

COUNCIL MINUTES

August 22, 2013

The City Council of the City of Mesa met in a Study Session in the lower level meeting room of the Council Chambers, 57 East 1st Street, on August 22, 2013 at 7:32 a.m.

COUNCIL PRESENT

COUNCIL ABSENT

OFFICERS PRESENT

Scott Smith Alex Finter Christopher Glover Dennis Kavanaugh Dave Richins Scott Somers None

Christopher Brady Debbie Spinner Dee Ann Mickelsen

(Mayor Smith excused Councilmembers Somers and Glover from the beginning of the meeting; they arrived at 7:33 a.m. and 7:35 a.m. respectively.)

1. Review items on the agenda for the August 26, 2013 Regular Council meeting.

All of the items on the agenda were reviewed among Council and staff and the following was noted:

Conflict of interest: None

Items removed from the consent agenda: None

2-a. Hear a presentation and discuss the upcoming City benefits plan.

Human Resources Director Gary Manning introduced Employee Benefits Administrator Jan Ashley, who was prepared to assist with the presentation.

Mr. Manning displayed a PowerPoint presentation (See Attachment 1) and stated that the purpose of the presentation was to provide the Council with an update of the Employee Benefits Program and anticipated changes for 2014.

Mr. Manning briefly discussed the Current Benefit Plan Overview. (See Page 2 of Attachment 1) He noted that the City provides four main insurance benefit plans to employees and eligible

family members and three benefit plans to retirees. He stated that the plans are funded through the City's Employee Benefit Trust Fund.

Mr. Manning advised that as various phases of the Health Care Reform Act go into effect in 2014, certain components of the law will impact the City. (See Page 3 of Attachment 1) He cited, for instance, that the amount that members pay when they use services under the medical plans (i.e., out-of-pocket maximums) must be inclusive of deductibles, copays and co-insurance amounts. He pointed out that currently, only the co-insurance is included in such an amount. He added that annual dollar maximums for "essential health benefits" will be removed.

Mr. Manning remarked that prior to October 1, 2013, the City will send employees a federallymandated Health Insurance Marketplace Coverage Notice. He explained that the letter would notify employees of their right to elect coverage under one of the federal Health Insurance Exchanges. He indicated that staff is somewhat concerned in that they have yet to receive any information about such exchanges, despite the fact that they are supposed to be in place by January 1, 2014. He stated that because the employees may be somewhat confused by the letter, Employee Benefits staff, in advance of distributing the notice, will inform the employees of its impending arrival and the fact that the letter is being sent in compliance with federal law. He added that when data regarding the exchanges becomes available to the City, it will be forwarded to the employees.

Mr. Manning further discussed the changes and updates for 2014. (See Page 4 of Attachment 1) He reported that due to the cost-containment measures that the City implemented three or four years ago, which have proven to be quite successful, staff was not recommending premium increases on the health plans in 2014.

Discussion ensued relative to the Health and Wellness Center initiative; that the issuance of a Request for Proposals (RFP) produced a number of interested vendors; that staff is currently in negotiations with a vendor that has been operating an employee health and wellness center since 2007; that the vendor's business plan and vision closely aligns with the City's intended outcome in this regard and that staff intends to provide the Council with an extensive overview of the vendor's program, including various operational decisions, costs, the name of the recommended vendor and the recommended location for the site.

Mr. Manning reported that in 2014, the City will introduce a new Committed Partners (CP) benefit. He explained that staff is considering an enrollment date of April 2014, as opposed to January 2014, with a special enrollment period in March. He pointed out that the delay in the implementation of the benefit is to provide staff additional time to provide education, communication and outreach to those employees who may be anticipating such a benefit. He outlined the eligibility criteria for the CP benefit (See page 4 of Attachment 1) and pointed out that staff felt the additional outreach to employees is necessary to provide sufficient education relative to the potential tax implications of this benefit.

Mr. Manning added that in 2014 staff will evaluate the pros and cons of moving from a 2-tier rate structure to a 4-tier structure. He stated that staff will come back to the Council for additional direction prior to implementing these changes in 2015. He noted, in addition, that staff will present the draft 2014 Plan Document to the Council for its consideration, which will include the following:

- Health care reform compliance updates
- Vendor contact updates
- Recommended dental plan enhancements including:
 - o Increased dental plan yearly maximum coverage amounts
 - Reduced dental plan deductibles
 - Increased orthodontia benefit to cover all employees

Mr. Manning displayed the Open Enrollment and Benefits Fair information, which included a list of scheduled vendors and events. (See Page 6 of Attachment 1)

Mayor Smith thanked Mr. Manning for the presentation.

<u>2-b. Hear a presentation, discuss and provide direction on proposed revisions to the Zoning</u> Ordinance relating to Tattoo Parlors Use Permit requirements.

Zoning Administrator Gordon Sheffield displayed a Power Point presentation (See Attachment 2) outlining the proposed revisions to the ordinance on tattoo parlor requirements. He reminded the Council that last spring staff was directed to further review Use Permit requirements, and to determine if there are more objective criteria to use in evaluating use permits related to tattoo parlors and body piercing salons. He explained that currently a Council Use Permit (CUP) is required to operate this type of business. He illustrated the existing requirements for where tattoo and body piercing parlors may be located (See page 3 of Attachment 2) and stated that Council may approve exceptions to the 1200-foot rule if it is found that there are significant intervening physical features, such as arterial streets, canals, parks or similar buffering features or developments located between a proposed tattoo parlor and an existing tattoo parlor or any public or private school.

Mr. Sheffield listed the existing Criteria for Tattoo Parlor CUPs, with the CUP review to include a determination that the tattoo parlor:

- 1) Is in compliance with the General Plan and other recognized policies, and compatible with surrounding uses; and,
- 2) Has a plan of operation with acceptable evidence of compliance with zoning, building, and fire safety regulations; and,
- 3) Has a Good Neighbor Policy that includes:
 - a. Measures to ensure compatibility
 - b. Facility manager contact information
 - c. Complaint response procedures
 - d. Litter control measures
- 4) Is in conformance with all current development standards.

In response to a question from Mayor Smith, City Attorney Debbie Spinner explained that the CUP includes the Good Neighbor Policy for specific types of uses. She further noted that the

Arizona Supreme Court ruled that the act of tattooing is protected by the First Amendment, and that the case was sent back to the trial court to determine if Mesa's ordinance satisfies the standards for reasonable time, place and manner restrictions. Ms. Spinner noted that there has not been a decision regarding Mesa's ordinance. She added that the City has reviewed the ordinance and recommended that only the ordinance which applies to tattoo businesses be revised to ensure the City is in compliance. She reiterated that this would only apply to tattoo businesses, since that is the only business that the Supreme Court addressed.

Ms. Spinner explained that the ordinance has not yet been drafted, however, the City Attorney's office is working with staff to ensure the ordinance will meet the standards set by the Supreme Court.

Mr. Sheffield added that there are other use permits within the Zoning Ordinance which require a Good Neighbor Policy (i.e. bars, commercial recreation facilities, etc.) and that would require control measures due to their potential impacts on neighborhoods.

Mr. Sheffield continued the presentation and listed the proposed revisions to the Ordinance for Special Use Permit (SUP) requirements as they relate to tattoo parlor locations, as well as SUP criteria. (See Pages 6 and 7 of Attachment 2)

Mr. Sheffield explained the difference between CUPs and SUPs, and stated that CUPs are reviewed by the Planning & Zoning (P&Z) Board which makes a recommendation to the Council, whereas SUPs are heard by either the Board of Adjustment (BOA), or the Zoning Administrator.

Responding to a question from Councilmember Richins, Mr. Sheffield stated that the Good Neighbor Policy is monitored and enforced by Code Compliance personnel. He added that if complaints are received, the City could consider possible revocation of the SUP and if the BOA votes to remove the SUP, then the use is no longer permitted.

Mr. Sheffield stated that staff is proposing tattoo parlors be a "by right" use in Industrial Districts, meaning that rather than having to go through a Public Hearing process, the applicant would have the option of proceeding without the Public Hearing process.

In response to questions posed by Mayor Smith regarding gang-related tattoos in the proposed language for SUPs (See Page 7 of Attachment 2), Ms. Spinner explained that the language could create a potential challenge to First Amendment rights because what gang-related means today may not be the same as what it will mean in the future.

Councilmember Kavanaugh concurred with Mayor Smith, and stated the opinion that it has a depressive effect on free speech, citing the Arizona State University slogan, "Fear the Fork" and indicated that this stylized fork symbol is viewed as a gang symbol in Chicago. He recommended that this language not be pursued because regulating content will present challenges with the First Amendment.

Mayor Smith reiterated his earlier point that the appearance of a business and the manner in which the business is conducted is more important than the type of activity, as long as the activity is legal.

In response to a question from Councilmember Somers, Mr. Sheffield stated that tattoo artists are not licensed or certified by the State, and added that there is currently no method to regulate these types of businesses.

Councilmember Richins stated the opinion that the issue is health and safety related, and that he would rather implement health and safety regulations. He added that tattoo parlors in Mesa have not had a detrimental impact to the neighborhoods in which they are located.

Responding to a question from Vice Mayor Finter, Mr. Sheffield explained that the Downtown Core is an Urban district, not an Industrial District and that staff is proposing to remove this zoning designation from the Downtown Core, and authorize it in the DB-1 and DB-2 Downtown Commercial districts.

Mayor Smith suggested that the City of Mesa use an "umbrella" approach that includes a provision that states tattoo parlors must be in compliance with County and State health and safety regulations in order to comply with the City's zoning and SUP ordinance.

Ms. Spinner responded that consideration could be given to moving this language into the Health and Safety provision of the Code and to determine what types of regulations the City may impose for tattoo shops which is similar to what has been done with massage businesses.

Councilmember Somers suggested integrating the proposed language with the Crime Prevention Through Environmental Design (CPTED) principles and that this may meet the requirements of the Supreme Court.

Councilmember Kavanaugh stated that he agrees with Councilmember Richins, and added that he does not think tattoo parlors should be subjected to any type of SUP process, as that will have a negative effect on protected activity.

Responding to a question from Mayor Smith, Mr. Sheffield displayed information highlighting Police Calls for Service over a one-year period (See page 11 of Attachment 2), and noted that of the nine tattoo parlors located within the City, there was an average of 9 calls.

Councilmember Somers cautioned that the information provided only covers a one-year period, and pointed out that if someone is harboring criminal activity, they would not call the police.

Mayor Smith reiterated that he is more likely to support regulation of conduct of business, rather than the type of business, but would favor a "happy medium" approach where there is some type of regulation similar to what is in place for other businesses.

Mr. Sheffield summarized the Council's discussion and restated the options as follows:

- 1) Follow the zoning process for SUPs, removing language pertaining to gang-related tattoos, and adding a requirement that the applicant must meet Health and Safety criteria;
- Develop a license that includes criteria similar to SUPs, removing language regarding gangrelated tattoos.

Discussion ensued regarding the effectiveness of the 1,200-foot separation requirement; that having multiple tattoo parlors located less than 1,200 feet from each other could have the effect of stifling business; and that separation requirements foster a healthy variety of businesses.

Councilmember Richins pointed out that the City of Mesa has never issued business licenses, and suggested that a business license rubric could provide categories of business types, as well as provide a method for gathering statistics. He added that this is standard in most other cities.

Mr. Sheffield suggested that an additional option would be to remove the SUP requirement and make it a "by-right" condition, and continue to monitor the 1,200 foot separation requirement through zoning. He clarified that the difference in doing this compared to a SUP would be that the application would be handled administratively rather than through Council action.

Councilmember Kavanaugh stated that he supports the 1,200-foot separation requirement as an option, however, there should be a rational basis for the separation. He stated the opinion that as long as the businesses are "Good Neighbors" and the landlords ensure they operate in a good manner, this will not be an issue.

Mr. Sheffield remarked that protected rights can be regulated as long as there is a rational reason. He cautioned that it is important to be cognizant of an overconcentration of this particular use.

Ms. Spinner summarized the Council's preference to regulate this issue through health and safety as opposed to land use. She asked if the Council wanted to provide direction on what land use districts or zoning areas this should be allowed as a right.

Councilmember Richins stated the opinion that special language is not necessary, as this is already included in the City's code.

Mr. Sheffield stated his understanding that if the Council directs as such, staff would prepare a draft ordinance and present it to the P&Z Board, after which time it would be presented to the Council as an amendment to the Zoning Ordinance. He summarized that rather than requiring a SUP, Council's direction is to remove the current CUP requirement, make it a by-right use in Limited Commercial, General Commercial, Mixed Use, DB-1, DB-2, Limited Industrial and General Industrial Districts, and the Downtown Core.

Mayor Smith reminded the Council that the reason they are addressing this issue is due to the Supreme Court ruling stating that this is a protected activity.

Councilmember Richins stated the opinion that there is a reasonable expectation for regulations to be in place for businesses such as pawn shops, massage parlors or medical marijuana dispensaries due to the "common thread" of criminal activity associated with such businesses.

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Mr. Sheffield summarized Council's direction as follows:

- Make tattoo and body piercing a by-right use in:
 - o General Commercial
 - o Limited Commercial
 - o Mixed Use
 - o DB-2
 - o DB-1
 - o Downtown Core
 - o General Industrial
 - o Limited Industrial
- Remove the 1,200 foot separation requirement and Good Neighbor policy
- Develop a license to be concurrent with monitoring health and safety

In response to questions from Council, Ms. Spinner recommended a review of health and safety regulations that could be imposed by the City and the best method for implementing this requirement.

Mayor Smith suggested that the right to conduct the tattoo parlor is contingent upon the business owner's adherence to applicable County and State health and safety regulations/ordinances and CPTED principles and that if a tattoo operator is not complying, the City would be able to revoke their license. He added that the City should have enforcement capabilities, and that the language should be objective and focus on how the business is being conducted, rather than on the use.

Mr. Sheffield requested clarification on whether the application would be processed through the P&Z Board as a zoning case before coming back to the Council.

Mayor Smith responded that if staff determines that zoning is the proper process to follow, then the case would be presented to the Council for their decision on whether it should be a zoning case or an administrative process. He added that a proposed ordinance would be brought before the P&Z Board only after the Council votes to process the application as a zoning request.

Mayor Smith thanked Mr. Sheffield for the presentation.

3. Hear reports on meetings and/or conferences attended.

There were no reports on meetings and/or conferences attended.

4. Scheduling of meetings and general information.

City Manager Christopher Brady stated that the meeting schedule is as follows:

Monday, August 26, 2013, 3:30 p.m.	-	Public Safety Committee Meeting
Monday, August 26, 2013, TBD	-	Study Session
Thursday, August 29, 2013, 7:30 a.m.	-	Study Session CANCELLED
Thursday, August 29, 2013, 4:30 p.m.	-	Friends of Transit Mixer - Central Mesa Light Rail Extension

5. Convene an Executive Session

It was moved by Councilmember Somers, seconded by Councilmember Kavanaugh, that the Council adjourn the Study Session at 8:34 a.m. and enter into an Executive Session.

Carried unanimously.

- 5-a Discussion or consultation for legal advice with the City Attorney. (A.R.S. §38-431.03A(3)) Discussion or consultation with designated representatives of the City in order to consider the City's position and instruct the City's representatives regarding negotiations for the purchase, sale or lease of real property. (A.R.S. §38-431.03A(7)) Discussion or consultation with the City Attorney in order to consider the City's position and instruct the City Attorney regarding the City's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. (A.R.S. §38-431.03A(4))
 - 1. City-owned parcel near Broadway and Extension

Discussion or consideration of employment, assignment, appointment, promotion, demotion, salaries, discipline, dismissal or resignation of a public officer, appointee or employee of the City. (A.R.S. §38-431.03A(1))

- 2. City Auditor Review follow-up
- 3. City Attorney Review follow-up

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6. Adjournment.

Without objection, the Executive Session adjourned at 9:04 a.m.

SCOTT SMITH, MAYOR

ATTEST:

DEE ANN MICKELSEN, CITY CLERK

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Study Session of the City Council of Mesa, Arizona, held on the 22nd day of August, 2013. I further certify that the meeting was duly called and held and that a quorum was present.

DEE ANN MICKELSEN, CITY CLERK

Pag/ljm (Attachments – 2)

PROGRAM 2014 EMPLOYEE BENEFITS

Study Session August 22, 2013 Attachment 1 Page 1 of 7

Page 1

Page 2 of 7 **Current Benefit Plan Overview**

- The City provides four main insurance benefit plans to employees and eligible family members and three insurance benefit plans to retirees:
- Medical self-insured/self-administered with a provider network stop-loss coverage (choice of 3 plan designs) leasing arrangement, pharmacy benefit contract and fully insured
- Dental self-insured/self-administered (choice of 3 plan designs)
- Vision fully-insured (choice of 2 plan designs)
- Group Term Life and Accidental Death and Dismemberment Insurance fully-insured (employees only)
- Plans are funded through the City's Employee Benefit Trust Fund that is comprised ot:
- Contributions from the City
- Employee and retiree premiums
- State retirement system subsidies for retiree health care plans
- Trust investment income

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Study Session

Attachm Page 3 of 7 **Health Care Reform Initiatives**

Compliance initiatives related to Health Care Reform in 2014:

- 1 The amount a member pays when they use services under the medical and co-insurance amounts (currently only co-insurance included) plans (out-of-pocket maximums) must be inclusive of deductibles, copays
- Annual dollar maximums for "essential health benefits" must be removed
- A Health Care Reform Exchange/Marketplace notification letter for provided to all new hires after that date) 2014, must be mailed to all employees before October 1, 2013 (and
- \square Individual coverage mandate effective January 1, 2014
- New effective date for employer mandate reporting and penalties value medical coverage to at least 95% of full-time employees January 1, 2015 - large employers must provide affordable, minimum
- Definition of full-time employee 30+ hours per week or more subject to further guidance
- Evaluate effect on HR and benefit policies in 2014 to implement by 2015

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Study Session

August 22, 2013 Attachment 1 Page 4 of 7 Changes and Updates for 2014

Study Session

- No premium increases on health plans in 2014
- Premium holiday for health plans in December, 2013
- Health and Wellness Center project – negotiation and recommendation phase almost complete
- Evaluate Tobacco Surcharge options for implementation in 2015
- Add Committed Partner (CP) benefit eligibility in a special enrollment process, effective April 1, 2014
- Criteria will include:
- Relationship duration > 12 months
- Affidavit of Committed Partnership required
- Verification of financial inter-dependence
- Premium deductions on a post-tax basis
- Value of coverage for Committed Partner is taxable to the employee with a significant imputed income effect

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Study Session

August 22, 2013

- Evaluate 4-tier versus 2-tier rate structure for health plan implementation in 2015
- Employee
- Employee plus spouse/committed partner
- Employee plus children
- Employee plus family (spouse/committed partner and children/ committed partner children)
- Later this year, Council will be asked to consider changes to the 2014 Plan Document including:
- Health care reform compliance updates
- Vendor contact updates as may apply
- Recommended dental plan enhancements including:
- Increased dental plan yearly maximum coverage amounts
- Reduced dental plan deductibles
- Increased orthodontia benefit

Study Session August 22, 2013 Attachment 1 Open Enrollment and Health Fair 2013

- 6
- Open Enrollment – online October 21 – November 1, 2013
- Benefits Fair October 23, 2013
- Mesa Convention Center
- Employee Services Network Discount providers
- Insurance vendor booths
- Education booths
- Safety booth
- Online enrollment support and education – using City's updated proprietary OE tool
- Retirees welcome

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Questions?

Study Session August 22, 2013 Attachment 2 Page 1 of 12



Tattoo Parlor Requirements Proposed Revisions to Zoning Ordinance

August 22, 2013 Study Session

Presentation to City Council

Existing Requirements

a Council Use Permit (CUP) and shall be located : Tattoo and Body Piercing Parlors require approval of

- A. In Limited Commercial (LC), General Commercial (DB)-1, Downtown Business Downtown Core (DC) districts (GC), Mixed Use (MX), Limited Industrial (LI), General Industrial (GI), Downtown Business (DB)-2 and
- . Ե 1200-ft from another tattoo parlor and K-12 schools
- C. Exceptions may be approved by Council

Existing Requirements

Criteria for Tattoo Parlor Council Use Permit:

CUP review includes determination the Tattoo Parlor:

- Is in compliance with the General Plan and other uses; and recognized policies; and compatible with surrounding
- 2 Has a plan of operation with acceptable evidence of compliance with... zoning, building, and fire safety regulations; and

Existing Requirements

- **ω** Has a Good Neighbor Policy that includes:
- a. Measures to ensure compatibility
- b. Facility Manager Contact information
- c. Complaint response procedures, and
- d. Litter control measures; and
- 4 Is in conformance with all current development standards

Proposed Revisions

- Require a Special Use Permit in:
- LC, GC, MX, DB-1, and DB-2 districts (commercial)
- 2 Remove from DC district (Downtown Core)
- ω · Allow "by right" in LI and GI (Industrial)
- 4. Maintain 1200-ft separation requirements

Proposed Special Use Permit Criteria

- 1. Operational Plan/Good Neighbor Policy adding these operational measures to the current CUP criteria:
- a. Discourage unlawful loitering;
- *b*. Avoid providing tattoos and/or body piercings to minors;
- <u>.</u> Avoid providing gang related tattoos and/or body piercings; and
- d. Avoid providing tattoos and/or body piercings to intoxicated adults.
- 2. Substantial conformance with current development standards

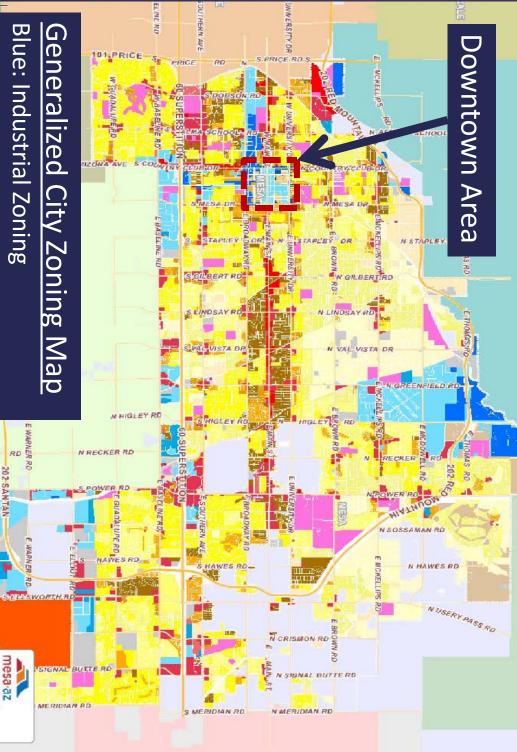
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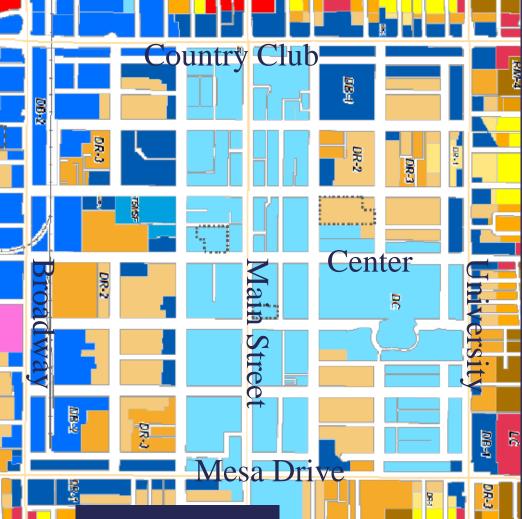
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Mesa Dr Mesa Dr Zoning Map



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Definition

Tattoo and Body Piercing Parlors:

Establishments whose principal business activity is :

- Using ink... that result(s) in the permanent coloration of the skin... (using) needles designed to contact or puncture the skin; or
- 2) decoration. Piercing a person's skin... (to insert) jewelry or other
- ω store selling jewelry as a primary activity. Exception: Piercing earlobes as an accessory use at a

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Comparison with Valley Cities

Fee	Decision-making Body	Timeline 3	Use Permit	Zoning District		
CUP: \$2,600.00	Recommendation by Planning and Zoning Board, Decision by City Council	3-4 months	Yes. Council Use Permit in all allowed districts.	Existing DB-1, DB-2, DC LC and GC, MX, LI and GI.	Mesa	
SUP: \$1,300.00	Zoning Administrator (Hearing Officer) or Board of Adjustment	SUP: 4-7 weeks	Yes. Special Use Permit (SUP) in DB-1 and DB-2 LC, GC and MX (No longer allowed in DC)	Proposed DB-1, DB-2, LC, GC and MX. Allowed by right in LI and GI	sa	
SUP: \$1,177.00	Zoning Administrator (Hearing Officer) or Board of Adjustment	1 month	Yes. Special Use Permit	CSS or higher	Tempe	
UP: \$1,380.00	Zoning Administrator (Hearing Officer) or Board of Adjustment	1-1.5 months	Yes. Use Permit in Commercial, or in Industrial Districts with specific overlay districts.	C-2 or higher. Allowed by right in Industrial.	Phoenix	
CUP: \$475.00	Planning Commission and City Council	3-4 months	Yes. Conditional Use Permit in Downtown and Industrial	Permitted by right in Commercial Districts.		
CUP: \$1,590.00	Planning Commission	4 months	Yes. Conditional Use Permit.	CC,SC,GC, RC, HVC. Not allowed in NC or Industrial.		
CUP: \$2,440.00	Planning Commission and City Council	3-6 months	Yes. Conditional Use Permit.	Only within Downtown Overlay. Elsewhere, prohibited.	Scottsdale	

Police Calls for Service: 1-Year

July 2012 through June 2013

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ç	Average	Mastodon Tattoo & Piercing 1925 W University Dr	A-Plus Jewelry	Urban Art Tattoo Studio	Idle Hands Tattoo	Steve Haworth Shop	Virtual Reality Tattoos	Rat-A-Tat Tattoo	Club Tattoo	Immaculate Tattoo	Facility	DITUS AIDE
	9 Locations	1925 W University Dr	1745 N Greenfield Rd	340 W University Dr	2722 S Alma School Rd	515 E Juanita Ave	525 S Gilbert Rd	330 E Southern Ave	1423 S Country Club Dr	1454 W Main St	Location	כתוא בתדב נוווסמצוו זמווב בתדכ
_	1.0 per location	2	0	2	0		ω	0	0		Calls	

of calls total to a single address shared by several suites may be higher. Note: Number of Calls for Service shown is specific to a suite for group centers. Number

on