



City of Apache Junction
Development Services Department
300 E. Superstition Blvd.
Apache Junction, AZ 85119
(480) 474-5083
www.ajcity.net



Appeals of the Zoning Administrator's Decision

Application, Checklist & Process Guide

City of Apache Junction
Development Services Department
<http://www.ajcity.net/81/Development-Services>

Appeals of the Zoning Administrator's Decision

Step 1: Due Diligence and Research. Please read through these instructions before asking for assistance on filing an appeal of the Zoning Administrator's decision. If, after reading these instructions and attached forms you have any questions, please contact the Zoning Compliance Division of the Development Services Department for assistance. We may be reached at 480-474-5083.

The following checklist is intended to provide the applicant with an overview of the application process and requirements for filing an appeal. Please read the sections of the zoning ordinance, Section 1-16-4, which outlines the powers of the Board of Adjustment and Appeals as well as Section 1-16-5, appeal and variance procedures, and consult the city's General Plan in order to determine whether or not you believe it may have an effect on your appeal request.

Step 2: Zoning Information. Locate the subject property on the city's Zoning Map to see what zoning district the property located in. Consult the city's Zoning Ordinance to see what the requirements for the zoning district are and why you believe the Zoning Administrator's decision is erroneous. If after reading the applicable codes you believe your request can be justified, the next step in the process is to fill out the attached application form (**Exhibit A**).

Step 3: Submit Appeals Application. The applicant shall complete and submit an application (see Exhibit A) and submit the required information for planning staff review. An incomplete application will delay the process. We cannot advertise your application until we have an application that is accurate and complete and until the proper signatures and fees have been provided. It is best if an application can be submitted in person so that we can be sure we have all of the necessary information in our possession to advertise your hearing and get your case on a Board agenda.

Please double check your application for completeness before submitting your application.

Be sure that:

- ✓ The application form is filled out completely and includes any narrative and supporting documentation you wish to provide (**Exhibit A**).
- ✓ All persons having an ownership interest in the property (e.g. husband and wife, contract seller and buyer, partners, corporation) have signed the Ownership Certification (**Exhibit B**).
- ✓ Submit a copy of the warranty deed, quit-claim deed, joint tenancy deed or a title report for the property to establish some reasonable proof of property ownership.
- ✓ Scaled and properly dimensioned Site Plan illustrating relevant property information.
- ✓ Other items and materials required by the application form and/or necessary for the appeal.
- ✓ One (1) copy of the Pinal County Assessor's Tax Parcel Map showing the subject property and surrounding parcels within a 300 foot radius of the property boundaries is included in the submitted application. These maps are available using the Zoning Viewer available from the County's Information Technology GIS Data Distribution website at <http://www.pinalcountyz.gov/informationtechnology/pages/gis.aspx>.

- ✓ Address labels, which include the assessor's parcel number (APN) of all property owners within a 300 foot radius of the subject property (see **Exhibit C** for instructions), are included in the submitted application. Property owner addresses may be obtained from the Zoning Viewer available from the County's Information Technology GIS Data Distribution website (most current listing) or from a title company (must be less than 30 days old). From the provided labels, the surrounding property owners will be notified of your request and the date of the public hearing.
- ✓ Signed and notarized Mailing Label Certification (**Exhibit D**).
- ✓ Signed and notarized Proposition 207 Claim Waiver (**Exhibit E**).
- ✓ Submit a non-refundable filing and investigation fee of \$500.00 for a residential property or \$750.00 for a non-residential property payable to the City of Apache Junction. You will also need to submit a \$500.00 Legal Advertising fee that is separate from the filing and investigation fee payable to the City of Apache Junction (**Exhibit F**).

Next Steps and Information

Once an application is determined completed, a **Public Hearing** before the Board of Adjustment and Appeals will be scheduled for you at the first available date. The Board normally meets on the second Monday of every month. The date of your hearing will be subject to a properly submitted application and the city's monthly filing deadline. The applicant is responsible for posting and maintaining a 4' x 4' Plywood or Aluminum sign. Provide a notarized affidavit of sign posting with photo of sign and date of posting at least 15 days prior to the Public Hearing.

Further, if the Zoning Administrator has provided a decision, which requires compliance within twenty-one (21) days from receipt of the decision, you are further bound regarding the need to have your appeal filed within thirty (30) days from receipt of the decision.

At the Public Hearing, the Board will ask for a staff report. The Board will also request that the Zoning Administrator explain their decision. The applicant will be asked to state their case and answer any questions that the Board may have. Therefore, you are asked to have a qualified representative present at this hearing. Members from the audience may also be invited to speak on the matter.

The Board's decision will be the city's final determination on the matter. In order to appeal the Board's decision, you would seek relief through the filing of a lawsuit at the Pinal County Courthouse in Florence.

Below is information from the city code regarding the Board of Adjustment and Appeals and appeal and variance procedures. You can find more city codes at http://www.amlegal.com/codes/client/apache-junction_az/.

§ 1-16-4 BOARD OF ADJUSTMENT AND APPEALS.

(A) Establishment. A Board of Adjustment and Appeals ("Board") is hereby established pursuant to A.R.S. § 9-462.06 and Apache Junction City Code, Vol. I, § 2-21-1.

(B) Meetings. The Board shall meet regularly as needed. All meetings shall be open to the public. It shall elect its own officers, establish its own rules, keep a record of its action, and render an annual report to the Council and Commission. The Chairperson, or in his or her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses in accordance with the laws of the State of Arizona. Any finding, ruling, or decision of the Board relating to the administration of the Zoning Ordinance shall be an order at either a regular or special meeting of the Board, and shall be fully reported in the minutes of the Board.

(C) Powers and duties. The Board shall have the following powers and duties:

(1) Appeals of Zoning Administrator's decisions. Hear and decide appeals in which it is alleged there is an error in an order, requirement, interpretation or decision made by the Zoning Administrator in the enforcement of the Zoning Code.

(2) Appeals for variances.

(a) Hear and decide requests for variances from the terms of the Zoning Ordinance only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will result in unnecessary property hardships, result in serious impairment of substantial property rights and deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.

(b) Any variance granted is subject to such conditions as will assure that the adjustment authorized shall not be contrary to the public interest, shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located and shall cause the minimum possible interference with the general purposes and intent of this Chapter.

(D) Powers and duties not authorized. The Board shall not have the following powers and duties:

(1) Make any changes or allow modifications to the uses permitted in any zoning district classification (i.e., no use variances allowed).

(2) Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

(E) Ex parte communications. The Board shall act in a quasi-judicial manner and shall not entertain, accept or participate in any ex parte communications.

(Ord. 1402, passed 5-6-2014)

§ 1-16-5 APPEAL AND VARIANCE PROCEDURES.

(A) Legal standing for appeals. Appeals to the Board may be taken by persons aggrieved or by any officer, department, board or bureau of the city affected by a decision of the Zoning Administrator, by filing with the Development Services Department a notice of appeal and required complete application within 30 calendar days of the decision being communicated to the applicant.

(B) Information required for filing an appeal. The following information is required for filing an appeal:

(1) Completed application form filed with the Zoning Administrator at 300 E. Superstition Blvd., Apache Junction, Arizona 85119, with date of appeal, name and contact information of person filing the appeal (i.e., appellant), assessor's parcel number, case number and any individual representing the appellant.

(2) List of address to which notices must be sent.

(3) Description of requested variance or decision being appealed.

(4) Date of the Zoning Administrator's decision that is being appealed.

(5) Description of requested outcome if the appeal is granted.

(6) Description of grounds for appeal.

(7) Scaled and properly dimensioned Site Plan illustrating relevant property information.

(8) Payment of application fees established in Apache Junction City Code, Vol. I, Chapter 4.

(9) Other items and materials required by the application form and/or necessary for the appeal.

(C) Legal effect of appeal. An appeal to the Board stays all proceedings in the matter appealed from, unless the Zoning Administrator certifies to the Board that, in the Zoning Administrator's opinion and finding, a stay would cause imminent peril to life or property. Upon such finding, proceedings shall not be stayed, except by restraining order granted by the Board or by a court of record on application and notice to the Zoning Administrator. Proceedings shall not be stayed if the appellee requests relief which has previously been denied by the Board, except pursuant to a special action in Superior Court.

(D) Public hearing. The Board shall fix a reasonable time to conduct a public hearing for the appeal. Public notice of the hearing shall be administered by the Development Services Department and shall comply with the following:

(1) Newspaper publication. Notice of the time, date and place of the hearing, including a general description of the matter to be considered and a general description of the area affected, shall be published in a newspaper of general circulation that is published or circulated in the community. The

publication notice shall be at least 15 calendar days before the hearing, and shall be published as required by A.R.S. 9-462.04, as amended.

(2) Posting notice. The notice of public hearing shall be posted by the applicant in accordance with the instructions provided in the application materials.

(3) Mailing notice. The city shall send notice by first class mail to each real property owner, as shown on the last assessment of the property, within 300 feet of the appellant's property. The notice shall include the proposed hearing date, time, location and information regarding the case.

(E) Failure to receive notice. The failure of any person or entity to receive notice shall not constitute grounds for the city or any court to invalidate the actions of the Board.

(F) Board review. The Board shall conduct a public hearing (i.e., de novo), and shall review all relevant information, including but not limited to the application, plans, related project materials that were submitted by city staff and the appellant, the original decision being appealed, any additional materials as may be presented at the appeal hearing, any written correspondence submitted prior to or during the hearing, and any information observed by a site visit.

(G) Board's decision. The Board may approve, approve with conditions, or deny an appeal, and may prescribe reasonable conditions in connection with its decision as may be necessary in order to fully carry out the purpose and intent of the Zoning Code.

(H) Appeal to Superior Court. Any person aggrieved by a decision of the Board or any taxpayer, officer or department of the municipality affected by a decision of the Board may, at any time within 30 calendar days after the Board has rendered its decision, file a complaint for special action in the Superior Court to review the Board decision. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the Court may, on application, grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.

(I) Expiration. Rights and privileges established by the granting of a variance shall be exercised within 1 year following the date of approval unless a different time limit is specified by the Board at the time the variance is granted. Failure to exercise a variance within the time limits specified shall cause the variance to become null and void.

(Ord. 1402, passed 5-6-2014)



City of Apache Junction
Development Services Department
Appeal of Zoning Administrator's Decision



Exhibit A: Notice of Appeal of Zoning Administrator's Decision

I/We hereby appeal the decision of the Zoning Administrator in accordance with Article 1-16-5 of the Apache Junction, Arizona, Zoning Ordinance.

DATE OF APPEAL _____ CASE NO. _____ DATE OF DECISION BEING APPEALED _____

SITE INFORMATION

SITE ADDRESS/LOCATION _____ ASSESSORS PARCEL NO _____

GROSS AREA: _____ NET AREA _____ EXISTING ZONING _____

LEGAL DESCRIPTION OF PROPERTY: (found on County Tax Bill Notices or Warranty Deed) _____

PLEASE ANSWER THE FOLLOWING QUESTIONS IN THE SPACE PROVIDED, OR SUBMIT A SEPARATE, SIGNED STATEMENT IF ADDITIONAL SPACE IS NEEDED.

Description of requested variance or decision being appealed: _____

Provide the grounds for appeal: _____

Provide the zoning ordinance section number(s) which you believe has been incorrectly interpreted by the Zoning Administrator: _____

Describe your interpretation of the section number(s) listed above and provide any other reasoning to support your appeal of the Zoning Administrator's decision: _____

Exhibit A: Notice of Appeal of Zoning Administrator's Decision Application

Continued

Describe existing and proposed use of the subject property (if applicable): _____

Description of requested outcome if the appeal is granted: _____

APPLICANT INFORMATION

Property Owner(s) _____

Address _____

Phone Number _____ Fax Number _____ Email _____

Agent _____

Address _____

Phone Number _____ Fax Number _____ Email _____

Architect/Engineer _____

Address _____

Phone Number _____ Fax Number _____ Email _____

NOTE: The land owner or representative must sign the ownership certificate (Exhibit B). A notarized ownership certification authorizing a representative/agent to make an application in his/her name must accompany this application, if such representative is appointed.

Ensure your application includes:

- Filing fee \$500.00 for a residential appeal or \$750.00 for a non-residential appeal
- Legal Advertising fee \$500.00
- Copy of current deed or subject property.
- Scaled and properly dimensioned Site Plan illustrating relevant property information.
- Any supporting information you wish to provide.
- Mailing labels with assessor parcel numbers within 300' of subject property.
- Assessor's tax parcel map showing parcels within 300' of subject property.

For Dept Use only

Case Number: _____

PLN Number _____

Date Submitted: _____

Approved By: _____

Date Approved: _____

Exhibit B: Ownership Certification

I/We certify that:

I/We are the owner(s) of the property described in this application for an appeal and have submitted copies of deeds or title reports as proof of ownership.

I/We have read the application instructions and have truthfully completed this application. I/We understand that this appeal is conditional upon time requirements, that the filing and investigation fee is non-refundable, and that the city has the option of either approval or denial of this request following conduct of a Public Hearing.

I/We, being the owner(s) of the property in this application, have appointed _____ as my/our representative agent. I/We have authorized him/her to do whatever is necessary to have this request considered favorably by the City of Apache Junction and agree that all correspondence relation to this matter should be delivered to him/her.

PLEASE PRINT

Property Owner Name	Signature
Street Address	
City, State, Zip	Telephone
Property Owner Name	Signature
Street Address	
City, State, Zip	Telephone
Agent Name	Agent Signature
Street Address	
City, State, Zip	Telephone

STATE OF ARIZONA)
) SS
COUNTY OF PINAL)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__.

Notary Public
My Commission Expires: _____

Exhibit C: Information for Mailing Labels

- Labels should be Avery Address Labels #5160 or comparable, approximately 1" x 2-5/8" each, 30 labels to a sheet.

- Labels shall include all property owners within a 300 feet radius of subject property:

- Label Sample:

Line 1:	100-01-001A	<i>[Assessor Parcel No.]</i>
Line 2:	John Doe	<i>[Name]</i>
Line 3:	123 Elm St.	<i>[Address/PO Box]</i>
Line 4:	Apache Junction, AZ 85118	<i>[City/State/Zip]</i>

- Please print or type all information on the labels.

NOTE: Property owner information must be obtained from the Pinal County Assessor's records. The list must be notarized as per the next page.

Exhibit D: Information for Mailing Labels Continued

I/We, _____
 hereby certify that the attached mailing labels constitute all the list of property owners within 300 feet of
 the property as obtained from the _____ on (date obtained): _____

I/We further certify that this list is not older than thirty (30) days at the time of filing of said application.

PLEASE PRINT

 Property Owner Name Signature

 Street Address

 City, State, Zip Telephone

 Property Owner Name Signature

 Street Address

 City, State, Zip Telephone

 Agent Name Agent Signature

 Street Address

 City, State, Zip Telephone

STATE OF ARIZONA)
) SS
 COUNTY OF PINAL)

The foregoing instrument was acknowledged before
 me this ____ day of _____, 20__.

 Notary Public
 My Commission Expires: _____

Exhibit E: Proposition 207 Waiver

Proposition 207 Claim Waiver Attachment

If multiple owners need to sign the waiver,
make additional copies.

When Recorded Return to:
City of Apache Junction
Development Services Department
300 E Superstition Blvd.
Apache Junction, AZ 85119

DIMINUTION IN VALUE AND JUST COMPENSATION CLAIM
WAIVER/INDEMNIFICATION/ACKNOWLEDGEMENT

I/We, _____, as owners of property identified as Pinal County Assessor Parcel No. _____, which is the subject of Apache Junction City Council, Planning & Zoning/Board of Adjustment or other Case No. _____, hereby waive any and all potential diminution in value and just compensation claims or lawsuits that could be pursued against the City of Apache Junction ("City"), its elected officials, appointees and employees as a result of the Planning and Zoning Commission/Board of Adjustment/Council's action in the above-referenced matter. This waiver is authorized pursuant to A.R.S. § 12-1134(I). I/We also hereby warrant and represent I/We am/are owner(s) of the above-referenced property and that no other person has any ownership in such property.

Printed Name of Owner

Printed Name of Owner

Signature of Owner

Signature of Owner

Date

Date

State of Arizona)
) ss
County of _____)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20__ by
_____.

My Commission Expires:

Notary Public

Exhibit F: Legal Advertising Fees

Arizona Revised Statute 9-812b states “in cases of laws or ordinances enacted on behalf of a private person, he shall pay the expense of publication, and may designate the newspaper.” Chapter 4, Fees, Article 4-4, Planning, Zoning Review and Subdivision Fees, Section C of the City Code states that “all legal advertising and legal publication costs exceeding (\$500.00) per case shall be charged to and paid by the applicant.”

A deposit of five hundred dollars (\$500.00), over and above the application fee, is required to cover the anticipated cost of advertising or publications. If the advertising and/or publication cost exceeds the five hundred dollars (\$500.00) deposit, the applicant shall be responsible for the overage before final consideration of their application. If the advertising and/or publication cost is less than five hundred dollars (\$500.00), the remainder shall be reimbursed to the applicant.

Your signature below signifies you agree with the above and this form shall act as a receipt.

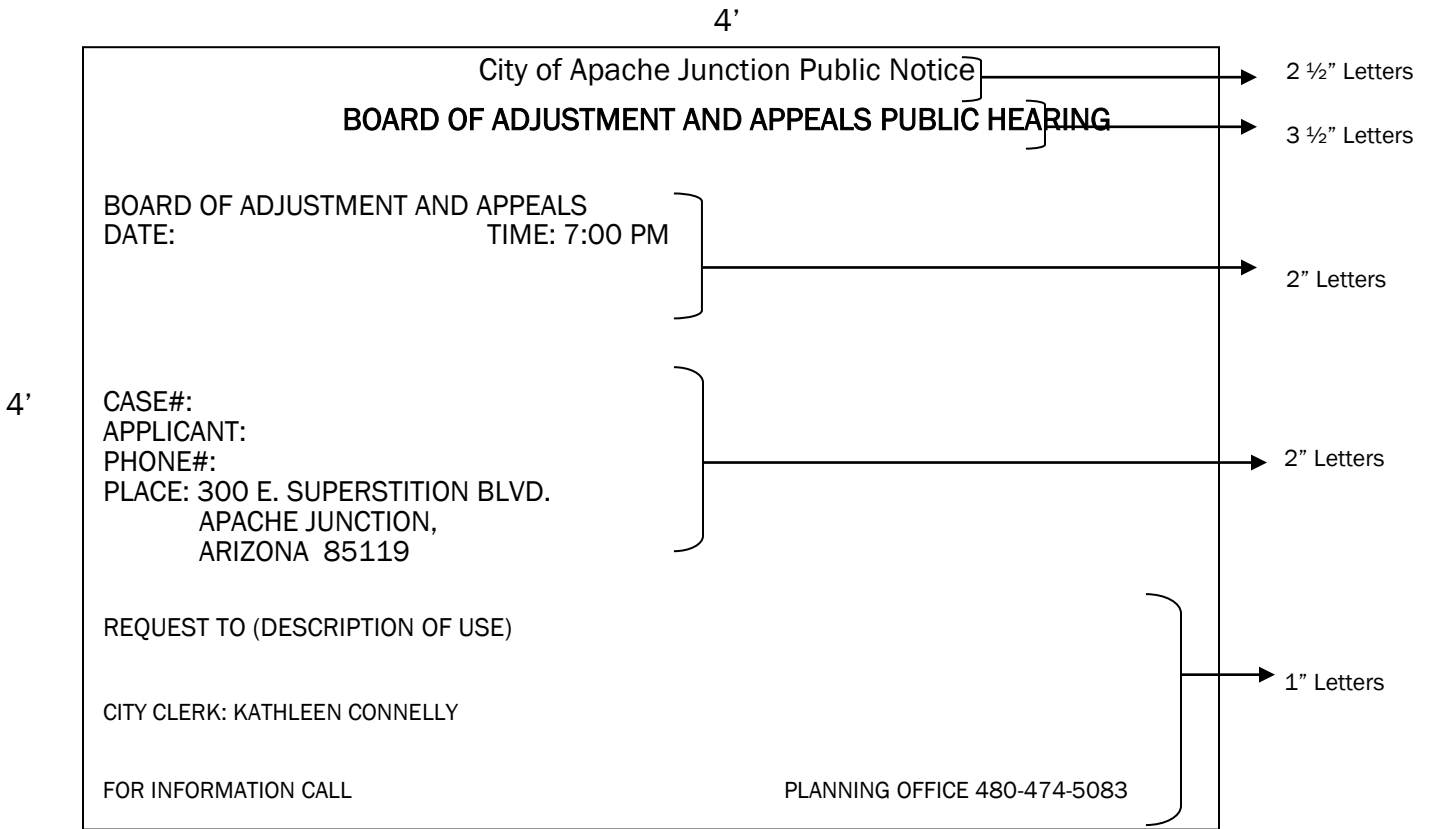
Signature(s)

Date

SIGN POSTING:

The applicant is responsible for posting and maintaining a 4' x 4' Plywood or Aluminum sign. Provide a notarized affidavit of sign posting with photo of sign and date of posting at least 15 days prior to the Public Hearing.

Criteria for Posting Sign:



- Applicant must remove sign within 10 working days after the Board of Adjustment and Appeals Public Hearing.
- Height of sign must be 6 feet from finished grade to the top of the sign (Wooden Stakes to be used) **FONT SHOULD BE HELVETICA AND LETTERS CAPITALIZED.**
- **COLORS: Body must be white and lettering to be flat black**

Sign Companies Reference:
(Or of your choice)

Ray's Printing & Awards
386 S. Ironwood Dr.
Apache Junction, AZ 85120
480-982-3087

Steve Leach Signs
1085 N. Ironwood Dr.
Apache Junction, AZ 85120
480-982-4044

**Exhibit F: Affidavit for Posting Notice
(if applicable)**

Case Number _____

Project Name _____

Project Location _____

Site Posting Date _____

Applicant Name _____

Agent Name _____

Sign Company Name _____

Applicant Phone Number _____

Applicant Email _____

I confirm that the site has been posted by me or my agent for the case listed above at least 15 days prior to the public hearing as required by the City of Apache Junction and a photo and/or map of the sign posting location on the property is attached.

Applicant Name _____

Applicant Signature _____

Date of Sign Posting _____

STATE OF ARIZONA)
) ss.
COUNTY OF PINAL)

Acknowledged and sworn to before me this _____ day of _____
20____.

(NOTARY PUBLIC)

My Commission Expires: _____

THE FOLLOWING FEE SCHEDULE IS EFFECTIVE ON JULY 1, 2016

CONDITIONAL USE PERMIT (CUP's)

CUP (Residential use/extension/amendment	\$700.00
CUP (Non-residential use/extension/amendment (Sign package Included if submitted with CUP))	\$800
Sign package by CUP	\$800
Landscape Ordinance Appeal by CUP	\$600

ZONING/REZONING

Rezoning	\$825 + \$50/acre to \$5500 maximum
Planned Development (Commercial/Residential)	\$925 + \$50/acre to \$5500 maximum
Major Amendment to Planned Development	\$925 + \$50/acre to \$5500 maximum
Minor Amendment to Planned Development	\$250
Zoning Ordinance Text Amendment	\$1300
Zoning Verification Letter	\$250
Written Interpretation of Zoning Administrator	\$150
Review & Letter of Non-Conforming	\$250

APPEALS

Residential Variance	\$500
Non-residential Variance	\$750
Appeal of Zoning Administrator's Decision (Residential)	\$500
Appeal of Zoning Administrator's Decision (Non-residential)	\$750
Appeal of Development Fee Administrator	\$350

DEVELOPMENT AGREEMENTS

Development Agreement (New)	\$3075
Development Agreement (Amendment that is Developer Initiated)	\$1675

PERMITS

Administrative Use Permit	\$25
Cargo Container/Portable Storage Permit	\$100
Special Density Permit/Caretaker Unit Permit	\$100
Special Density Permit annual renewal	\$50
Temporary Use Permit	\$250

SUBDIVISIONS

Preliminary Plat	\$1575 + \$21/lot to \$2500 maximum
Preliminary Plat Amendment	\$1575 + \$21/lot to \$2500 maximum
Preliminary Plat Extension	\$500
Final Plat	\$1575 + \$21/lot to \$2500 maximum
Final Plat Amendment/Replat	\$1575 + \$21/lot to \$2500 maximum
Plat Recordation Fee & Document Handling	\$100 plus actual recording fee
Minor Land Division/Land Split	\$250

GENERAL PLAN AMENDMENT

Text amendment	\$1300
Major map amendment	\$1550 + \$10/acre to \$5500 maximum
Minor map amendment	Included in rezoning

MISCELLANEOUS FEES

Landscape Plan Review	\$150
All continuances	\$250
Required public hearing notice advertising	\$500
Administrative relief (residential)	\$150
Administrative relief (commercial)	\$250
Copies - 11x17	\$.50/sheet
Copies - larger than 11x17	\$.19/linear foot
Copies - for a commercial purpose	\$.50/page for 8.5x11

ALL FEES ARE NONREFUNDABLE

LEGAL ADVERTISING & PUBLICATION COSTS THAT EXCEED \$500 PER CASE SHALL BE PAID BY THE APPLICANT IN ADDITION TO THE FEES LISTED ABOVE.