



# Town of Paradise Valley

6401 E Lincoln Dr  
Paradise Valley, AZ 85253

## Meeting Notice and Agenda Planning Commission

*Chair Pamela Georgelos  
Commissioner Robert Brown  
Commissioner Charles Covington  
Commissioner Craig Curtis  
Commissioner Timothy Dickman  
Commissioner William Nassikas  
Commissioner James Rose*

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Tuesday, July 15, 2025

6:00 PM

Council Chambers

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### Joint Training Session with Planning Commission, Board of Adjustment, & Hillside Building Committee

#### 1. CALL TO ORDER / ROLL CALL

*Planning Commission: Chair Pamela Georgelos, Commissioners Robert Brown, Charles Covington, Craig Curtis, Timothy Dickman, William Nassikas, & James Rose.  
Board of Adjustment: Chair Eric Leibsohn, Boardmembers Ken Barnes, Joseph Contadino, James Kuykendall, Hope Ozer, Bill Petsas, & Quinn Williams.  
Hillside Building Committee Citizen Members: Chair Scott Jarson, Members Sue-Meng Lau, & Blair Portigal.*

*Notice is hereby given that members will attend either in person or by electronic conference system, pursuant to A.R.S. §38-431(4).*

#### 2. EXECUTIVE SESSION

*The Planning Commission, Board of Adjustment, & Hillside Building Committee may go into executive session at one or more times during the meeting as needed to confer with the Town Attorney for legal advice regarding any of the items listed on the agenda as authorized by A.R.S. §38-431.03.A.3.*

#### 3. APPROVAL OR AMENDMENT OF MINUTES

#### 4. PRESENTATIONS

#### 5. STUDY SESSION ITEMS

*The Study Session is open to the public for viewing, and the following items are scheduled for discussion among the Planning Commission, Board of Adjustment, Hillside Building Committee, Staff, and invited presenters. Votes will not be made on any of these items but may be made when the item is scheduled for final action later in the meeting or at a future meeting. Public comment will not be invited at this time.*

A. [25-169](#) **Planning Commission, Board of Adjustment, and Hillside Building Committee Training**

Staff Contact: Chad Weaver, 480-348-3522

Attachments: [A. Staff Report](#)  
[B. Presentation](#)  
[C. Legal Presentation](#)

## 6. PUBLIC HEARINGS - LEGISLATIVE ACTIONS

*Items for Public Hearings are Legislative Actions scheduled for action by the Planning Commission, Board of Adjustment, & Hillside Building Committee. Staff will present the item, the Planning Commission, Board of Adjustment, & Hillside Building Committee will have an opportunity to discuss and ask questions of staff and/or the applicant, the public hearing will open for public comment, after receiving public comment the public hearing is closed, the Planning Commission may have further discussion, and lastly, the Planning Commission, Board of Adjustment, & Hillside Building Committee will take action on the item by making a motion.*

## 7. ACTION ITEMS

*Items for Action are scheduled for action by the Planning Commission, Board of Adjustment, & Hillside Building Committee. Staff will present the item, the Planning Commission, Board of Adjustment, & Hillside Building Committee will have an opportunity to discuss and ask questions of staff and/or the applicant, and lastly, the Planning Commission, Board of Adjustment, & Hillside Building Committee will make a motion on the item. Public comment is not required.*

## 8. STAFF REPORTS

## 9. PUBLIC BODY REPORTS

## 10. FUTURE AGENDA ITEMS

## 11. ADJOURNMENT

### AGENDA IS SUBJECT TO CHANGE

*\*Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Planning Commission, Board of Adjustment, & Hillside Building Committee are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the Town Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the Town will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 have been waived.*

*The Town of Paradise Valley endeavors to make all public meetings accessible to persons with disabilities. With 72 hours advance notice, special assistance can also be provided for disabled persons at public meetings. Please call 480-948-7411 (voice) or 480-483-1811 (TDD) to request accommodation to participate in th meeting.*





## Action Report

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**File #:** 25-169

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**AGENDA TITLE:**

**Planning Commission, Board of Adjustment, and Hillside Building Committee Training**

**STAFF CONTACT:**

# **TOWN** *Of* **PARADISE VALLEY**



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## **STAFF REPORT**

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**TO:** Chair and Planning Commission Members  
Chair and Board of Adjustment Members  
Chair and Hillside Building Committee Members

**FROM:** Chad Weaver, Community Development Director

**DATE:** July 15, 2025

**DEPARTMENT:** Community Development Department  
Chad Weaver, 480-348-3522

**AGENDA TITLE:** Planning Commission, Board of Adjustment, and Hillside Building Committee Training

### **BACKGROUND**

The upcoming training session provides an opportunity for Town staff and the various appointed members of the Planning Commission, Board of Adjustment, and Hillside Building Committee members to provide an overview of the Planning & Development processes, discuss the Planning Commission, Board of Adjustment, and Hillside Building Committee member roles in those processes, discuss staff's role, and provide an overview of legal requirements.

Each of the committees have their own webpage on the Town's website at <https://www.paradisevalleyaz.gov/82/Boards-Commissions>. The webpages for the three committees provide an overview of the committee, membership information, meeting information, rules of procedures adopted by Town Resolution, and links to related resource documents.

It is encouraged that all members attend in-person for training.

### **ATTACHMENTS:**

- A. Staff Report
- B. Presentation
- C. Legal Presentation



# Town of Paradise Valley

Planning Commission  
Hillside Building Committee  
Board of Adjustment

Orientation & Training





The background of the slide is a photograph of a desert cactus with two large, vibrant red flowers in bloom. The cactus has green, ribbed segments covered in fine, light-colored spines. The flowers have many layers of petals and a bright yellow center. The overall image has a soft, slightly faded appearance.

Thank you for  
your service  
to the  
community

# Goals for Today

- Give an overview of the Planning & Development processes
- Discuss Commission, Board, and Committee roles in those processes
- Discuss Staffs role in the processes
- Discuss legal requirements





# Members



Hillside Building Committee Members	Term Expires (April)
Chair Scott Jarson	2027
Sue-Meng Lau	2028
Blair Portigal	2026
3 Planning Commissioners (rotate turns)	See Planning Commission

Board of Adjustment Members	Term Expires (April)
Chair Eric Leibsohn	2027
Ken Barnes	2026
Joseph Contadino	2027
James Kuykendall	2027
Hope Ozer	2026
Bill Petsas	2027
Quinn Williams	2026

Planning Commission Members	Term Expires (April)
Chair Pamela Georgelos	2027
Bob Brown	2026
Charles Covington	2028
Craig Curtis	2027
Timothy Dickman	2026
William Nassikas	2027
James Rose	2026

# Meeting Times

## Hillside Building Committee

- Regular meeting time 2<sup>nd</sup> Wednesday of each month at Town Hall
- 8:00 a.m. start time
- Packet sent electronically typically the Thursday prior to the meeting

## Planning Commission

- Regular meeting times 1<sup>st</sup> & 3<sup>rd</sup> Tuesday of each month at Town Hall
- 6:00 p.m. start time
- Packet sent electronically typically the Wednesday prior to the meeting

## Board of Adjustment

- Regular meeting time 1<sup>st</sup> Wednesday of each month at Town Hall
- 5:30 p.m. start time
- Packet sent electronically typically the Thursday prior to the meeting

# Roles

## Hillside Building Committee

- Serve as an extension of staff to review proposed hillside development in accordance with Hillside Development Regulations of the Zoning Ordinance
- 6 members (3 citizen and 3 Commissioners)
- Elect chair each January
- Serve 2-year term (citizen members)

## Board of Adjustment

- Decision maker on variances and appeals of the Zoning Ordinance
- 7 members
- Serve in a quasi-judicial capacity
- Elect chair each April
- Serve 3-year term

## Planning Commission

- Makes recommendations to Council on various entitlement and administrative applications (e.g., Major/Intermediate SUP, Zoning Text Amendment, General Plan Amendment)
- Decision maker on various administrative applications (e.g., Minor SUP, CUP, Preliminary Plat, Lot Split)
- 7 members
- Serve on Hillside Building Committee
- Elect chair each April
- Serve 3-year term

## Staff

- Meet with applicants and residents
- Review and process applications
- Provide professional analysis on compliance and recommendations
- Ensure noticing requirements are met
- Complete inspections




# General Plan





# Planning & Development Processes

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- General Plan
  - Special Use Permits
  - Conditional Use Permits
  - Lot Splits & Preliminary Plat
  - Final Plats
  - Variances
  - Hillside Development

# General Plan

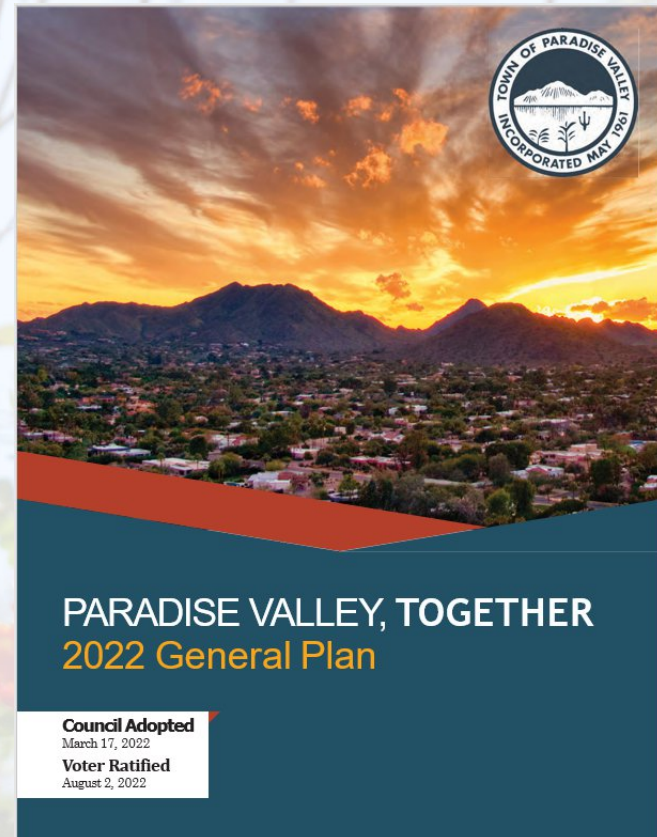
## WHAT IS A GENERAL PLAN?

The General Plan acts as a guiding document for future physical, economic, and social development decisions over the next 10 years and beyond. Bounded by a community vision, the plan contains a series of goals, policies, and actions that were all established through an intentional public engagement process and that work together to map out a clear path for the plan's implementation.

State law (A.R.S. §9-461.05) requires that every Arizona city and Town adopt a long-range general plan for future development that must also be updated and readopted by voters every ten years. The Town's first General Plan was adopted in 1980 with subsequent updates in 1997, 2001, 2003, and most recently in 2012. Building from the previous General Plans, the 2022 General Plan addresses key topics such as land use, community character, circulation, open space, environment, sustainability and public facilities and services.

## PURPOSE OF THE GENERAL PLAN

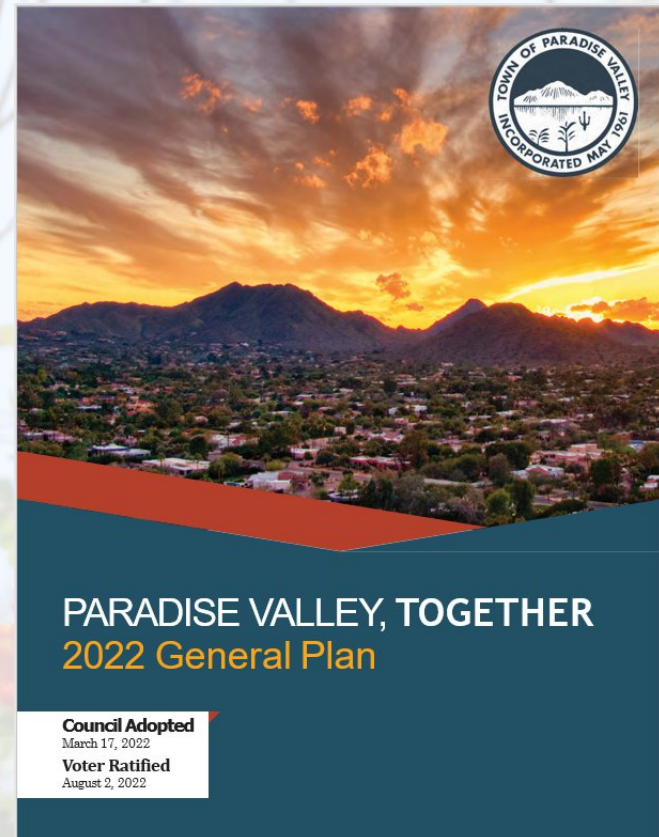
A general plan is a community's "blue print" for land use and development; it serves as the basis for rational decisions regarding a community's long-term physical development. The general plan expresses the community's development goals and embodies public policy relative to the distribution of future land uses.





# General Plan

- Required by state statute
- Public document approved by Council and voters
- Typically general, comprehensive, and long-range
- Includes goals and policies to guide future community decisions
- Broad policy document that serves as foundation for the Zoning Ordinance & other planning tools



# General Plan Update Process

Planning Commission reviews and provides a recommendation to Town Council on all General Plan amendments and on the General Plan Update

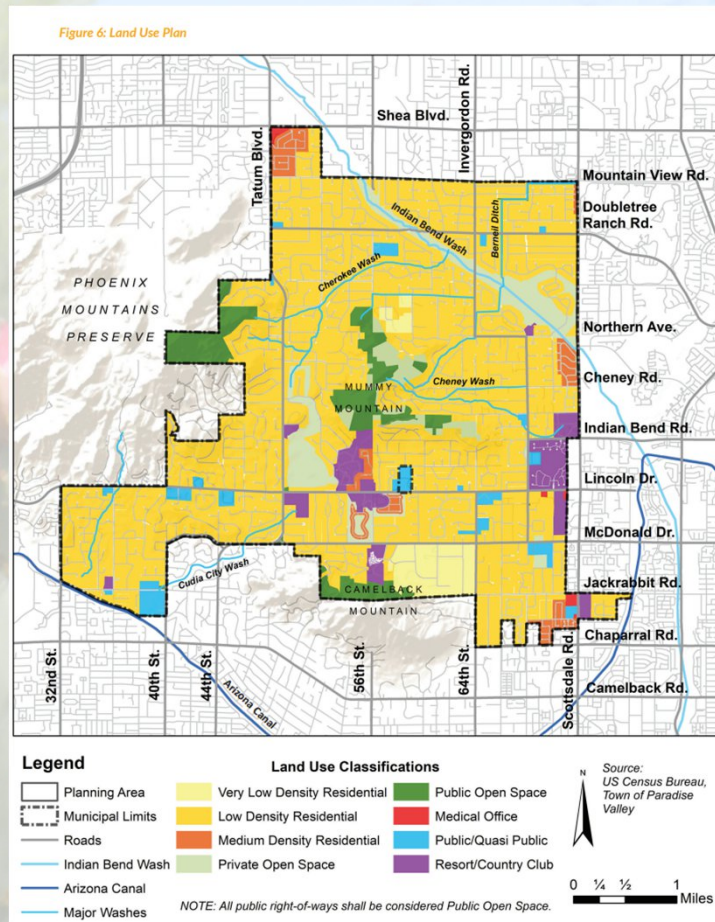


Table 7: Major Amendment Definition

Major Amendment Definition Land Use Map Changes								
Existing Map Designation	Proposed Map Designation Change							
	VLDR	LDR	MDR	R/CC	MO	PQP	OS Pub	OS Priv
Very Low Density Residential (VLDR)	Major Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment
Low Density Residential (LDR)	Minor Amendment	Major Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment
Medium Density Residential (MDR)	Minor Amendment	Minor Amendment	Major Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment
Resort/Country Club (R/CC)	Minor Amendment	Minor Amendment	Minor Amendment	Major Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment
Medical Office (MO)	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Major Amendment	Minor Amendment	Minor Amendment	Minor Amendment
Public/Quasi-Public (PQP)	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Major Amendment	Minor Amendment	Minor Amendment
Public Open Space (OS Pub)	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Major Amendment	Minor Amendment
Private Open Space (OS Priv)	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Minor Amendment	Major Amendment

Major Amendment

Minor Amendment

No Change



# Special Use Permit Amendments



Special Use Permits (SUP) are defined in Article XI of the Zoning Ordinance

- Primarily non-residential uses: Resorts, medical offices, religious facilities, private schools, non-profit organizations, country clubs and golf courses, utility poles and wires, guardhouses and gatehouses, access control gates, and amateur radio antennas
- Code provisions facilitate creative, high-quality development

# SUP Process

Town Council Statement of Direction (SOD)

Staff reviews application and prepares draft SOD

Staff presents application, analysis & draft SOD to Town Council at Study Session

Town Council issues formal SOD at future Public Hearing

Planning Commission Review Based on the SOD and action/recommendation to Council

Planning Commission Study Session

Planning Commission Public Hearing and Action

Town Council Review and action/decision

Town Council Study Session

Town Council Public Hearing and Action

# Zoning / Special Use Permit amendments

- Four Types of SUP Amendments:
  - A. Managerial Amendment – Town Manager or designee approval
  - B. Minor Amendment – Planning Commission process with Town Council appeal
  - C. Intermediate Amendment – Full process with scope limited to geographic area of proposed amendments
  - D. Major Amendment – Full process with scope encompassing entire SUP property



# SUP Examples

- Minor SUP-25-03
  - Smoke Tree (modify number guest rooms)
  - Approved June 2025
- Rezoning MI-24-01
  - 7100 N Mockingbird (SUP to R-43)
  - Approved October 2024
- Intermediate SUP-23-05
  - PCDS (new performance arts bldg)
  - Approved April 2024





# Conditional Use Permit (CUP)



Conditional Use Permits are defined in Article XI of the Zoning Ordinance

- Required for certain uses that may be appropriate under specific conditions
  - Water Booster Stations
  - Private Road
  - Antennas
- Uses considered on a case-by-case basis depending on particular physical or operational characteristics
- Planning Commission Action/Decision

# CUP Process

Planning Commission  
Review  
Based on Code  
Requirements

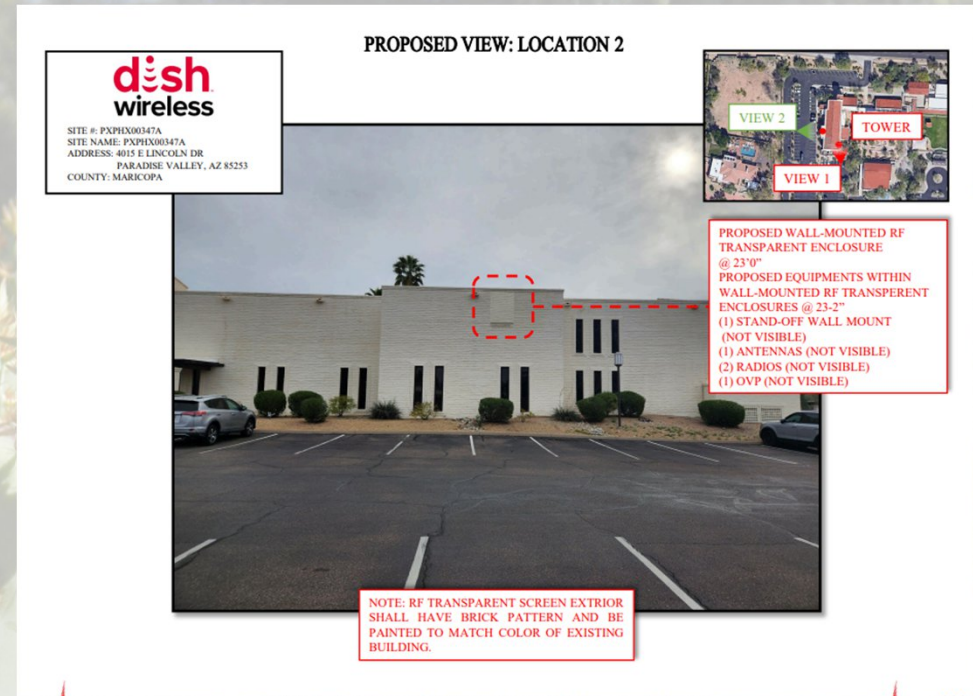
Staff presents application,  
analysis &  
recommendation to  
Planning Commission at  
Study Session

Planning Commission  
Study Session

Planning Commission  
Public Hearing and  
Action

# CUP Examples

- Wireless Antenna CUP-24-02
  - Christ Church (add antennas for Dish)
  - Approved October 2024





# Plats/Subdivisions

Subdivisions/Land Modifications are defined in Chapter 6 of the Town Code

- Plat/land modification is any change to the existing boundaries of a property
- Subdivision is when create 4 or more lots or 2 lots with a new road
  - Preliminary plat is a preliminary layout of a subdivision
  - Final plat is the final layout of a subdivision (fully dimensioned)
- Planning Commission Action/Decision



# Plat & Lot Split Process

Planning  
Commission  
Review  
Based on Code  
Requirements –  
Ministerial act

Note: 2025 state  
law changes to  
impact process

Staff presents application,  
analysis &  
recommendation to  
Planning Commission at  
Study Session

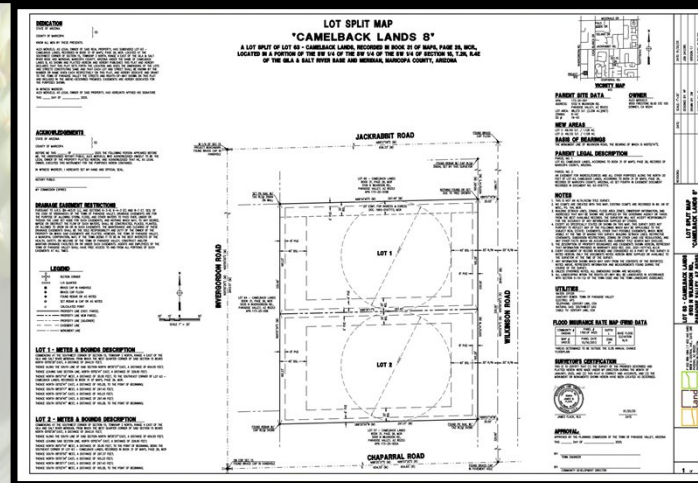
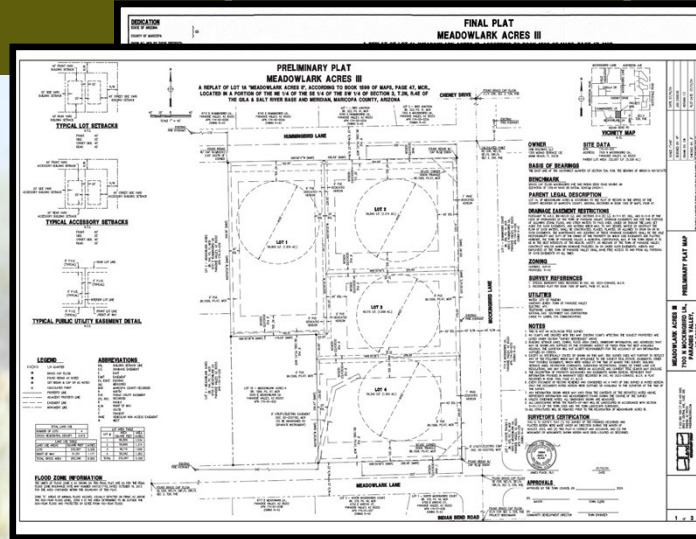
Planning Commission  
Study Session

Planning Commission  
Public Hearing and  
Action



# Plats and Lot Split Examples

- Preliminary Plat PP-24-01
  - Meadowlark Acres III (4-lot plat)
  - Approved September 2024
  - Final Plat Council approved October 2024
  
- Lot Split LS-25-02
  - 5102 N Wilkinson Rd (2 lots)
  - Approved June 2025



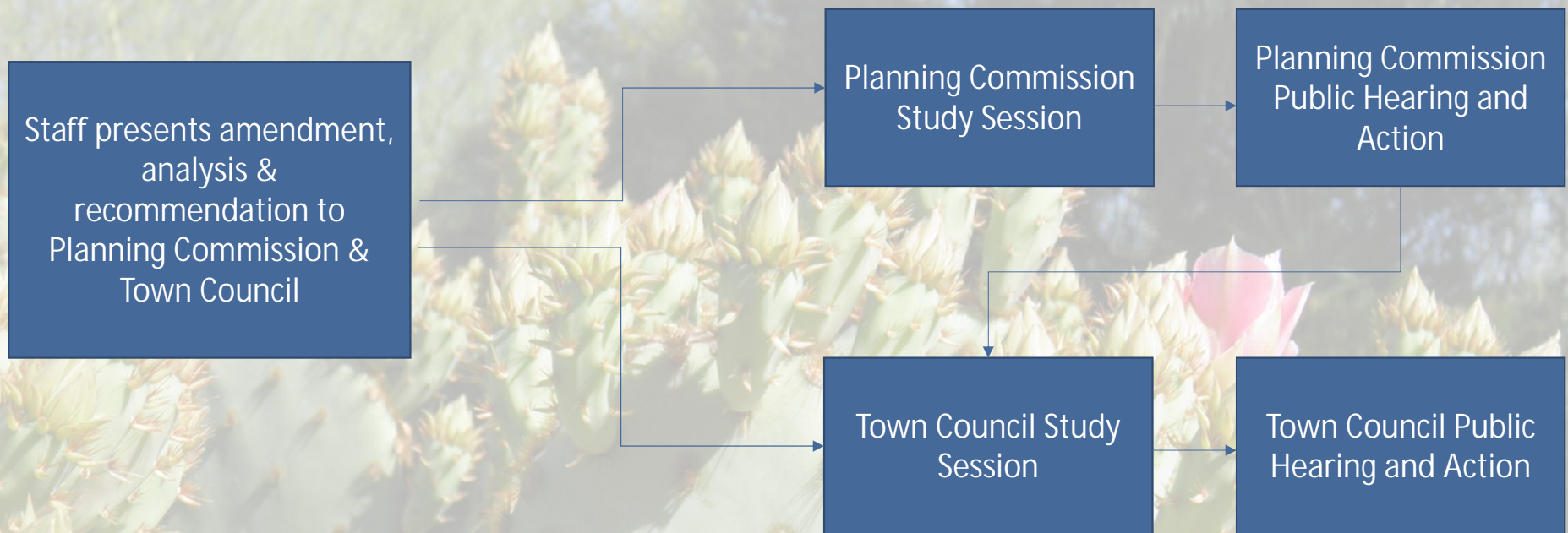


# Zoning Ordinance Amendments



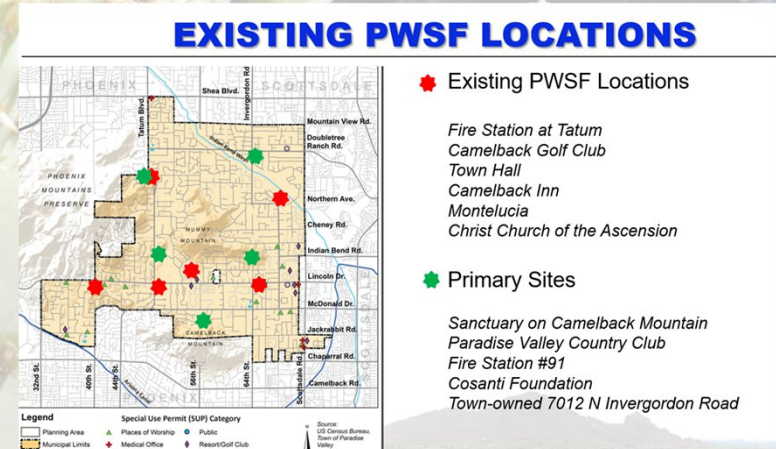
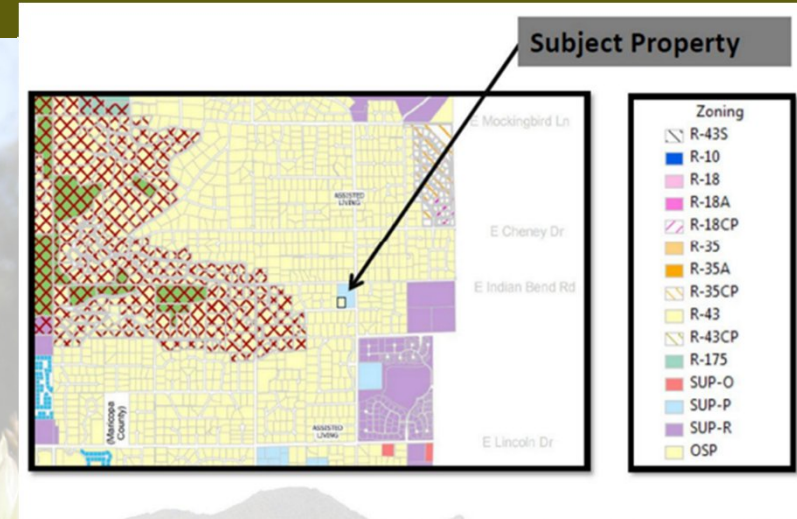
Amendments to the text or processes in the Zoning Ordinance

# Zoning Ordinance Amendments Process



# Zoning Ordinance Amendment Examples

- Rezoning MI-24-01
  - 7100 N Mockingbird (SUP to R-43)
  - Approved October 2024
- Wireless Code MI-23-01
  - Create Managerial Process
  - Approved May 2024
- Text Changes
  - Reorganization, state law changes
  - Upcoming 2025/2026





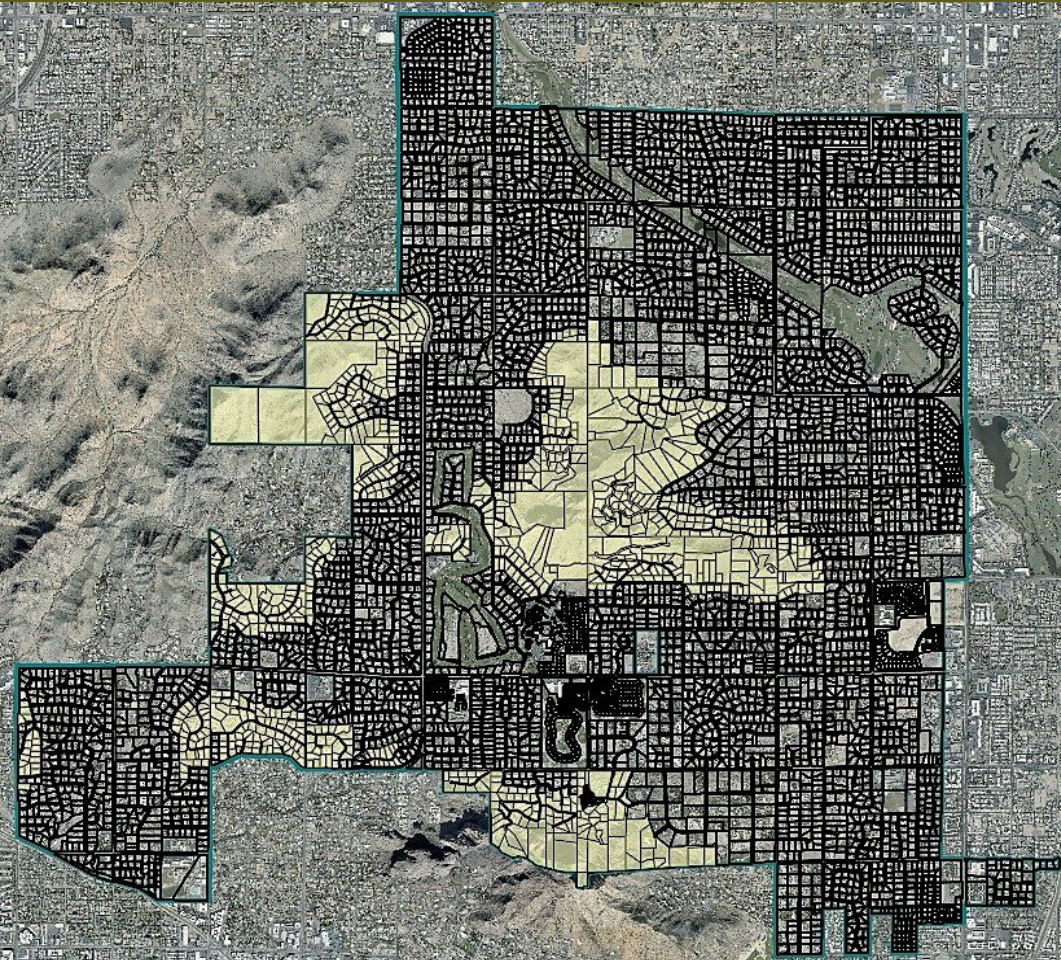
# Hillside Building Committee



- Oversees new construction and modifications on properties in the Hillside Development Area
- Serve as an extension of Staff to review proposed Hillside development in accordance with Article XXII (Hillside Development Regulations) of the Zoning Ordinance
- Building permits are issued in accordance with the plans and specifications approved by the Committee



# Hillside



Hillside Regulations are defined in Article XXII of the Zoning Ordinance

- 14% of the Town's lots are part of the Hillside Development Area
- The Hillside Development Area is approximately 2.9 square miles



# Hillside Development Key Points

The purpose of the Hillside Development Regulations is to promote:

- Construction materials that are harmonious with the native desert
- The use of native vegetation
- Limiting light pollution on hillside
- Reducing land disturbance
- Protection of native site features
- Safety and welfare of Town residents





# Hillside Applications

- Administrative Chair Review - Minor improvements (additions up to 100 SF, walls up to 15 LF, minor lighting and landscaping, etc.)
- Combined Solar Review - Solar applications only
- Combined Review - Small Remodel/Additions outside of Administrative Chair Review
- Conceptual Review - “Part One” of a New Single-Family Residence (SFR) or Major Remodel/Addition
- Formal Review - “Part Two” of a New Single-Family Residence (SFR) or Major Remodel/Addition



# Hillside Safety Code

- Hillside safety standards include a Hillside Safety Improvement Plan (SIP) during the application process
- The SIP may include:
  - Geotechnical Evaluations
    - Seismic Refraction Survey/Percolation Testing/Slope Stability Analysis/Boulder Survey
  - Grading and Drainage
    - Drainage Report/Grading and Drainage Plan
  - Blasting Plan and Permit



# Hillside Process

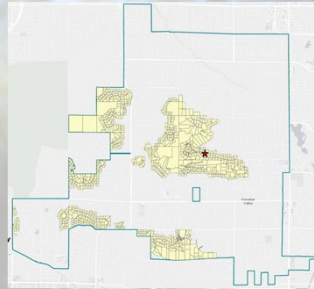




# Hillside Examples

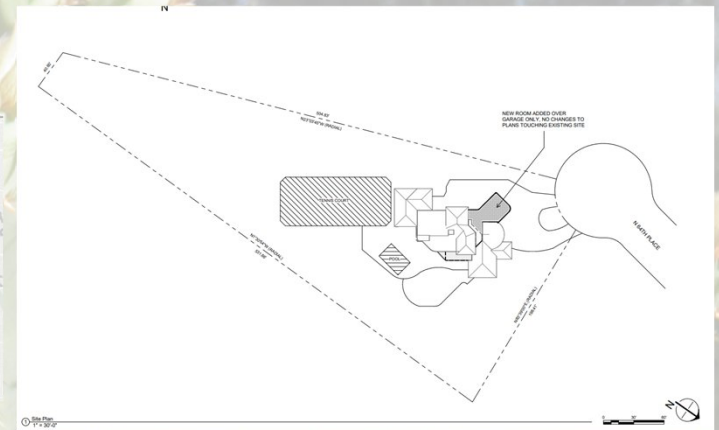
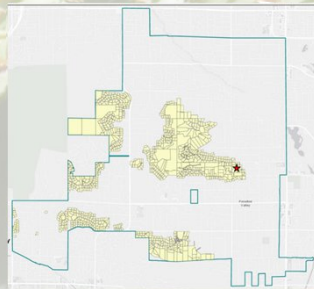
- Concept/Formal Review HILL-24-17

- 6412 E Hummingbird Lane
- New home
- Approved April 2025



- Combined Review HILL-24-51

- 7121 N 64<sup>th</sup> Place
- Addition
- Approved Jan 2025



# Variances ( Board of Adjustment )

Variances are defined in Article 2-5-3 of the Town Code

- Variances from the provisions of the Zoning Ordinance may be granted.
- Variances may be granted only upon finding by sufficient evidence that 3 State mandated criteria are met
- Determination are made by Board of Adjustment
- Board is Quasi-Judicial
- Appeals of Board of Adjustment decisions are to Superior Court <sup>32</sup>



# Variance Criteria



1. That there are special circumstances applicable to the property, which may include circumstances related to the property's size, shape, topography, location, or surroundings.
2. That the special circumstances applicable to the property were not self-imposed or created by the property owner.
3. That the strict application of the Zoning Ordinance will deprive the property of privileges enjoyed by other property of the same classification in the same zoning district.



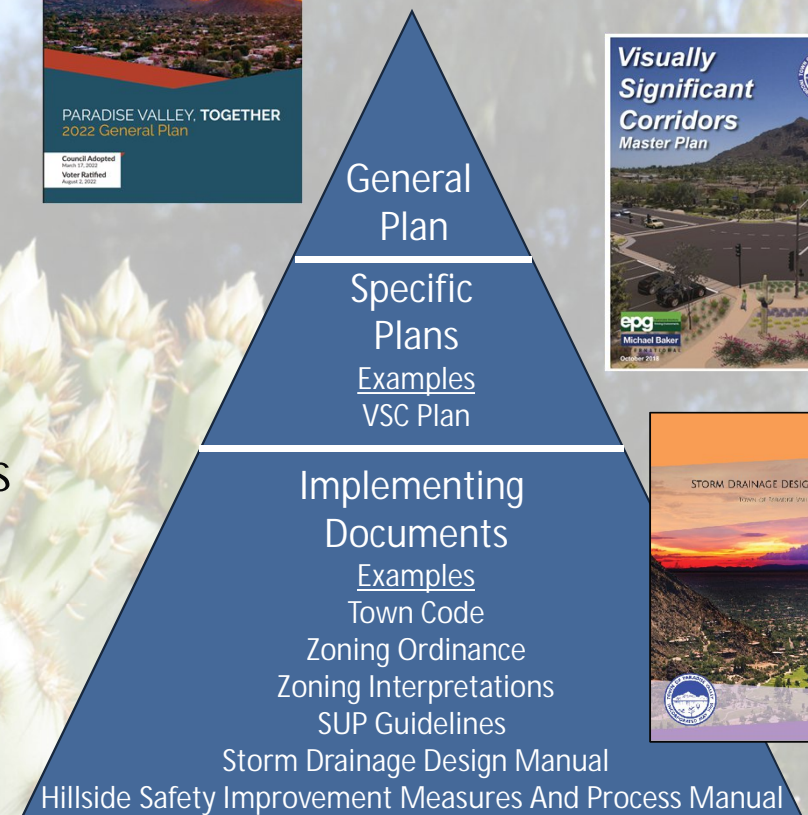
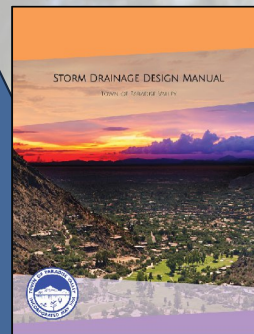
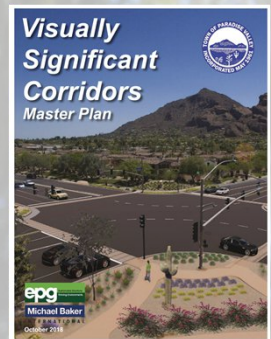
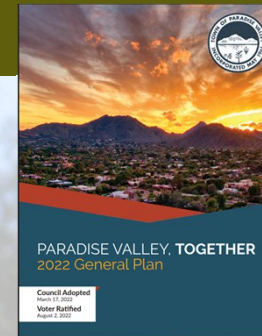
# Appeals

- Hear and decide appeals from the decisions of the Zoning Administrator in the enforcement the Zoning Ordinance
- An appeal stays all proceedings in the matter appealed from, unless causes imminent peril to life or property
- Board can reverse or affirm, in whole or in part, or modify the order, requirement or decision of the Zoning Administrator
- Appeal requests are infrequent (last appeal in 2017)



# Regulatory Documents Overview

- General Plan
  - Policy document for future land use/policies
- Visually Significant Corridors Plan (VSC)
  - Specific policy document for Lincoln Dr/Tatum Blvd related to consistent gateway elements and landscape themes
- Town Code
  - Implementing document covering various areas from administration, platting, safety, traffic, and other areas
- Zoning Ordinance
  - Implementing document covering use, height, setback, lighting, sign, wireless, and related requirements





# Legal Requirements

Boards and Commission Handbook

Executive Session

Open Meeting Law

Conflict of Interest



# Staff Contacts



Staff Members	Phone	Email
Town Manager Andrew Ching	480-348-3533	<a href="mailto:aching@paradisevalleyaz.gov">aching@paradisevalleyaz.gov</a>
Town Attorney Andrew McGuire	480-348-3691	<a href="mailto:amcguire@gustlaw.com">amcguire@gustlaw.com</a>
Community Development Director Chad Weaver	480-348-3522	<a href="mailto:cweaver@paradisevalleyaz.gov">cweaver@paradisevalleyaz.gov</a>
Town Engineer/Engineering Manager Shar Johnson	480-348-3573	<a href="mailto:sjohnson@paradisevalleyaz.gov">sjohnson@paradisevalleyaz.gov</a>
Building Official/ Building Manager Chuck Ransom	480-348-3631	<a href="mailto:cransom@paradisevalleyaz.gov">cransom@paradisevalleyaz.gov</a>
Planning Manager Paul Michaud	480-348-3574	<a href="mailto:pmichaud@paradisevalleyaz.gov">pmichaud@paradisevalleyaz.gov</a>
Senior Planner George Burton	480-348-3525	<a href="mailto:gburton@paradisevalleyaz.gov">gburton@paradisevalleyaz.gov</a>
Associate Engineer Juan Gonzalez	480-348-3528	<a href="mailto:jgonzalez@paradisevalleyaz.gov">jgonzalez@paradisevalleyaz.gov</a>
Hillside Planner Jose Mendez	480-348-3519	<a href="mailto:jmendez@paradisevalleyaz.gov">jmendez@paradisevalleyaz.gov</a>
Planner II Brandon McMahon	480-348-3531	<a href="mailto:bmcMahon@paradisevalleyaz.gov">bmcMahon@paradisevalleyaz.gov</a>

# Board and Commission Training 2025

## Town of Paradise Valley

Andrew J. McGuire  
Gust Rosenfeld, P.L.C.

# Today's Agenda

Open Meeting Law  
Conflicts of Interest  
Public Records



# Open Meeting Law

# What is Open Meeting Law?

- A set of laws designed to:
  - Maximize public access to government processes
  - Open deliberations and proceedings to the public
  - Prevent public entities from making decisions in secret
- All based on the idea that:
  - The public's business must be done in public

# When Does Open Meeting Law Apply?

Public Body  
+  
Meeting



## What is a Public Body?

- “Public Body” means:
  - The legislature (except caucus)
  - Boards and commissions of this state or political subdivisions
  - Multimember governing bodies
  - Quasi-judicial bodies
  - Standing, special, or advisory committees or subcommittees of, or appointed by, the public body

# What is a Meeting?

- “Meeting” means a gathering, in person or through technological devices, of a quorum of a public body to discuss, propose, or take legal action

# Quorum

- What is quorum?
  - “Quorum” means a majority of the public body, unless otherwise noted in statute or governing documents
- What about vacancies?
  - Vacant positions do not reduce the quorum requirement; for example:
    - A 7-person body with 3 vacancies requires 4 for a quorum



## Legal Action

- “Legal action” means a collective decision, commitment, or promise made by a public body pursuant to state and local law, charter, bylaws, or specified scope of appointment
- All discussions, deliberations, or consultations among a quorum regarding matters that may foreseeably require final action constitute legal action and must take place in an open meeting
- Safest course of action: Assume the OML applies whenever a quorum discusses business

# Open Meeting Law Pitfalls

## Serial Meetings

A series of gatherings of less than a quorum *may* constitute a meeting if business is discussed or proposed.

Discussion among members with less than a quorum present



Later, same discussion had with other members



Enough additional members to constitute a quorum



Possible Serial Meeting

# Open Meeting Law Pitfalls Electronic Communications

- Potential violations regarding items that could foreseeably come before a public body include:
  - Emails between less than a quorum that are forwarded to a quorum (e.g., using “reply all”)
  - Emails between less than a quorum that are then communicated to enough other members so that the total number aware constitutes a quorum (serial communications)
  - Emails proposing motions or taking legal action
    - Reminder: a one-way communication can violate the OML even without a response!



# Open Meeting Law Pitfalls Electronic Communications

- Allowable Emails
  - Allowable for staff to send an email to the public body
  - Passive receipt of information from staff, without more, does not violate the OML (e.g., receiving agenda packets)
    - However, staff may not send an opinion or substantive communication about business from a member to enough other members to constitute a quorum
- Best Practice
  - Include an OML reminder in emails to members of the public body

# Open Meeting Law Pitfalls Social Media

- Members of a public body may express their opinion or discuss issues with the public personally, through the media, or through technological means, if:
  - The opinion or discussion is not principally directed at or directly given to another member of the public body; and
  - There is no concerted plan to engage in collective deliberation to take legal action

# Open Meeting Law Pitfalls Social Media

- Best Practices
  - Be mindful of who you “friend” online
  - Do not post about business if “friends” with other members of the public body
  - Do not comment on posts related to business (legal action)
  - Do not create a group chat that includes a quorum (serial communication)



# Open Meeting Law Pitfalls Events and Other Meetings

- Best practice if more than a quorum may be present:
  - Post a “courtesy notice” announcing the event where a quorum may be present
    - Include a statement that no public body business will be discussed and no action will be taken
- Other options include:
  - Not attending
  - Not participating in or making proposals at other public meetings

## Agendas and Notices

- A public body cannot meet without giving at least 24 hours' notice unless there is an *actual* emergency
  - Must give additional notice as is reasonable and practicable
  - Actual emergencies are rare; notice must be appropriate to the circumstances
- Staff should prepare the agenda, but members of the public body should check to ensure it includes what the public body wants to discuss

# Agendas and Notices

- Agenda Pointers
  - If a matter is not listed on the agenda, the public body cannot discuss it
  - All discussion must be reasonably related to an adequately described agenda item
  - Add new items to the agenda for a future meeting
  - If there is a timed item, the public body may not hear that item before the scheduled time



## Call to the Public

- Permitted, but not required
- Must be included as an agenda item
- Public body may limit speaker's time
- Members of the public who speak must provide a name
- The public may only address the public body on issues within its jurisdiction
- At its conclusion, members of the public body may respond to criticism, ask staff to review a matter, or ask that a matter be put on a future agenda

## Current Event Summaries

- The chief administrator, presiding officer, or a member of a public body may present a brief summary of current events, without listing in the agenda the specific matters to be summarized, if:
  - The summary is listed on the agenda; and
  - The public body does not propose, discuss, deliberate, or take legal action at that meeting on any matter in the summary not properly noticed for legal action

## Current Event Summaries

- Pointers
  - This is a monologue, not a dialogue; no discussion allowed
  - Reports on current events must truly be about current events—no proposals or department reports
  - Reports other than current event summaries must be separately listed agenda items containing information reasonably necessary to inform the public of matters to be discussed or decided



# Meeting Minutes

- Must have them
- In writing, or recorded (audio or video)
- Must be available for public inspection within 3 working days after the meeting
- Also required for executive sessions
- Population of more than 2,500
  - Subcommittees and advisory committees must take written minutes or record meetings; and
  - Within 10 working days, post a statement describing any legal action or post any recording of the meeting

## Executive Sessions

- Limited exception to the public meeting requirement
- Must vote in open meeting to move into executive session
- The agenda must state the specific provision of law authorizing the session and specify the item
  - Must include a general description of matters to be considered
  - Listing only the statutory authorization is insufficient
- No voting or informal decision-making in executive session
- Limit executive session to the specific purpose for which it was convened, then return to the public meeting

## Executive Sessions

- 9 authorized topics for executive sessions:
  - Personnel (must provide 24 hours' written notice to the employee)
  - Discussion or consideration of confidential records
  - Legal advice (with the public body's own lawyers)
  - Litigation
  - Labor negotiations
  - International, interstate, and tribal negotiations
  - Purchase, sale, or lease of real property
  - School safety operations, plans, or programs
  - Safety and security of the public body's buildings, facilities, and IT

## Executive Sessions

- Separate minutes are kept
- Discussion is confidential
  - Confidentiality statement must be read aloud
  - Minutes may be disclosed to designated individuals or entities, *i.e.*, other members of the public body or the Auditor General



# Public Participation

- All meetings of any public body must be open to the public, and everyone who wishes to attend must be allowed to listen to the deliberations and proceedings
- Public's Rights
  - Attend meetings
  - Listen to deliberations
  - Record meetings as long as there is no active interference
- Public has no right to speak or disrupt
- Practical Pointer
  - Make a good record of warnings

# Open Meeting Law Violations

- Any legal action taken in violation of OML is null and void, unless ratified in accordance with OML
- Penalties
  - \$500/day civil penalty; up to \$2,500 for subsequent violations
  - Equitable relief (e.g., attorneys' fees)
  - Removal from public office
- Sanctions may be imposed upon any person who knowingly aids, agrees to aid, or attempts to aid another person in violating OML
- May not spend public monies for legal counsel

# Conflicts of Interest

## Conflicts of Interest

- A member of a public body who has, or whose relative has, a substantial interest in any decision of the body must:
  - Disclose the interest on the record
  - Refrain from participating in any manner in the decision, including discussion



## Conflicts of Interest

- Members of the public body should:
  - Analyze every matter coming before the public body to determine if they have a conflict of interest
  - Make the determination prior to the meeting
  - Follow the statutory mandates for disclosing the conflict of interest
- If there is any question, get the opinion of the public body's attorney; it might help you avoid "reckless" or "negligent" violation of the law
- Do not ignore it and think it will go unnoticed

# Conflicts of Interest

- Consequences
  - Civil suit to enforce the law
  - Court may award reasonable attorney's fees
  - Class VI felony for intentionally or knowingly violating the law
  - Class I misdemeanor for any reckless or negligent violation of the law
  - Person found guilty may be required to forfeit public office
  - Contracts entered in violation of conflicts of interest laws may be cancelled or voided

# Public Records

## Public Records

- Generally, public records *must* be produced promptly upon request
  - They are requested through the clerk's office, not directly from staff or from members of the public body
- Each request must be reviewed to determine if the records are exempt from disclosure or in need of redaction



## Public Records

- There is no statutory definition of “public records,” but courts have articulated three definitions of what constitutes a public record:
  - A record made by a public officer in pursuance of a duty with the purpose of disseminating information or memorializing official transactions
  - Record required by law or necessary in the discharge of duty
  - Written records of transactions of a public officer in office, which is a convenient and appropriate method of discharging duties (whether required or not)

## Public Records

- E-mails, text messages, and other forms of electronic communications of members of a public body are public records if they relate to the member's official duties
- Assume electronic messages are public records, even if they are prepared on a personal computer
  - See Attorney General July 7, 2017, Opinion I17-004 (R15-026)
- A document that is wholly personal in nature is not a public record
  - See *Griffis v. Pinal County*, 156 P.3d 418 (Ariz. 2007)