

**TITLE 4  
PLANNING**

*Note to Marana Land Development Code users: As of January 15, 2016, Title 4 of the Marana Land Development Code has been deleted as part of the recodification of the Land Development Code into Title 17 of the Marana Town Code. The following table provides deletion information concerning sections previously found in LDC Title 3:*

<b>SECTION NUMBER AND TITLE</b>	<b>REASONS FOR DELETION</b>
<i>Title 4 Planning</i>	<i>All of the sections of this title are deleted, making it unnecessary</i>
<i>04.01 Comprehensive Development Plan 04.01.01 Elements of the Plan 04.01.02 Time Span to be Covered by the Plan 04.01.03 Frequency of Revision</i>	<i>These sections addressed the adoption of a “Comprehensive Development Plan for the Town of Marana.” These provisions are now superseded by the Growing Smarter “general plan” required by A.R.S. § 9-461.05, -461.06, and -461.07. These LDC provisions in many cases conflicted or were inconsistent with the Growing Smarter requirements, including the state-mandated plan elements, the time span covered by the plan, and frequency and procedure for revision.</i>
<i>04.01.05 Conformance of Public Lands and Structures to the Plan</i>	<i>This section corresponded to A.R.S. § 9-461.07 (C) but contained language, procedures, and timeframes different from in the statute. To avoid potential confusion and conflicts, this LDC provision was deleted.</i>
<i>04.02 Area Development Plans</i>	<i>There is nothing under the Growing Smarter statutes that would prohibit the division of the general plan into smaller geographic area plans. But the Town’s current general plan covers the entire town limits and beyond, and the Town’s currently established practice is not to adopt area plans (other than specific plans, which are addressed elsewhere). So this unnecessary LDC provision was deleted.</i>
<i>04.03 Subject Development Plans</i>	<i>The Town does not use “subject development plans” or “specific subject plans,” which were described in this former section as plans that “involve detailed planning for any one or more of the elements contained in the Comprehensive Plan” which “must be in conformance with the Comprehensive Development Plan but may be in greater detail and may be concerned with only a portion of the Town.” This unnecessary LDC provision was deleted.</i>
<i>04.04 Annual Budget Planning</i>	<i>This provision described a budget planning process and schedule that is not currently used by the Town. In any event, this level of internal administrative practice is not recommended for inclusion in the reformatted LDC administrative provisions.</i>

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<b>SECTION NUMBER AND TITLE</b>	<b>REASONS FOR DELETION</b>
<p>04.05 Development Agreements 04.05.01 Purpose and Intent 04.05.02 Authorization 04.05.03 Procedure for Development Agreement</p>	<p><i>These provisions called for the adoption of development agreements through a legislative hearing process, identical in substance to the process used to adopt a rezoning or specific plan. These sections were originally adopted in 1995 by Ordinance 95.02. At that time, zoning practitioners were concerned that development agreements might be used to grant zoning entitlements. To protect against zoning entitlements being granted without compliance with the statutorily-mandated notice and hearing requirements for zoning actions, these LDC sections used the zoning adoption procedure. Standard Town practice is to adopt zoning entitlements by rezoning or specific plan, and to bring forward a development agreement consistent with the rezoning or development plan. So the rigorous procedures of these sections were unnecessary. They also conflicted with the general requirements for development agreements under A.R.S. § 9-500.05, and created confusion each time a development agreement was processed in the Town.</i></p>
<p>04.05.04 [Development Agreement] Fees</p>	<p><i>All fees are now addressed in the Town's comprehensive fee schedule. The provision of this section of the LDC that called for payment of additional funds as necessary to cover "actual administrative costs" appeared to give more flexibility for fees than allowed by current state law (A.R.S. §§ 9-463.05 and 9-499.15).</i></p>
<p>04.05.05 Coordination of Development Agreement Application with Other Discretionary Approvals</p>	<p><i>This section provided for the simultaneous consideration of a development agreement with its associated rezoning, specific plan, conditional use permit, or other development process. Although this is the Town's normal current practice, this provision was essentially an administrative rule that added no substantive benefit or clarification to the process.</i></p>
<p>04.05.06 [Effect of a Development Agreement on] Existing and Subsequently Adopted Town Ordinances, Policies, Rules and Regulations</p>	<p><i>The main purpose for a development agreement is to define the extent to which zoning entitlements are affected by later-adopted requirements. This LDC section established a rule that applied "unless otherwise provided by the development agreement...." All development agreements adopted to date have addressed this subject, so this provision has had no practical effect. In any event, this provision was an unnecessary restatement of the general law of zoning.</i></p>
<p>04.05.07 [Development Agreements;] Subsequently Adopted State and Federal Laws</p>	<p><i>This section required development agreements to be modified or suspended as necessary to comply with state and federal laws. This was a restatement of the general law of development agreements, and was unnecessary. In any event, the Town's standard development agreement template covers this issue.</i></p>
<p>04.05.08 Periodic Review, Termination or Modification [of Development Agreements]</p>	<p><i>This section required the Town to review development agreements every 12 months, required the owner of property subject to a development agreement to "demonstrate good faith compliance with the terms of the development agreement" at each review, and allowed the Town Council to terminate or modify the agreement unilaterally if it determined non-compliance. These procedures were inconsistent with current practice and state law.</i></p>

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<b>SECTION NUMBER AND TITLE</b>	<b>REASONS FOR DELETION</b>
<i>04.05.09 Amendment or Cancellation of [Development] Agreement</i>	<i>This section was an unnecessary restatement of a basic tenet of contract law—that an agreement may be modified by mutual consent of the parties.</i>
<i>04.05.10 Enforcement [of Development Agreement]</i>	<i>This section was another unnecessary restatement of a basic tenet of contract law—that any party to the agreement may enforce it.</i>
<i>04.06 Reimbursement for Public Improvements (including all subsections)</i>	<i>These sections were adopted as an alternative to the Town's adoption of development impact fees. They purported to allow the Town and a developer to enter into an arrangement which would allow the developer to be reimbursed by other benefitting property owners for oversizing of public infrastructure. Current state law prohibits the Town from imposing any development fee on a benefited property owner for public infrastructure without first complying with the development impact fee statute, A.R.S. § 9-463.05. Any developer reimbursement must now be consistent with that statute. These sections were deleted as inconsistent with the statute and not in use by the Town.</i>

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