

MAINTENANCE IMPROVEMENT DISTRICT POLICY
City of Avondale

1. PURPOSE

The purpose of this document is to inform and assist developers in formation of a Maintenance Improvement District pursuant to ARIZ. REV. STAT. § 48-574 (a “MID”). It is the City’s intent that the MID act as a dormant tax assessment mechanism to generate funds necessary to maintain parkway landscaping and improvements, which will only be triggered in the event of failure of the applicable homeowners’ association (“HOA”) to maintain those facilities.

Under provisions of the City Code, all developers are responsible to completely landscape their development projects according to the approved plans prior to issuance of a Certificate of Occupancy. In particular, subdivisions are required to provide landscaping along certain arterial and collector streets and in other locations as provided in the zoning requirements, approval stipulations, engineering requests or subdivision requirements. In addition, developers may provide paths, trails, and other amenities in the common open space areas adjacent to arterial and collector streets (collectively, the improvements are referred to herein as the “Streetscape Improvements”).

Pursuant to the provisions of ARIZ. REV. STAT. § 48-574, the Mayor and City Council (the “Council”) are empowered to form a MID for maintenance, repair and improvements of pedestrian malls, off-street parking facilities and parkings and parkways (the “Allowed Uses”). The Council has determined that the Streetscape Improvements along arterial and collector streets are Allowed Uses; accordingly, all residential subdivisions approved after November 1, 2013 are subject to the formation of a MID.

Each HOA will continue to be responsible for maintaining the Streetscape Improvements within its development, including landscape, irrigation, hardscape, and drainage improvements within the public rights-of-way, easements, and tracts. The additional MID tax assessment charge to property owners will be \$0.00 while the HOA maintains the Streetscape Improvements. Charges will be assessed only at such time as the HOA fails to maintain the Streetscape Improvements and the City assumes maintenance responsibility under the MID.

2. DOCUMENTATION

Prior to recordation of the subdivision Final Plat, the developer is responsible to have the following documentation submitted to the City:

- 2.1 A fully-executed MID petition/waiver. Each owner/developer shall fully execute a MID petition/waiver. The petition/waiver must be executed in black ink only, and shall include the acreage of the subdivision, subdivision name, name of the owner/developer, the company name, company address, and date of execution.

- 2.2 One copy of the legal description of the MID boundary in compliance with the Arizona Boundary Survey Minimum Standards and Maricopa County Recorder requirements suitable for recording. The legal description shall be prepared and sealed by a professional Land surveyor registered in the State of Arizona. The legal description shall be accompanied with calculations showing it complies with the requirements of State Law.
- 2.3 The owner/developer shall provide a MID diagram prepared and sealed by a professional Land surveyor registered in the State of Arizona. The diagram shall be prepared in 8-1/2 inch x 11 inch size and comply with the Arizona Boundary Survey Minimum Standards. The MID diagrams shall contain the following information:
- A. Lettering, numbers, and drawings that are distinct and legible, sufficient to satisfy the requirements of the Maricopa County Recorder.
 - B. A north arrow on the MID diagram in a readily visible location with a bar scale indicating the approximate scale of the MID boundary.
 - C. The Title statement provided below at the top of each page:

“Maintenance Improvement District”
“Assessment Diagram”
of [Insert Subdivision Name]
 - D. A note that states the following:

NOTE

This improvement district is formed for the express purpose of providing the maintenance and operation of the sidewalks, landscaping, landscaped drainage facilities, and related improvements adjacent to and along the public roadways and parkways within the district.
 - E. Each MID boundary taken to the centerline of all adjacent roadways.
 - F. All lots identified by number and all tracts by letter. Show all lots, tracts and street rights-of-way intended to be within and perimeter of the district.
- 2.4 The owner/developer is responsible to provide a table on the diagram listing the rights-of-way, easements, lots, parcels and tracts of the areas (square footage and acreage) to be included in the MID.
- 2.5 The owner/developer shall provide an appropriately scaled copy of the landscape plans, if and in the form requested.

2.6 The dedication statement of the Final Plat shall include the following paragraph:

The City is hereby granted an easement for maintenance of landscaping, irrigation, drainage facilities, hardscape and retention areas on tract(s) *(insert number or letter of each tract)*. This easement may be exercised by the City of Avondale at any such time when the Grantor, its successors or assignees, including a homeowners association formed over this subdivision fails to exist and provide the required maintenance and operation of the landscaping, irrigation, drainage facilities, retention areas, and/or hardscape.

2.7 Each Final Plat shall include a note that states that the subdivision is subject to a MID.

**PETITION, WAIVER AND CONSENT TO FORMATION
OF A MUNICIPAL IMPROVEMENT DISTRICT
BY THE CITY OF AVONDALE**

MID#

Subdivision Name

To: Honorable Mayor and Council
City of Avondale, Arizona

Pursuant to Arizona Revised Statutes, Section 48-574, the undersigned property owners respectfully petition the Council of the City of Avondale, Arizona (the "City Council") to order the formation of a Municipal Improvement District (the "District") under Arizona Revised Statutes, Title 48, Chapter 4, Article 2. In support of this petition, the undersigned agree to waive certain rights under Arizona Law and to consent to the formation and completion of the District.

1. Area of District. The proposed District is described by a diagram and by a legal description on Exhibit "A" that is attached hereto and incorporated herein by reference. The proposed District consists of _____ acres and is entirely within the corporate boundaries of the City of Avondale.
2. Ownership. The undersigned (is) (are) the sole owner(s) of the real property within the proposed District.
3. Purpose. The District is proposed to be formed for the purpose of the operation, maintenance, repair and improvements of landscape, irrigation, drainage and retention facilities and hardscape adjacent to designated public roadways, and parkways within the proposed District.
4. Public Convenience and Necessity. The necessity for the proposed District is for the operation, maintenance, repair and improvements of landscape, irrigation, drainage and retention facilities and hardscape adjacent to designated public roadways and parkways within the proposed District by the levying of special assessments in the proposed District.
5. Waiver and Consent. The petitioners, with full knowledge of their rights being waived hereunder, hereby expressly waive all of the following:
 - (a) Any and all irregularities, illegalities or deficiencies which may exist in the acts or proceedings resulting in the adoption of the Resolution of Intention and the Resolution Ordering the Work relating to the District.
 - (b) All protest rights whatsoever under ARIZ. REV. STAT. §48-579(A) and (B), as amended.

(c) All objections to the filing of and adoption by the City of the plans and specifications, the Engineer's estimate and the Assessment Diagram, all of which provide for the completion of the District.

Further, the improvements described above are of more than local or ordinary public benefit.

IN WITNESS WHEREOF, the parties have executed this Petition and Waiver Agreement as of _____, 20_____.

[SIGNATURES ON FOLLOWING PAGES]

“Property Owner”

Entity Name: _____

Property Tax Parcel Numbers: _____

By: _____

Name: _____

Title: _____

Address: _____

Date: _____

(ACKNOWLEDGMENT)

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 20____, before me personally appeared _____, the _____ of _____, a(n) _____, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the _____.

Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGES]

“Property Owner”

Entity Name: _____

Property Tax Parcel Numbers: _____

By: _____

Name: _____

Title: _____

Address: _____

Date: _____

(ACKNOWLEDGMENT)

STATE OF _____)
) ss.
COUNTY OF _____)

On _____, 20____, before me personally appeared _____, the _____ of _____, a(n) _____, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the _____.

Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGES]

ACCEPTED AND APPROVED BY:

“City”

CITY OF AVONDALE,
an Arizona municipal corporation

Kenneth N. Weise, Mayor

ATTEST:

Carmen Martinez, City Clerk

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 20 ____, before me personally appeared Kenneth N. Weise, the Mayor of the CITY OF AVONDALE, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the City of Avondale.

Notary Public

(Affix notary seal here)

DEVELOPER'S MAINTENANCE IMPROVEMENT DISTRICT CHECKLIST

The Maintenance Improvement District (MID) first submittal shall be made with the Final Plat submittal.

First Submittal to include:

- MID application fee
- 8-1/2 inch x 11 inch MID diagram (area table to be included on the diagram), with original seal and signature of the Arizona Registered Land Surveyor preparing the document.
- Legal description of the MID boundary, with original Arizona Registered Land Surveyor seal and signature (the legal description shall be accompanied with back-up material showing it meets all requirements).

Final Submittal to include:

- 8-1/2 inch x 11 inch MID diagram with original seal and signature of the Arizona Registered Land Surveyor preparing the document, in recordable format.
- Fully executed petition, with original signatures and dates.
- Legal description of the MID boundary, with original seal and signature of the Arizona Registered Land Surveyor.
- Scaled copy of landscape plans (if requested).
- AutoCAD drawing of the MID that can be opened with and compatible with the City's most current software program. The MID shall be drawn to scale with ties to record PLSS monumentation.

Informational Notes:

- Final Plat shall include in the dedication statement the following:

The City is hereby granted an easement for maintenance of landscaping, irrigation, drainage facilities, hardscape and retention areas on tract(s) (insert number or letter of each tract). This easement may be exercised by the City of Avondale at any such time when the Grantor, its successors or assignees, including a homeowners association formed over this subdivision fails to exist and provide the required maintenance and operation of the landscaping, irrigation, drainage facilities, retention areas, and/or hardscape.

- Final Plat shall include a note that states the subdivision is subject to a MID. The MID boundary shall be identified on the plat by name.