

ORDINANCE NO. 5233

Text written in **BOLD ALL CAPS** indicates new language. ~~Strikethrough~~ fonts indicate proposed language to be deleted.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, PERTAINING TO THE ZONING ORDINANCE OF THE MESA CITY CODE; AMENDING SECTIONS AND/OR TABLES 11-6-2, 11-7-2, 11-8-3, 11-58-3, 11-58-7, 11-58-9, 11-58-10 AND 11-31-28 REGARDING THE ZONING DISTRICTS THAT ALLOW TATTOO PARLORS AND BODY PIERCING SALONS, AND DELETING CRITERIA FOR THE REQUIRMENT OF COUNCIL USE PERMITS RELATED TO TATTOO PARLORS AND BODY PIERCING SALONS; AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

Section 1: That Table 11-6-2 of Section 11-6-2 of the Mesa City Code is hereby amended to include the following revisions:

Table 11-6-2: Commercial Districts						
<i>Proposed Use</i>	NC (C-1)	LC (C-2)	GC (C-3)	OC (O-S)	MX	<i>Additional Use Regulations</i>
Retail Sales						
<u>General</u>	P(8, 9)	P	P	--	P(7)	
<u>Large Format</u>	--	P	P	--	CUP(7)	<u>Section 11-31-16, Large Format Retail</u>
<u>Pawn Shops</u>	CUP(10)	CUP(10)	CUP(10)	--	--	<u>Section 11-31-21, Pawn Shops</u>
<u>Tattoo and Body Piercing Parlors</u>	--	P CUP(10)	P CUP(10)	--	P CUP(10)	<u>Section 11-31-28, Tattoo Parlors</u>

Section 2: That Table 11-7-2 of Section 11-7-2 is hereby amended to include the following revisions:

Table 11-7-2: Employment Districts					
<i>Proposed Use</i>	PEP	LI (M-1)	GI (M-2)	HI	<i>Additional Use Regulations</i>
Retail Sales					
<u>General</u>	P	P	P	--	
<u>Large Format</u>	P(8)	CUP	--	--	<u>Section 11-31-16, Large Format Retail</u>
<u>Swap Meets and Flea Markets</u>	--	CUP	CUP	--	<u>Section 11-31-30, Temporary Uses: Swap Meets and Farmer's Markets</u>
<u>Tattoo and Body Piercing Parlors</u>	--	P CUP (3)	P CUP (3)	--	<u>Section 11-31-28, Tattoo Parlors</u>

SECTION 3: THAT TABLE 11-8-3 OF SECTION 11-8-3 IS HEREBY AMENDED TO INCLUDE THE FOLLOWING REVISIONS:

Table 11-8-3							
Proposed Use	DR-1	DR-2	DR-3	DB-1	DB-2	DC	Additional Use Regulations
Retail Sales							
General	--	--	--	P	P	P	
Large Format	--	--	--	--	CUP	CUP	Section 11-31-16, Large Format Retail
Pawn Shops	--	--	--	CUP (8)	CUP (8)	--	Section 11-31-21, Pawn Shops
Tattoo and Body Piercing Parlors	--	--	--	P CUP (8)	P CUP (8)	P CUP (8)	Section 11-31-28, Tattoo Parlors

SECTION 4: THAT TABLE 11-58-3.A OF SECTION 11-58-3 IS HEREBY AMENDED TO INCLUDE THE FOLLOWING REVISIONS:

Land Use	Specific Use Regulations	T3N	T4N	T4NF	T4MS	T5N	T5MSF	T5MS	T6MS
Services (continued)									
Medical Services:									
Extended Care Facility		--	--	P	P(2)	--	P	P(2)	P(2)
Hospital		--	--	CUP	CUP	--	CUP	CUP	--
Medical/Dental Clinic		--	--	SUP	P(2)	--	AUP	P(2)	P(2)
Medical Dental Office		--	--	P	P(2)	--	P	P(2)	P(2)
Office: Professional, Administrative									
≤5,000 sqft		SUP(3)	SUP(3)	P	P(2)	SUP(3)	P	P(2)	P(2)
>5,000 sqft		--	--	SUP	AUP(2)	--	P	P(2)	P(2)
Social Service Facilities	11-31-26	--	--	CUP	CUP	--	CUP	CUP	--
Tattoo & Body Piercing Parlors	11-31-28	--	--	--	P CUP	--	P CUP	P CUP	--
Veterinary Services		--	--	AUP	AUP(2)	--	AUP	AUP	AUP

(2) Allowed only on an upper floor(s) or behind an allowed ground floor use.

SECTION 5: THAT SECTION 11-58-7.G IS HEREBY AMENDED TO INCLUDE THE FOLLOWING REVISIONS:

Land Use	Specific Use Regulations	T4MS
Medical Services:		
Extended Care Facility		P(2)
Hospital		CUP
Medical/Dental Clinic		P(2)
Medical Dental Office		P(2)
Office: Professional, Administrative		
≤5,000 sqft		P(2)
>5,000 sqft		AUP(2)
Social Service Facilities	11-31-26	CUP
Tattoo & Body Piercing Parlors	11-31-28	P CUP
Veterinary Services		AUP(2)

(2) Allowed only on an upper floor(s) or behind an allowed ground floor use.

SECTION 6: THAT SECTION 11-58-9.G IS HEREBY AMENDED TO INCLUDE THE FOLLOWING REVISIONS:

Land Use	Specific Use Regulations	T5MSF
Medical Services:		
Extended Care Facility		P
Hospital		CUP
Medical/Dental Clinic		AUP
Medical Dental Office		P
Office: Professional, Administrative		
≤5,000 sqft		P
>5,000 sqft		P
Social Service Facilities	11-31-26	CUP
Tattoo & Body Piercing Parlors	11-31-28	P CUP
Veterinary Services		AUP

(2) Allowed only on an upper floor(s) or behind an allowed ground floor use.

SECTION 7: THAT SECTION 11-58-10.G IS HEREBY AMENDED TO INCLUDE THE FOLLOWING REVISIONS:

Land Use	Specific Use Regulations	T5MS
Medical Services:		
Extended Care Facility		P(2)
Hospital		CUP
Medical/Dental Clinic		P(2)
Medical Dental Office		P(2)
Office: Professional, Administrative		
≤5,000 sqft		P(2)
>5,000 sqft		P(2)
Social Service Facilities	11-31-26	CUP
Tattoo & Body Piercing Parlors	11-31-28	P CUP
Veterinary Services		AUP

(2) Allowed only on an upper floor(s) or behind an allowed ground floor use.

SECTION 8: THAT SECTION 11-31-28 IS HEREBY AMENDED TO INCLUDE THE FOLLOWING REVISIONS:

(RESERVED) ~~Tattoo Parlors~~

~~Tattoo Parlors~~, as described in Section 11-86-4, shall be located, developed, and operated in compliance with the land use regulations in Article 2, and in a manner compatible with surrounding uses, the General Plan, and other recognized development plans or policies, as demonstrated by the following criteria:

- A. ~~Minimum distance from another tattoo parlor: 1,200 feet. Minimum distance from a public or private school: 1,200 feet.~~

~~B. Exceptions to the 1,200 foot separation requirement may be approved by the City Council upon a finding that there are significant intervening physical features, such as arterial streets, canals, parks, or similar buffering features or developments, between a proposed Tattoo Parlors and an existing Tattoo Parlor and any Public or Private School.~~

~~C. **Criteria for Review of Council Use Permit:** When required, the review of the Council Use Permit shall include a review and determination regarding the following items:~~

- ~~1. The use is found to be in compliance with the General Plan, Sub Area Plans and other recognized development plans or policies, and will be compatible with surrounding uses; and~~
- ~~2. A finding that a plan of operation has been submitted, which includes, but is not limited to, acceptable evidence of compliance with all zoning, building, and fire safety regulations; and~~
- ~~3. A finding that a "good neighbor policy" in narrative form has been submitted, which includes, but is not limited to, descriptions of acceptable measures to ensure ongoing compatibility with adjacent uses. Such policies shall include, but are not limited to, the name and telephone number of the manager or person responsible for the operation of the facility; complaint response procedures, including investigation, remedial action, and follow-up; and litter control measures; and~~
- ~~4. Evidence that acceptable documentation is present demonstrating that the building or site proposed for the use is in, or will be brought into, substantial conformance with all current City Development Standards, including, but not limited to, landscaping, parking, screen walls, signage, and design guidelines.~~

Section 9: SEVERABILITY

If any section, subsection, sentence clause, phrase or portion of this Ordinance or any part of the material adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of a Court of competent jurisdiction such decision shall not affect the validity of the remaining portions thereof.

Section 10: PENALTY.

CIVIL PENALTIES:

- A. Any owner, occupant or responsible party who is found responsible for a civil violation of this Ordinance, whether by admission, default, or after a hearing, shall pay a civil sanction of not less than \$150 or more than \$1,500, per citation. A second finding of responsibility within 24 months of the commission of a prior violation of this Chapter shall result in a civil sanction of not less than \$250 or more than \$2,500. A third finding of responsibility within 36 months of the commission of a prior violation of this Chapter shall result in a civil sanction of not less than \$500 or more than \$2,500. In addition to the civil sanction, the responsible party shall pay the applicable fees and charges set forth in the City's Development and Sustainability Department (Code Compliance) Schedule of Fees and Charges, and may be ordered to pay any other applicable fees and charges.
- B. The 36 month provision of subsection (A) of this Section shall be calculated by the dates the violations were committed. The owner, occupant, or responsible party shall receive the enhanced sanction upon a finding of responsibility for any violation of this Chapter that was committed within 36 months of the commission of another violation for which the owner or responsible party was convicted or was otherwise found responsible, irrespective of the order in which the violations occurred or whether the prior violation was civil or criminal.

C. Each day in which a violation of this Ordinance continues, or the failure to perform any act or duty required by this Ordinance or by the Civil Hearing Officer continues, shall constitute a separate civil offense.

HABITUAL OFFENDER:

- A. A person who commits a violation of this Title after previously having been found responsible for committing three (3) or more civil violations of this Title within a twenty-four (24) month period – whether by admission, by payment of the fine, by default, or by judgment after hearing – shall be guilty of a criminal misdemeanor. The Mesa City Prosecutor is authorized to file a criminal misdemeanor complaint in the Mesa City Court against habitual offenders. For purposes of calculating the twenty-four (24) month period under this Subsection, the dates of the commission of the offenses are the determining factor.
- B. Upon conviction of a violation of this Subsection, the Court may impose a sentence of incarceration not to exceed six (6) months in jail; or a fine not to exceed two thousand five hundred dollars (\$2,500.00), exclusive of penalty assessments prescribed by law; or both such fine and imprisonment. The Court shall order a person who has been convicted of a violation of this Section to pay a fine of not less than five hundred dollars (\$500.00) for each count upon which a conviction has been obtained. A judge shall not grant probation to or suspend any part or all of the imposition or execution of a sentence required by this Subsection except on the condition that the person pay the mandatory minimum fines as provided in this paragraph.
- C. Every action or proceeding under this Section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to criminal misdemeanors and the Arizona Rules of Criminal Procedure.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, this 2nd day of June, 2014.

APPROVED:

Mayor

ATTEST:

Della Mickelsen

City Clerk

EFFECTIVE DATE: July 2, 2014

