed for conformance with all existing code requirements (General Plan, Design Principles, Design Standards, Oracle Road Scenic Corridor Overlay District, etc.).

**2. Establish that the existing "appeal of administrative decisions" process through the Board of Adjustment will be used for administrative approval of permitted/entitled (non-discretionary) applications**

Arizona Revised Statutes Section 9-462.02 establishes that "*A board of adjustment shall hear and decide appeals from the decisions of the zoning administrator...*" Administrative approvals of "non-discretionary" development and design review applications in compliance with state law are "decisions of the zoning administrator" and are to be appealed in the same manner and venue (e.g. Board of Adjustment) as other administrative decisions of the Planning and Zoning Administrator.

It is worth noting the League's model ordinance (Attachment 2) includes the following elements:

- Defines who can appeal
- Appeal criteria and procedure
- Reviewing entity

Staff recommends tailoring elements to utilize the existing Board of Adjustment appeal process for administrative decisions.

### **3. Changes to other sections of code**

The anticipated changes will also impact other sections of code, namely the Economic Expansion Zone (EEZ) and Design Standards. Permitted or entitled (non-discretionary) code-compliant projects within the EEZ are currently approved administratively, while discretionary projects require Town Council approval. This change will make much of the EEZ redundant and unnecessary as the same approval process will apply to all properties in town. Some components of EEZ (e.g. allowing pre-grading of development parcels) will remain limited to those areas.

With regard to Design Standards, as a result of the code amendments, they should be sharpened and made more specific (without being overly prescriptive). The aim will be to maintain the Town's high level of design requirements while allowing for aesthetic variety throughout the town. An update to the Design Standards previously approved as an Strategic Plan item that is anticipated to be presented to Town Council later this year.

### **4. Allow at-risk submittal of certain grading and drainage applications**

This legislation does not enable/require pre-grading prior to development application approval - just review of a grading and/or drainage plan. No code changes will be necessary to comply with part of the new legislation.

### **5. Allow expedited review of zoning and grading applications**

The Town currently allows for expedited reviews of building permit applications only (with an additional expedited fee). The code amendments will need to include language enabling expedited reviews of all applications for applicants with a history of compliance. Additionally, the Town's Development Fee Schedule will need to be revised to add an expedited review option (with associated costs) for all applications.

### **6. Require a Conditional Use Permit for building height increase requests in the Private School (PS) zoning district**

A building height increase application in PS zoning entails Planning & Zoning Commission decision-making - with the ability to appeal to Town Council. It would be timely to amend the code by requiring a conditional use permit with final determination by Town Council.

The Town has until December 31, 2025, to adopt the new code amendments as the new law becomes effective on January 1, 2026. Once adopted, the new code will apply retroactively to non-discretionary applications currently under review.

The Planning and Zoning Commission discussed the proposed amendments at a study session on September 10, 2025 and had only minor questions and comments.

This item is for discussion only and staff is currently working to develop the proposed amendments, which will be presented to Town Council at a public hearing in December with the aim of them becoming effective prior to the state-mandated deadline.

#### **FISCAL IMPACT:**

N/A

#### **SUGGESTED MOTION:**

This item is for discussion only. The formal code amendment will be presented for discussion and possible action on December 3.

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**Attachments**

ATTACHMENT 1 - HB 2447

ATTACHMENT 2 - DRAFT MODEL ORDINANCE OF SITE PLANS AUG 2023

Staff Presentation

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