

**15.15.010 Scallops; street construction; definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Change of Use* means the change of zoning on an existing parcel, lot or piece of property from an agricultural or Single-Family Residential Use to any other zoning classification.
- (b) *Cost* means the actual cost of:
  - (1) Constructing the public Street Improvements as determined by the construction contract price.
  - (2) Inspection and permit fees.
  - (3) Engineering fees required for the preparation of plans and specifications.
  - (4) Purchasing or obtaining necessary Right-of-Way, if not currently available and will not be dedicated
  - (5) Other incidental fees required to complete the improvements.
- (c) *Development* shall mean the issuance of building permits for the construction of residential, commercial or industrial buildings and structures or Major Additions or Alterations to existing structures, and includes new buildings or structures on property having existing buildings or structures situated on such property. When such property is zoned for agricultural or Single-Family Residential Use at the time of the assessment, development shall also require a Change of Use or purpose.
- (d) *Major Addition or Alteration* means the construction, reconstruction, addition to, improvement of, or alteration to an existing structure in excess of the greater of five thousand dollars (\$5,000.00) or five (5%) percent of its full cash value as shown on the most recent tax roll of the Pinal County Assessor.
- (e) *Property Owner* means the individual, corporation, partnership, trust or other legal entity that owns property adjacent to the street Right-of-Way.
- (f) *Right-of-Way* means land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the general public for street, highway, alley, public utility, pedestrian, walkway, bikeway or drainage purposes.
- (g) *Single-family Residential Use* means property which is currently zoned to permit the construction of detached single-family residences. Single-family residential use does not include mobile home parks or multifamily housing units, whether single or detached.
- (h) *Street Improvements* include cement or asphaltic concrete surfacing, aggregate base, curb and gutter, valley gutter, concrete sidewalk, water facilities, wastewater facilities, street lights, landscaping and tiling of an irrigation ditch and storm drainage facility, if required.
- (i) *Streets* means the full width of the Right-of-Way of any major or minor arterial road, major or minor collector road, local road or any other road, street, highway, alley, land or sidewalk used by or for the general public, whether or not said road, street, highway, alley, land or pedestrian Right-of-Way has been improved or accepted for maintenance by the City.

**15.15.020 Scallops; construction of streets; limitations on assessments.**

Where the City Council has determined that certain Streets within the City shall be constructed or improved prior to Development of the property adjacent to such streets, the Council may order such Streets to be constructed or improved at the City's initial expense. Such expense shall be assessed against the adjoining property subject to the following:

- A. The assessment of property, if adjacent arterial streets are involved, as depicted in the City's adopted Area Transportation Plan, shall not exceed the Cost of improving more than one-half (½) of the width (as depicted in the latest version of the City's Engineering Design Standards Manual) nor more than one thousand (1,000) lineal feet of such adjacent arterial street, except that if any parcel of land which at the time of assessment is being used for Single-Family Residential Use and the width of which does not exceed two hundred (200) lineal feet shall not be assessed greater than one-half (½) the Cost of the average residential street within the city.
- B. The assessment of property shall not exceed the actual Costs incurred by the City at the time of construction.
- C. Any assessment under this section shall abate if the property has not been developed within ten (10) years of the assessment.
- D. Upon payment of any assessment under this section, the City Manager may record a satisfaction of assessment with the Pinal County Recorder.

**15.15.030 Scallops; Resolution of Intention to Order Improvements.**

(a) Upon the determination of the City Engineer that the public health, safety, welfare and convenience requires the construction of streets prior to the Development of the adjacent property, a resolution of intention to order the improvement shall be submitted to the City Council for a public hearing and action.

(b) Each Property Owner, and other affected persons, which may be subject to any assessments under this chapter shall receive written notice of the public hearing and potential City Council action not less than 15 or more than 45 days before the date of the hearing. An affidavit of mailing of such notice shall be filed in the office of the City Clerk. If required by statute, notice shall also be published on the City's Website and / or in a daily newspaper in five (5) successive issues and, in addition, shall also be conspicuously posted along the line of the proposed improvement at least fifteen (15) days prior to the hearing on necessity of the improvements.

The notice shall contain:

- 1. The name, address, and tax parcel number of each Property Owner.
- 2. A description of the proposed Street Improvements.
- 3. The estimated cost of assessment for each affected parcel of property.
- 4. The date, time and place that the City Council shall consider the necessity of improvement and possible adoption of a resolution of intention.

(c) The public hearing shall be for the purpose of receiving comment on whether the proposed improvements are required for the public health, safety, welfare and convenience.

(d) After the public hearing is concluded, the City Council shall determine whether the public health, safety, welfare and convenience require the Street Improvements. If the City Council so determines, then the City Council shall adopt the resolution of intention to order the improvement. The determination shall include that the Street Improvements shall be constructed or improved at City expense. Such expense shall be assessed against the Property Owner(s) in accordance with the provisions of this article.

(e) The resolution of intention to order the improvement shall contain:

(1) A description of the street, road or highway to be improved.

(2) A general description of the proposed improvements, including the estimated total Cost and cost per linear foot.

(3) The estimated cost of assessment for each affected parcel of property.

(f) The City Council's decision on necessity for Street Improvements and construction shall be final and conclusive, and if such decision results in the assessment of property under this section, it may be appealed as provided in this section.

**15.15.040      Scallops; Notice of Assessments.**

(a) Upon completion of the improvements, the City Council shall by resolution, at a public hearing, review and approve the Cost of improvements from a professional licensed engineer and assess against the properties adjacent to the Street Improvements the total amount of the Costs and expenses of the work. Notice of this public hearing shall be given to the Property Owners, and other affected persons who would be assessed for the Costs of improvements, not less than 15 or more than 45 days before the date of the public hearing.

(b) The notice of public hearing shall contain:

(1) The name, address and tax parcel number of each Property Owner.

(2) A description of the Street Improvements.

(3) The total assessment against the property for the Street Improvements.

(c) The Property Owners and any other persons directly interested in the work or in the assessment who have any objection to the legality of the assessment or to any of the previous proceedings connected therewith or who claim that the work has not been performed according to the contract may, prior to the time fixed for the hearing, file in the office of the City Clerk a written notice briefly specifying the grounds for objection. At the time fixed for the hearing, or at any time thereafter to which the hearing may be postponed, the City Council shall hear and rule upon the objections. The decision of the City Council shall be final and conclusive as to all errors, informalities and irregularities which the City Council might have remedied or avoided at any time during the progress of the proceedings. If the City Council determines that an objection should be granted, the City Engineer or designee shall reissue the notice of assessment. If the City Council determines

that the objections shall be overruled, the City Council shall adopt a resolution overruling all objections and confirming the assessments.

**15.15.050 Scallops; Adoption and Imposition of Assessments.**

(a) The resolution confirming the assessments and describing the property against which the assessments are imposed shall be recorded in the office of the Pinal County recorder, together with a specific written notice of the assessment containing:

- (1) The amount of the assessment.
  - (2) The legal description of and the tax parcel number of the subject property.
  - (3) The name of the Property Owner.
  - (4) The conditions which require payment of the assessment.
- (b) Upon recording of the and notice of assessment, a lien in the amount so assessed shall be filed upon the property assessed for ten (10) years thereafter or until such assessments are paid and such recording shall be notice to all persons interested in the contents of the record.

**15.15.060 Scallops; Street Construction; Collection; Payment and Satisfaction of Assessments.**

- (a) The City Manager or his designee shall collect any unpaid assessments prior to issuing a building permit for Development of any assessed property.
- (b) The City Manager or his designee shall collect any unpaid assessments prior to the City Council, Planning and Zoning Commission or Development Services Director approving any request for rezoning or site plan for Development of any assessed property.
- (c) Assessments levied under this section against real property having multiple lease hold interests may be payable in part by each leasehold interest at the time of application for a building permit, conditional permit or special use permit.
- (d) The City Engineer or his designee shall collect any unpaid assessment prior to the approval of any final subdivision plat which plat will result in a subdivision of property assessed under this chapter.
- (e) The City Engineer or his designee shall collect any unpaid assessment prior to issuing any engineering permit required by the Maricopa City Code for any assessed property.
- (f) Upon payment of the assessment in full or in part, a full or partial satisfaction evidencing payment shall be recorded in the office of the Pinal County Recorder.

**15.15.070 Scallops; street construction; appeals.**

The determination of necessity by the City Council resulting in the levying of assessments upon any property under this article may be appealed by the aggrieved part to the Superior Court of Arizona, Pinal County. In the event any part or portion of this ordinance is declared unenforceable by any court of competent jurisdiction, all other portions of this article not declared unenforceable shall be deemed separate and apart and shall continue to be in full force and effect.