

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, PERTAINING TO THE ZONING ORDINANCE OF THE MESA CITY CODE; AMENDING CHAPTER 8 OF TITLE 11, AND SECTIONS 11-18-7, 11-18-8, 11-18-9, 11-18-10 AND 11-18-11, ALL REGARDING THE RESPONSIBILITIES AND DUTIES OF THE DESIGN REVIEW BOARD, THE DOWNTOWN DEVELOPMENT COMMITTEE, AND THE PLANNING AND ZONING BOARD, THE RELATED PROCESSING OF APPLICATIONS RELATED TO THESE BOARDS AND COMMITTEE REGARDING DEFINITIONS OF TERMS OF THE ZONING REGULATIONS, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

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

**Section 1:** That Chapter 8 of Title 11 of the Mesa City Code is hereby amended as follows.

**11-8-1: PURPOSE AND INTENT:**

This Chapter is intended to promote the development and redevelopment of land within the Town Center Area to insure the future growth and vitality of the original square mile. This Chapter is also intended to encourage the development of high-intensity land uses where appropriate and where such uses add to the visual image and sense of place of Mesa's Town Center.

**11-8-2: LOCATION:**

The Town Center Area is established within the area bounded by University Drive, Broadway Road, Country Club Drive, Mesa Drive, 2nd Street, 2nd Avenue, and LeSueur and on property adjoining or within three hundred feet (300') of the rights-of-way bounding this area (see Section 8 of this Chapter, Figure 1) in the furtherance of the stated purpose and intent of this Section. If this three hundred-foot (300') distance puts at least one-half (1/2) of a property within the Town Center Area, the entire property shall be within the Town Center Area.

**11-8-3: TOWN CENTER RESIDENCE DISTRICTS, TCR-1, TCR-2, AND TCR-3:**

(A) Purpose and Intent. To maintain a viable downtown area, stable residential neighborhoods must be protected and enhanced. The purpose of the TCR districts is to protect existing residential uses and to encourage the redevelopment of blighted or underutilized sites for new residential usage. It is also the purpose of these districts to encourage pedestrian linkages between residential neighborhoods and the business, cultural, and entertainment core of Town Center.

It is the intent of the TCR districts to retain a real and perceived sense of neighborhood in residential areas by excluding most nonresidential uses. It is also the intent of these districts to enhance residential ownership through establishing compatible architectural and site design elements and regulating residential densities.

(B) Permitted Uses in the TCR-1, TCR-2, and TCR-3 Districts:

1. Single residences.
2. Foster homes and residential facilities for the developmentally disabled.

3. Churches. Refer to Section 11-13-2(L) of this Ordinance.
4. Group homes for the handicapped and adult care homes. Refer to Section 11-13-2(R) of this Ordinance.
5. Public utility buildings and facilities when necessary for serving the surrounding territory. **TERRITORY** provided that no public business offices and no repair or storage facilities are maintained therein.
6. Accessory uses and accessory buildings when associated with a dwelling unit or other primary permitted use.
7. Day care group homes with up to five (5) children.

(C) Additional Permitted Uses in the TCR-2 and TCR-3 Districts:

1. Multiple residences.
2. Boarding houses and assisted-living facilities with up to five (5) guest rooms or housing up to ten (10) people.
3. Bed and breakfast facilities.
4. Group foster homes.

(D) Uses Subject to a Council Use Permit in the TCR-1, TCR-2, and TCR-3 Districts:

The following use is subject to the granting of a Council Use Permit in accordance with the procedures set forth in the Administration and Procedures chapter of this Ordinance, provided the use is found to be compatible with surrounding uses and Town Center redevelopment objectives and design standards.

Schools, as defined in Section 11-1-6 of this Ordinance.

(E) Professional and general offices are uses permitted subject to approval of a Special Use Permit in the TCR-1, TCR-2, and TCR-3 districts in accordance with the Administration and Procedures chapter of this Ordinance, provided if such uses are found to be:

1. Located in one (1) of the following:
  - (a) Level I historic structure as identified in the City of Mesa Historical Survey, 1984; or
  - (b) Within an area designated in the Town Center Concept Plan as single-family residential with an office overlay and having frontage on an arterial street.
2. Compatible with surrounding uses and Town Center redevelopment objectives and design standards;
3. In compliance with all Building, Fire Safety, Zoning, and Tax and Licensing regulations of the City of Mesa;
4. In compliance with any other measures determined to be necessary and appropriate to ensure

compatibility of the proposed use with the surrounding area as specified in the Guidelines for Office Uses in the TCR-1, TCR-2, and TCR-3 zoning districts.

(F) Uses Permitted Subject to a Special Use Permit in the TCR-2 and TCR-3 Districts in Accordance with the Administration and Procedures Chapter of this Ordinance:

1. Athletic facilities and day care centers in conjunction with a place of worship, **WORSHIP** provided such activities are on the same lot or a contiguous lot.
2. Day care centers and day care group homes with more than five (5) children. Refer to Section 11-13-2(O) of this Ordinance.

(G) Prohibited Uses in the TCR-1, TCR-2, and TCR-3 Districts:

1. All commercial and business uses, except as specified in this Chapter.
2. All manufacturing, warehousing, and wholesaling.
3. Manufactured homes, except as specified in the Manufactured Home/Recreational Vehicle Regulations Chapter of this Ordinance.
4. Recreational vehicle and manufactured home parks.
5. Uses similar to those listed above.

(H) Landscape and Screening Regulations.

1. Landscaping materials and quantities shall be installed and maintained in compliance with Chapter 15 (Multiple Residence Districts) of this Ordinance unless specified by a landscape design plan or specific redevelopment plan adopted by the City Council. The following landscaping regulations shall also apply:
  - (a) Existing lawns and/or vegetated ground cover shall be maintained in the street right-of-way area between the curb and the property line.
  - (b) The required front yard area shall be maintained in lawn and/or vegetative ground cover. Not more than twenty percent (20%) of the front yard ground cover shall be inorganic materials.
  - (c) The required quantity of trees, shrubs, and vegetation as specified in Chapter 15 of this Ordinance shall be located in the street right-of-way and in the required front yard setbacks as noted in the chart in this Section. Where conflict occurs between these two Sections, the setbacks listed for Town Center districts shall prevail.
  - (d) All required yard areas shall be landscaped and maintained free from encroachments as specified in Chapter 15 of this Ordinance.
  - (e) Where a parcel is used for multiple residences, or office, the required side and rear yards shall also be landscaped.
2. Whenever a new multiple residence is constructed or an existing single residence is converted to a multiple-residence use, a privacy wall shall be constructed along the property lines separating the multiple residence use, its parking areas, and driveways from any adjacent

existing single residence. The privacy wall shall be of masonry construction with stucco, mortar wash, or other finish to match that of the main building and shall be six feet (6') in height. The privacy wall shall extend along interior side lot lines to the front yard setback of the main building or to the front yard setback of the existing adjacent residence, whichever is closer to the street right-of-way, but shall not extend past said setback into the front yard without being reduced in height to a maximum of three feet (3') (see Section 8 of this Chapter, Figure 2). All other standards of Chapter 14 of this Ordinance shall apply.

- (I) Parking Regulations. On-site parking shall be installed in compliance with Section 11-8-7, Town Center On-Site Parking and Loading Regulations, and Chapter 16 of this Ordinance.
- (J) Density, Area, Building, and Yard Regulations.

1. The chart below specifies development criteria for each of the residential districts.

TOWN CENTER RESIDENCE DISTRICTS: TCR-1, TCR-2, AND TCR-3																	
DIST.	DWELLINGS/ LOT		MAX. DENSITY	MIN. OPEN SPACE	MAX. BLDG HEIGHT	PRKG SPACE	MIN. YARD SETBACKS										
	# OF DU	MIN. LOT SIZE (SF)					DWELLINGS										
							1 STORY				2 STORY		3 STORY				
							FRONT	SIDE	ST. SIDE	REAR	SIDE	REAR	SIDE	REAR			
TCR-1	1	6,000	N/A	400 SF	30' & 2 STORY	20' a	15'	5'	10'	15'	5'	20'	N/A	N/A			
TCR-2	1	6,000	12 DU/AC	400 SF/DU ATTACHED	30' & 2 STORY	20' a	15'	5'	10'	15'	5'	20'	N/A	N/A			
	2	11,000					FOR 1 DU/LOT										
	3	15,000					15'	5'	10'	15'	10'	20'	N/A	N/A			
	4 OR MORE	18,000					15'	15'	10'	15'	15'	20'	N/A	N/A			
							FOR 2 DU/LOT										
							15'	15'	10'	15'	15'	20'	N/A	N/A			
							FOR 3 DU OR MORE/LOT										
TCR-3	1	6,000	40 DU/AC	200 SF/DU ATTACHED OR 60 SF/DU ATTACHED + 140 SF GROUPED; OR 0 SF ATTACHED + 300 SF/DU GROUPED	40' & 3 STORY	20' a	10' b	10'	10'	10'	15'	20'	20'	20'			
	2	7,000															
	3	11,000															
	4	15,000															
	5 OR MORE	18,000															

a. Minimum distance from street right-of-way line to nearest part of parking space, carport, or garage.  
b. Fifteen feet (15') required for first forty feet (40') of lot width frontage when adjacent to the TCR-1 or TCR-2 district.

- 2. In the TCR-1 and TCR-2 districts, each dwelling unit shall have a minimum of four hundred (400) square feet of individual private outdoor space provided adjacent to the dwelling unit (see Section 8 of this Chapter, Figure 3).
- 3. In the TCR-3 district, each dwelling unit shall have a minimum of two hundred (200) square feet of open space provided by one (1) of the following options:
  - (a) Private open space or patio area attached to the individual unit.
  - (b) A private balcony or deck of at least sixty (60) square feet in area adjacent to the individual dwelling unit and the remainder of the open space provided in a usable common open space on the basis of one hundred forty (140) square feet or the remainder of the two hundred (200)

square feet per dwelling unit (see Section 8 of this Chapter, Figure 4).

(c) Where no individual private open space is provided adjacent to a dwelling unit, three hundred (300) square feet per dwelling unit shall be required to be provided in a usable common open space.

(d) The common open space areas as specified above shall not include the required front and side yard setbacks.

4. For a residential structure in the TCR-3 district that is adjacent to the TCR-1 district or the TCR-2 district, the following shall apply:

(a) The required front yard setback shall be the same as that in the TCR-1 and TCR-2 districts, i.e., fifteen feet (15') from the street right-of-way. This fifteen-foot (15') front yard setback shall be required for the first forty feet (40') of lot street frontage adjacent to the TCR-1 or TCR-2 district (see Section 8 of this Chapter, Figure 5).

(b) The required roof profile of the individual structure in the TCR-3 district shall be compatible with the roof profiles in the adjacent TCR-1 or TCR-2 districts.

5. In the TCR-1, TCR-2, and TCR-3 districts, the minimum distance from the street right-of-way line to the nearest part of a parking space, carport, or garage shall be twenty feet (20').

(K) Signs. Refer to the Mesa Sign Ordinance.

**11-8-4: TOWN CENTER BUSINESS-1 DISTRICT, TCB-1:**

(A) Purpose and Intent. The purpose of the TCB-1 district is to provide for general retailing, services, and medium-density residential uses. It is the intent of this district to allow multiple residences, professional offices, and commercial uses as a major component of the Town Center area and to provide additional employment and residential opportunities.

(B) Permitted Uses in the TCB-1 District:

Commercial and residential uses, provided that all activities are conducted entirely within enclosed buildings with no outside storage or display, except as specified in this Chapter:

1. Retail stores and group commercial developments with incidental storage or assembly, when clearly ancillary and subordinate to the primary use.

2. Personal and household services such as clothing alteration, shoe repair shops, beauty salons, barber and hair styling shops, self-service laundries, dry cleaning shops, furniture and appliance repair, and copying shops.

3. Restaurants, restaurants with a cocktail lounge or bar as accessory use only, excluding drive-through or drive-in facilities, and outdoor seating areas, except as specified in this Chapter.

4. General entertainment establishments such as motion picture theaters, bowling centers, and public athletic facilities.

5. Offices.

6. Medical offices and clinics, including physical therapy, massage, and chiropractic treatment.
7. Banks and financial institutions, excluding drive-through window or remote teller facilities, except as specified in this Chapter.
8. Day care centers with accessory outdoor play areas and day care group homes.
9. General education and vocational schools, excluding industrial trade schools such as welding, metal fabrication, and similar industrial arts.
10. Motels, hotels, and resorts.
11. Studios for the practice of fine arts.
12. Residential uses as allowed in the TCR-3 district, with the building setbacks as specified in the TCB-1 district.
13. Small animal hospitals and clinics confined to completely enclosed, sound-attenuated buildings.
14. Nursing and convalescent homes and hospices.
15. Fraternal organizations, service and social clubs, lodges, and fraternities and sororities.
16. Churches. Refer to Section 11-13-2(L) of this Ordinance.
17. Wedding and reception centers. Refer to Section 11-8-4(D) regarding outdoor activities.
18. Uses similar to those listed above as determined by the Zoning Administrator.

(C) Uses Subject to Council Use Permit in the TCB-1 District.

1. The following uses are subject to the granting of a Council Use Permit in accordance with the procedures set forth in the Administration and Procedures chapter of this Ordinance, provided the use is found to be compatible with surrounding uses and Town Center redevelopment objectives and design standards:
  - (a) Automobile service stations.
  - (b) Car washes.
  - (c) Drive-in restaurants.
  - (d) Banks with remote teller facilities.
  - (e) Drive-through window facilities in conjunction with any permitted use.
  - (f) Schools, as defined in Section 11-1-6 of this Ordinance.
2. The following social service facilities are subject to the granting of a Council Use Permit, and in addition to the findings set forth in (1) above, such uses shall also provide, where applicable: adequate and accessible sanitary facilities, including lavatories, rest rooms and refuse

containers; sufficient patron seating facilities for dining, whether indoor or outdoor; effective screening devices such as landscaping and masonry fences in conjunction with outdoor activity areas; a plan of operation, including but not limited to, patron access requirements, hours of operation, security measures, litter control, and noise attenuation; evidence of compliance with all Building and Fire Safety regulations; and any other measures determined by the City Council to be necessary and appropriate to ensure compatibility of the proposed use or uses with the surrounding area as specified in the Social Service Facilities Guidelines.

(a) Plasma centers.

(b) Charity dining services.

(c) Homeless shelters.

(d) Day labor hiring centers.

(e) Substance abuse detoxification and treatment centers.

(f) Rescue missions.

(g) Uses similar to those listed above.

3. The following uses are subject to the granting of a Council Use Permit in the TCB-1 district in accordance with the Administration and Procedures chapter of this Ordinance, provided the use is found to be compatible with surrounding uses, the General Plan, and other recognized development plans or policies, as demonstrated by: compliance with all applicable building and fire safety regulations; compliance with the requirements set forth in Title 2, Chapter 7 of the Mesa City Code pertaining to the issuance of a pawn broker license; evidence of license, certification, or permit from the appropriate state or county agency if required by such state or county agency; a location of not less than one thousand two hundred feet (1,200')\* from the proposed pawn shop to an existing pawn shop or school, or from a proposed tattoo parlor or body piercing salon to an existing tattoo parlor or body piercing salon or school; and documentation demonstrating that the building or site proposed for the use is in, or will be brought into, substantial conformance with all current City development requirements, including, but not limited to, landscaping, parking, screen walls, signage, and design guidelines.

(a) Pawn shops.

(b) Tattoo parlors and body piercing salons.

All requests for Council Use Permits shall be reviewed by the ~~Downtown Development Committee~~ **PLANNING AND ZONING BOARD**, whose recommendations shall be forwarded to the City Council for final action. Failure to comply with any provision designated as a condition of approval shall be grounds for revocation of the Council Use Permit pursuant to the Administration and Procedures chapter of this Ordinance. All social service facilities shall be licensed in accordance with the provisions of Title 5, Chapter 2 of the Mesa City Code.

(D) Uses Subject to Special Use Permit in the TCB-1 District in Accordance with the Administration

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\* Exceptions to the 1,200' separation requirement may be made by the City Council upon a finding that there are significant intervening physical features, such as arterial street, canals, parks, or similar buffering features or developments, between a proposed pawn shop and an existing pawn shop or school, or between a proposed tattoo parlor or body piercing salon and an existing tattoo parlor or body piercing salon or school. ( , adopted January 20, 1998, 3864)

and Procedures Chapter of this Ordinance:

1. General auto repair, upholstery, and drive-through lubrication shops, excluding painting and body repair.
2. Restaurants with outdoor seating areas.
3. Outdoor activities or entertainment accessory to a restaurant or wedding or reception center.

(E) Prohibited Uses in the TCB-1 District:

1. Manufacturing, wholesaling, and warehousing as primary uses.
2. Large appliance and major vehicle repair, such as dismantling and overhauling.
3. Automobile wrecking yards, junkyards, and outdoor storage.
4. Vehicle sales, rental, and storage facilities and similar open-land uses.
5. Automobile painting and body repair shops.
6. Mortuaries.
7. Supervised living facilities.
8. Uses similar to those listed above.

(F) Landscaping and Screening Regulations.

1. Landscape materials and quantities shall be installed and maintained in compliance with Chapter 15 (Commercial Districts) of this Ordinance unless specified by a landscape design plan or specific redevelopment plan adopted by the City Council. The following landscape requirements shall also apply:
  - (a) The required front yard setback and street right-of-way area shall have low-water-usage vegetative ground cover; no more than twenty percent (20%) may be covered with inorganic materials. Street rights-of-way shall be landscaped in accordance with any landscape design plan or specific redevelopment plan adopted by the City Council.
  - (b) The required quantity of trees, shrubs, and vegetation specified in Chapter 15 of this Ordinance shall be located in the required front yard setback and street right-of-way area. Front yards shall be as noted in the chart of this Section. Where conflict occurs between these two (2) Sections, the setbacks listed for Town Center districts shall prevail.
  - (c) Landscaping also shall be installed and maintained free from encroachment in side and rear yards as specified in Chapter 15 of this Ordinance.
2. A six-foot (6') masonry wall with mortar wash finish, stucco, or other finish designed to match the main building on the site shall be installed along all interior property lines adjacent to Residence districts or uses with the first phase of commercial development. Compliance with the Design Guidelines, Chapter 14 of this Ordinance, is required (see Section 8 of this Chapter, Figure 6).

3. All refuse and mechanical equipment areas shall be screened on at least three (3) sides by six-foot (6') masonry walls located at least ten feet (10') away from adjacent residential property lines and shall not be located within required street-yard setbacks (see Section 8 of this Chapter, Figure 6).
- (G) Parking Requirements. Off-street parking shall be installed in compliance with Section 11-8-7, Town Center Off-Street Parking and Loading Regulations, and Chapter 16 of this Ordinance.
- (H) Building and Yard Requirements. Refer to the "Building and Yard Requirements for Town Center Business-1 and Business-2 Districts" in Section 11-8-5(l) of this Ordinance for requirements regarding minimum open space, maximum building height, and minimum yard setbacks.
- (I) Sign Regulations. Refer to the Mesa Sign Ordinance.

**11-8-5: TOWN CENTER BUSINESS-2 DISTRICT, TCB-2:**

- (A) Purpose and Intent. The purpose of this district is to provide for a combination of intensive commercial, light manufacturing, and related uses. The intent of the district is to provide a suitable location for those commercial and manufacturing uses which may require an arterial street or railway access.

(B) Permitted Uses in the TCB-2 District:

Commercial and industrial uses, provided that all activities are conducted entirely within an enclosed building with no outside storage or display, except as provided in this Chapter:

1. General entertainment establishments such as motion picture theatres, bowling centers, and public athletic facilities.
2. Retail or wholesale stores and group commercial, office, and industrial developments with assembly and warehousing of merchandise.
3. Personal and household services such as clothing alteration, shoe repair shops, beauty salons, barber and hair styling shops, self-service laundries, dry cleaning shops, furniture and appliance repair, and copying shops.
4. Commercial recreational uses such as pool and dance halls, bars, cocktail lounges, and similar uses.
5. Offices.
6. Medical offices and clinics, including physical therapy, massage, and chiropractic treatment.
7. Banks and financial institutions, excluding drive-through and remote teller facilities, except as specified in this Chapter.
8. Restaurants without drive-in or drive-through facilities and outdoor seating areas, except as specified in this Chapter.
9. Fabrication and light assembly, such as sheet metal, sign, and cabinet shops.
10. Studios for the practice of fine arts.

11. Day care centers with accessory outdoor play areas.
12. Vocational schools.
13. Hospitals with accessory group medical centers, nursing and convalescent homes, and hospices.
14. Mortuaries.
15. Delivery/express facilities.
16. Public transit terminals and facilities.
17. Newspaper and commercial printing facilities.
18. Small animal hospitals and clinics, with accessory kennel facilities.
19. Warehousing, manufacturing, packaging, storage, distributing, bottling, or processing uses, except those prohibited in this Chapter.
20. Fraternal organizations, service and social clubs, lodges, and fraternities and sororities.
21. Churches. Refer to Section 11-13-2(L) of this Ordinance.
22. Wedding and reception centers.
23. Uses similar to those listed above, as determined by the Zoning Administrator.

(C) Uses Subject to Council Use Permit in the TCB-2 District.

1. The following social service facilities are subject to the granting of a Council Use Permit in accordance with the Administration and Procedures chapter of this Ordinance, **ORDINANCE** provided the use is found to be compatible with surrounding uses and Town Center redevelopment objectives and design standards:

In addition, such uses shall also provide, where applicable: adequate and accessible sanitary facilities, including lavatories, rest rooms and refuse containers; sufficient patron seating facilities for dining, whether indoor or outdoor; effective screening devices such as landscaping and masonry fences in conjunction with outdoor activity areas; a plan of operation, including but not limited to, patron access requirements, hours of operation, security measures, litter control, and noise attenuation; evidence of compliance with all Building and Fire Safety regulations; and any other measures determined by the City Council to be necessary and appropriate to ensure compatibility of the proposed use or uses with the surrounding area as specified in the Social Service Facilities Guidelines.

- (a) Plasma centers.
- (b) Charity dining services.
- (c) Homeless shelters.
- (d) Day labor hiring centers.

(e) Substance abuse detoxification and treatment centers.

(f) Rescue missions.

(g) Social service uses similar to those listed above.

2. The following uses are subject to the granting of a Council Use Permit in the TCB-2 district in accordance with the Administration and Procedures chapter of this Ordinance, provided the use is found to be compatible with surrounding uses, the General Plan, and other recognized development plans or policies, as demonstrated by: compliance with all applicable building and fire safety regulations; compliance with the requirements set forth in Title 2, Chapter 7 of the Mesa City Code pertaining to the issuance of a pawn broker license; evidence of license, certification, or permit from the appropriate state or county agency if required by such state or county agency; a location of not less than one thousand two hundred feet (1,200')\* from the proposed pawn shop to an existing pawn shop or school, or from a proposed tattoo parlor or body piercing salon to an existing tattoo parlor or body piercing salon or school; and documentation demonstrating that the building or site proposed for the use is in, or will be brought into, substantial conformance with all current City development requirements, including, but not limited to, landscaping, parking, screen walls, signage, and design guidelines.

(a) Pawn shops.

(b) Tattoo parlors and body piercing salons.

3. Uses subject to a Council Use Permit in the TCB-2 district:

The following use is subject to the granting of a Council Use Permit in accordance with the procedures set forth in the Administration and Procedures chapter of this Ordinance, provided the use is found to be compatible with surrounding uses and Town Center redevelopment standards and design standards:

Schools, as defined in Section 11-1-6 of this Ordinance.

All requests for Council Use Permits shall be reviewed by the ~~Downtown Development Committee~~ **PLANNING AND ZONING BOARD**, whose recommendations shall be forwarded to the City Council for final action. Failure to comply with any provision designated as a condition of approval shall be grounds for revocation of the Council Use Permit pursuant to the Administration and Procedures chapter of this Ordinance. All social service facilities shall be licensed in accordance with Title 5, Chapter 2 of the Mesa City Code.

- (D) Uses Subject to Special Use Permit in the TCB-2 District.

The following uses are subject to the granting of a Special Use Permit as specified in accordance with the Administration and Procedures chapter of this Ordinance, provided the use is found to be compatible with surrounding uses and Town Center Redevelopment objectives and design standards:

1. Heavy equipment rental, sale, and repair.

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\* Exceptions to the 1,200' separation requirement may be made by the City Council upon a finding that there are significant intervening physical features, such as arterial street, canals, parks, or similar buffering features or developments, between a proposed pawn shop and an existing pawn shop or school, or between a proposed tattoo parlor or body piercing salon and an existing tattoo parlor or body piercing salon or school. ( , adopted January 20, 1998, 3864)

2. Vehicle sales and rentals.
3. Commercial auto parking lots and garages as a primary use.
4. Outside plant nurseries.
5. Outside amusement enterprises such as archery, golf driving ranges, miniature golf, outdoor theatres, and similar uses.
6. Construction yards.
7. Outdoor storage or display in conjunction with a permitted use.
8. General auto repair, car washes, drive-through lubrication shops, automobile service stations, and painting and body repair shops.
9. Drive-in restaurants and restaurants with outdoor seating areas.
10. Crematories accessory to a mortuary or small animal clinic.
11. A dwelling unit in conjunction with a primary use intended for occupancy by the proprietor, caretaker, or night watchman of the primary use. Refer to Uniform Building Code for occupancy separation regulations.
12. Outdoor activities or entertainment accessory to a restaurant, commercial recreation/entertainment establishments, or a wedding or reception center.
13. Drive-through window and remote teller facilities in conjunction with any permitted use.
14. Industrial trade schools such as welding or metal fabrication or similar industrial arts.

(E) Prohibited Uses in the TCB-2 District:

1. All residential uses, except as specified in this Section.
2. Hotels, motels, and resorts.
3. Cultural and civic halls and galleries, auditoriums, and arenas.
4. Automobile wrecking yards and junkyards.
5. The manufacturing, disposal, distribution, warehousing, or transfer of hazardous materials as a primary use or principal business activity, but not including the sales or on-site application service of businesses customarily permitted in the Commercial districts.
6. The manufacture of structural components, including but not limited to, boilers, steel tanks, structural steel, or other similar products.
7. Tanneries, oil refineries, and cement plants.
8. Industrial smelting, refining, casting, and extrusion.

9. Incineration, reduction, or disposal of garbage, sewage, or other organic matter.
10. Stockyards, meat and poultry packing plants, and slaughterhouses.
11. Recycling centers with on-site processing.
12. Uses similar to those listed above as determined by the Zoning Administrator.

(F) Landscaping and Screening Regulations.

1. Landscape materials and quantities shall be installed and maintained in compliance with Chapter 15 (Commercial Districts) of this Ordinance unless specified by a landscape design plan or specific redevelopment plan adopted by the City Council. The following landscape regulations shall also apply:

(a) The required front yard setback and street right-of-way area shall have low-water-usage vegetative ground cover; no more than twenty percent (20%) may be covered with inorganic materials. Street rights-of-way shall be landscaped in accordance with any landscape design plan or specific redevelopment plan adopted by the City Council.

(b) The required quantity of trees, shrubs, and vegetation specified in Chapter 15 of this Ordinance shall be located in the required front yard setback and street right-of-way area. Front yards shall be as noted in this Chapter. Where conflict occurs between these two (2) Sections, the setbacks listed for Town Center districts shall prevail.

(c) Landscaping also shall be installed and maintained free from encroachment in side and rear yards as specified in Chapter 15 of this Ordinance.

2. A six-foot (6') masonry wall with stucco or other finish designed to match the main building on the site shall be installed along all interior property lines adjacent to Residence districts or uses with the first phase of development. Compliance with Design Guidelines, Chapter 14 of this Ordinance, is required (see Section 8 of this Chapter, Figure 6).
3. All refuse and mechanical equipment areas and outside storage areas shall be screened on at least three (3) sides by six-foot (6') masonry walls located at least ten feet (10') away from adjacent residential property lines and shall not be located within required street-yard setbacks (see Section 8 of this Chapter, Figure 6).

(G) Parking Regulations. Off-street parking shall be installed in compliance with Section 11-8-7, Town Center Off-Street Parking and Loading Regulations, and Chapter 16 of this Ordinance.

(H) Building and Yard Regulations. The chart on the following page specifies development criteria for the TCB-1 and TCB-2 districts.

(I) Sign Regulations. Refer to the Mesa Sign Ordinance.

11-8-5(H) BUILDING AND YARD REGULATIONS TOWN CENTER BUSINESS-1 AND TOWN CENTER BUSINESS-2											
DIST.	MIN. RESIDENTIAL OPEN SPACE	MAX. BLDG. HEIGHT	MINIMUM YARD SETBACKS								
			RESIDENTIAL				NONRESIDENTIAL				
			FRT.	SIDE	ST. SIDE	REAR	FRT.	SIDE	ST. SIDE	REAR	
TCB-1	200 SF/DU ATTACHED OR 60 SF/DU ATTACHED + 140 SF GROUPED; OR 0 SF ATTACHED + 300 SF/DU GROUPED	4 STORY & 50'	15'	10'	15'	20'	15'	10'a	15'	10'a	
			ON ARTERIAL STREETS				WHEN ADJACENT TO RES. DISTS.				
			10'	10'	10'	20'	15'b	0	15'b	0	
			ON OTHER STREETS				WHEN NOT ADJACENT TO RES. DISTS.				
TCB-2	N/A	2 STORY & 40'	NOT APPLICABLE				15'	10'a	15'	10'a	
							WHEN ADJACENT TO RES. DISTS.				
							15'b	0	15'b	0	
				WHEN NOT ADJACENT TO RES. DISTS.							

a. Multi-storied structures with windows on sides adjacent to Residence districts or uses or other features which may impact residential uses shall have greater setbacks than those specified, as determined by the MegaCorp Director. (3100)

b. Yards may be reduced to ten feet (10') when located on an arterial street. (3100)

**11-8-6: TOWN CENTER CORE DISTRICT, TCC:**

(A) Purpose and Intent. The purpose of this district is to encourage the highest intensity of land uses to be developed, redeveloped, and continued within the Town Center. It is also the purpose of this district to provide incentives for the development or redevelopment of underutilized and bypassed properties within Town Center and to promote the development of a vital, vibrant activity area.

The intent of this Section is to insure that higher-intensity land uses are appropriate for the fulfillment of the purpose of the Town Center Core district as a primary focal point. At the same time, the Town Center Core district is created to serve residents, businesses, employees, and visitors and to ensure that the visual image of the centrality of the Mesa Town Center will be maintained and enhanced.

(B) Permitted Uses in the TCC District:

1. Intensive, pedestrian-oriented uses with all activities conducted within an enclosed building with no outside storage or display, except as provided in this Chapter.

(a) Commercial recreation and entertainment establishments.

(b) Cultural and civic halls and galleries, auditoriums, and arenas.

(c) General and specialty retailing with incidental assembly and storage of merchandise when clearly subordinate to the primary use.

(d) Studios for the practice of fine arts.

(e) Personal and household services such as clothing alteration, shoe repair, beauty salons,

barber and hair styling shops, self-service laundries, dry cleaning shops, furniture and small appliance repair, and copying shops.

(f) Restaurants, bars, and cocktail lounges.

(g) Banks and financial institutions, excluding drive-through window and remote teller facilities, except as specified in this Chapter.

(h) Offices.

(i) Medical offices, including physical therapy, massage, and chiropractic treatment.

(j) Hotels, motels, and resorts.

(k) Commercial parking garages.

(l) Day care centers.

(m) Vocational schools, except industrial trade schools such as welding or metal fabrication and similar industrial arts.

(n) Multiple residences of at least twenty (20) dwelling units per net acre.

(o) Fraternal organizations, service and social clubs, lodges, and fraternities and sororities.

(p) Churches. Refer to Section 11-13-2(L) of this Ordinance.

(q) Wedding or reception centers.

(r) Uses similar to those listed above as determined by the Zoning Administrator.

(C) Uses Subject to Council Use Permit in the TCC District.

1. The following uses are subject to the granting of a Council Use Permit in accordance with the Administration and Procedures chapter of this Ordinance, provided the use is found to be compatible with surrounding uses and Town Center redevelopment objectives and design standards.

(a) Freestanding developments with individual surface parking.

(b) Commercial parking lots as a primary use.

(c) Mortuaries.

(d) Newspaper and printing establishments.

(e) Car washes.

(f) Automobile service stations.

(g) Taxi dispatch and bus terminals.

- (h) General auto repair, upholstery, and drive-through lubrication shops.
  - (i) Accessory drive-through window facilities and remote teller service for otherwise permitted uses, provided such facilities are not accessed or visible from Main Street.
  - (j) Car rental facilities when ancillary to a hotel or resort.
  - (k) Vehicle sales lots.
  - (l) Schools, as defined in Section 11-1-6 of this Ordinance.
2. The following social service facilities are subject to the granting of a Council Use Permit, and in addition to the findings set forth in (1) above, such uses shall also provide, where applicable: adequate and accessible sanitary facilities, including lavatories, rest rooms and refuse containers; sufficient patron seating facilities for dining, whether indoor or outdoor; effective screening devices such as landscaping and masonry fences in conjunction with outdoor activity areas; a plan of operation, including but not limited to, patron access requirements, hours of operation, security measures, litter control, and noise attenuation; evidence of compliance with all Building and Fire Safety regulations; and any other measures determined by the City Council to be necessary and appropriate to ensure compatibility of the proposed use or uses with the surrounding area as specified in the Social Service Facilities Guidelines.
- (a) Medical clinics and counseling centers.
  - (b) Charity dining services.
  - (c) Day labor hiring centers.
  - (d) Substance abuse detoxification and treatment centers.
  - (e) Rescue missions.
  - (f) Social service uses similar to those listed above.
3. The following uses are subject to the granting of a Council Use Permit in the TCC district in accordance with the Administration and Procedures chapter of this Ordinance, provided the use is found to be compatible with surrounding uses, the General Plan, and other recognized development plans or policies, as demonstrated by: compliance with all applicable building and fire safety regulations; compliance with the requirements set forth in Title 2, Chapter 7 of the Mesa City Code pertaining to the issuance of a pawn broker license; evidence of license, certification, or permit from the appropriate state or county agency if required by such state or county agency; a location of not less than one thousand two hundred feet (1,200')\* from the proposed pawn shop to an existing pawn shop or school, or from a proposed tattoo parlor or body piercing salon to an existing tattoo parlor or body piercing salon or school; and documentation demonstrating that the building or site proposed for the use is in, or will be brought into, substantial conformance with all current City development requirements, including, but not limited to, landscaping, parking, screen walls, signage, and design guidelines.
- (a) Pawn shops.
  - (b) Tattoo parlors and body piercing salons.

All requests for Council Use Permits shall be reviewed by the ~~Downtown Development~~ **COMMITTEE PLANNING AND ZONING BOARD**, whose recommendations shall be forwarded to the City Council for final action. Failure to comply with any provision designated as a condition of approval shall be grounds for revocation of the Council Use Permit pursuant to the Administration and Procedures chapter of this Ordinance.

(D) Uses Subject to Special Use Permit in the TCC District in Accordance with the Administration and Procedures Chapter of this Ordinance:

1. Outdoor temporary and/or peddler merchandising on public and private property for special events such as holiday bazaars or grand openings or other celebrations and subject to appropriate licensing and enforcement procedures of Mesa Police, Sales Tax, and **DEVELOPMENT AND SUSTAINABILITY** ~~Zoning~~ Departments.

2. Seasonal or periodic sales activities such as farmers markets, art fairs, bazaars, and similar outdoor operations conducted on private or public property, **PROPERTY** provided such activities are found to be:

(a) Compatible with surrounding uses and Town Center redevelopment objectives and design standards; and

(b) In compliance with all Building, Fire Safety and Tax and Licensing regulations of the City of Mesa; and

(c) In compliance with any other measures determined to be necessary and appropriate to ensure compatibility of the proposed use with the surrounding area as specified in the Farmers (and Similar Open-Air) Market Operational Guidelines.

3. Restaurants with outdoor seating areas or outdoor recreation and play areas.

4. Outdoor display accessory to a permitted use.

5. A dwelling unit in conjunction with a primary use, **USE** intended for occupancy by the proprietor, caretaker, or night watchman of the primary use. Refer to the Uniform Building Code for occupancy separation regulations.

6. Outdoor activities or entertainment accessory to a restaurant, commercial recreation/entertainment establishment, wedding or reception center, or cultural facility.

(E) Prohibited Uses in the TCC District:

1. Drive-in theatres and drive-in restaurants.

2. Delivery/express and trucking dispatch terminals.

3. Heavy equipment rental, sales, and repair.

4. Hospitals with accessory group medical centers, nursing and convalescent homes, philanthropic

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\* Exceptions to the 1,200' separation requirement may be made by the City Council upon a finding that there are significant intervening physical features, such as arterial street, canals, parks, or similar buffering features or developments, between a proposed pawn shop and an existing pawn shop or school, or between a proposed tattoo parlor or body piercing salon and an existing tattoo parlor or body piercing salon or school. ( , adopted January 20, 1998, 3864)

and charitable institutions, residential and outpatient care, rehabilitation centers, and hospices.

5. Auto body and painting shops.
6. Plant nurseries.
7. Outdoor amusement enterprises such as archery, golf driving ranges, miniature golf, and other similar uses.
8. Cemeteries and mausoleums.
9. Automobile wrecking yards and junkyards.
10. Outdoor display as a primary use.
11. Manufactured home and recreational vehicle parks.
12. Detached single residences.
13. Manufacturing and assembling plants.
14. Warehousing and distribution as a primary use and mini storage facilities.
15. Uses similar to those listed above as determined by the Zoning Administrator.

(F) Landscaping and Screening Regulations.

1. Landscape materials shall be used to enhance street right-of-way and building frontages by the following:
  - (a) Street trees shall be planted in street right-of-way areas and also may be installed in on-site pedestrian walkway areas and plazas.
  - (b) Building foundation plantings shall be used in lieu of lawns and large ground cover areas.
2. All landscape designs, materials, quantities, and maintenance shall conform to Chapter 15 (Commercial Districts) of this Ordinance unless specified by a landscape design plan or specific redevelopment plan adopted by the City Council.

(G) Parking Regulations.

1. Covered multi-level parking structures are encouraged; open surface parking shall be discouraged.
2. All parking area and structure designs and off-site parking accommodations are subject to approval by the ~~Downtown Development Committee~~ **ZONING ADMINISTRATOR**.
3. Surface level parking spaces shall not exceed ten percent (10%) of the total number of spaces required for the development.

(H) Density, Area, Building, and Yard Regulations.

1. Minimum lot area and yard setbacks will vary according to the type of development, the proposed use, and the size, scope, and density of the project. The ~~MegaCorp~~**PLANNING** Director may determine that certain projects shall be reviewed by the ~~Downtown Development Committee~~**PLANNING AND ZONING BOARD**, who shall determine the specific density, area, building, and yard regulations for such projects.
  2. Maximum residential densities and building heights are subject to approval by the ~~Downtown Development Committee~~**PLANNING AND ZONING BOARD**.
- (I) Sign Regulations. Refer to the Mesa Sign Ordinance and the Town Center Design Standards for sign regulations.

**11-8-7: MESA TOWN CENTER ON-SITE PARKING AND LOADING REGULATIONS:**

- (A) On-Site Parking. Refer to Chapter 16 of this Ordinance for parking and loading requirements.
- (B) Additional Parking Regulations.
1. Required parking may be provided off site in a privately or municipally owned parking garage, commercial parking lot, or other approved facility. If such off-site parking is leased, the terms of such lease shall be the same as the terms of the lease of the property for which such spaces are provided.
  2. Parking regulations may be modified in the Town Center Core district by the ~~Downtown Development Committee~~**ZONING ADMINISTRATOR**.
  3. Required parking spaces may be shared between differing nonresidential uses when located on the same or adjacent parcels if the principal operating hours of the uses involved are significantly different, i.e., daytime versus nighttime uses. Assurances of different operating hours for each use must be provided in writing.
  4. In the TCR-1 and TCR-2 districts, parking shall be within enclosed structures when located in the front half of a lot.
  5. In the TCB-1 and TCB-2 districts, parking areas should be interconnected on site to allow vehicular access between parcels and to avoid numerous driveway cuts along street rights-of-way.
- (C) On-Site Loading.
1. All nonresidential uses shall provide space for loading and unloading of commercial vehicles on site.
  2. Off-street loading spaces shall be paved and be at least ten feet by thirty feet (10' x 30'), exclusive of access aisles and maneuvering space.

**11-8-8: LIST OF FIGURES:**

Figure 1, Town Center Area, Section 11-8-2.

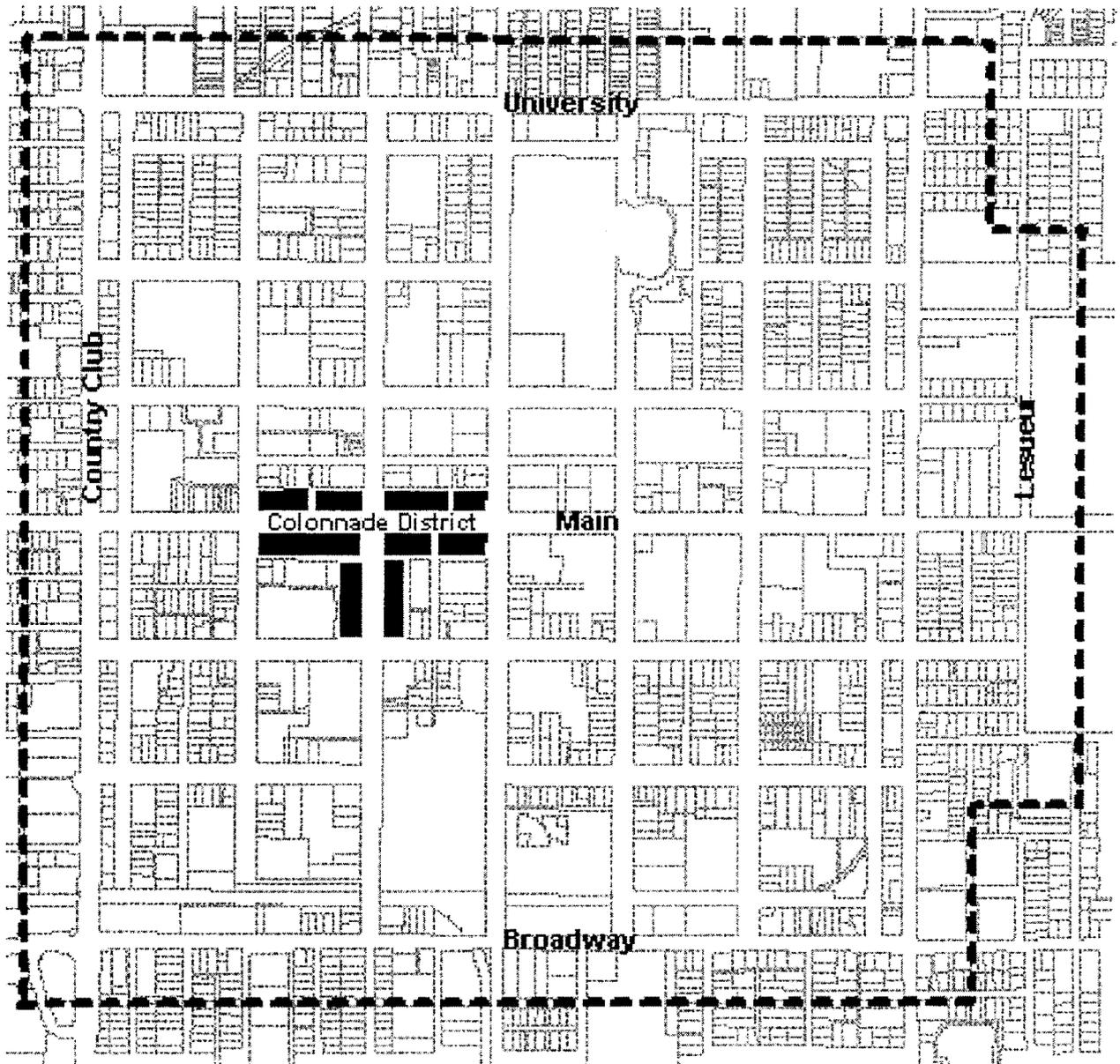


FIGURE 1

TOWN CENTER AREA

Figure 2, Privacy Walls, Section 11-8-3(F).

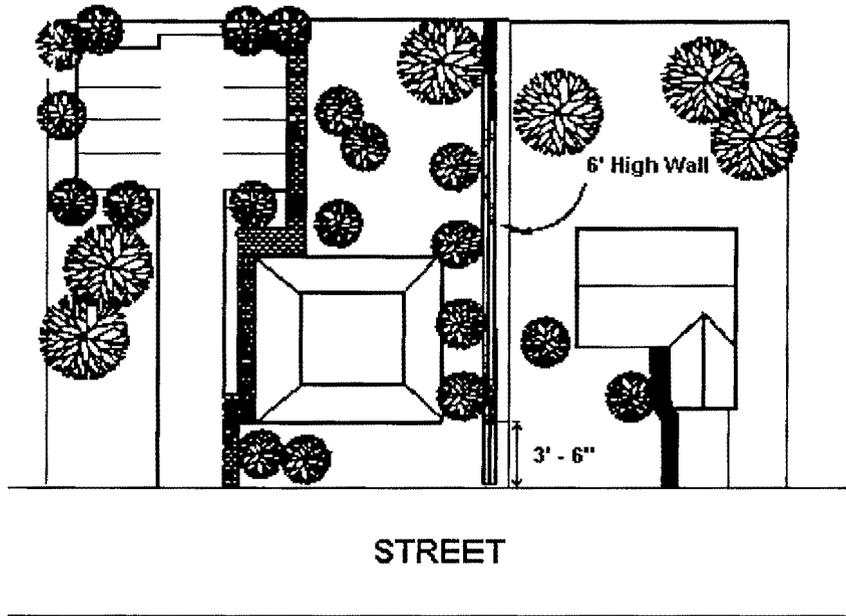


Figure 3, Private Open Space, Section 11-8-3(H).

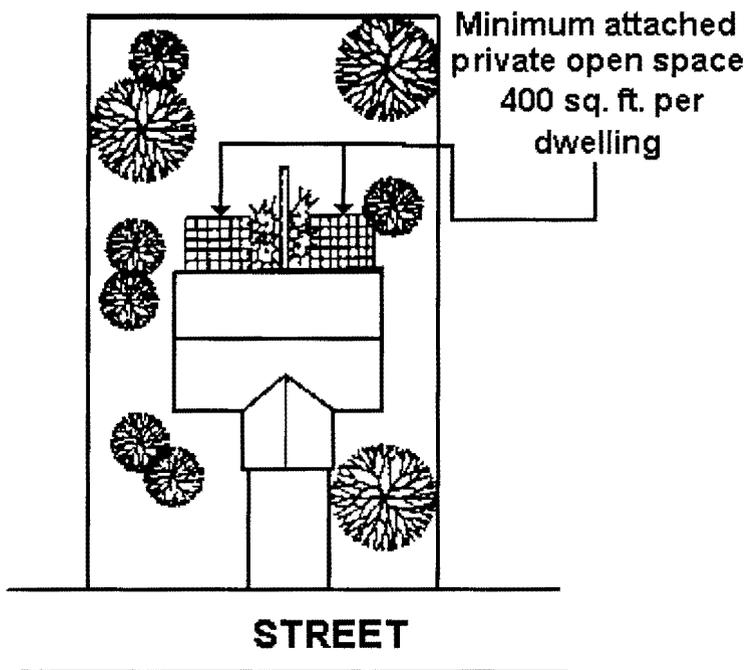


Figure 4, Print and Group Open Space, Section 11-8-3(H).

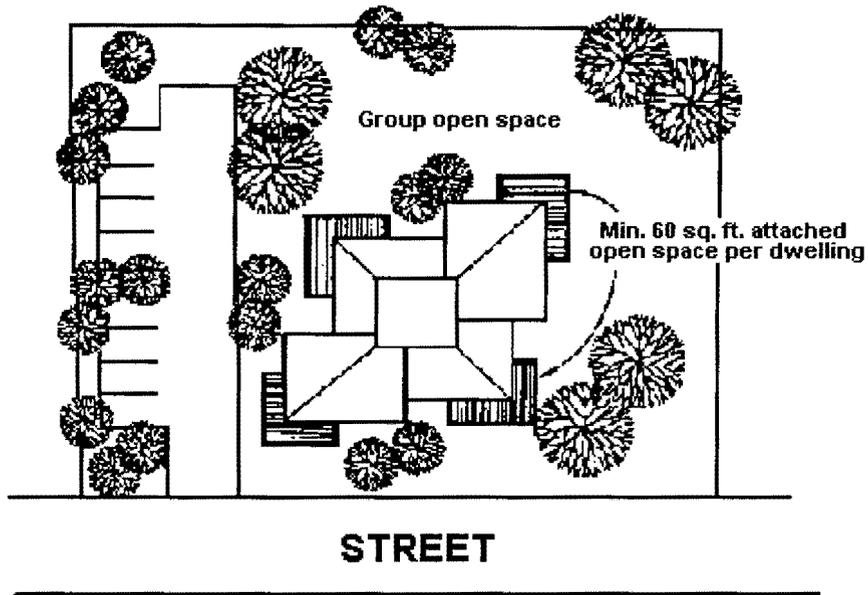


Figure 5, Front Yard Setbacks, Section 11-8-3(H).

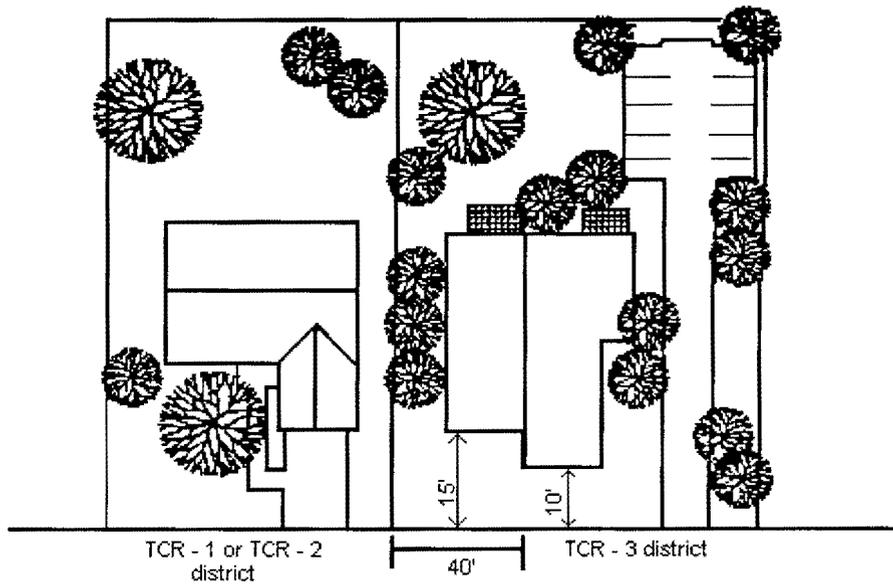
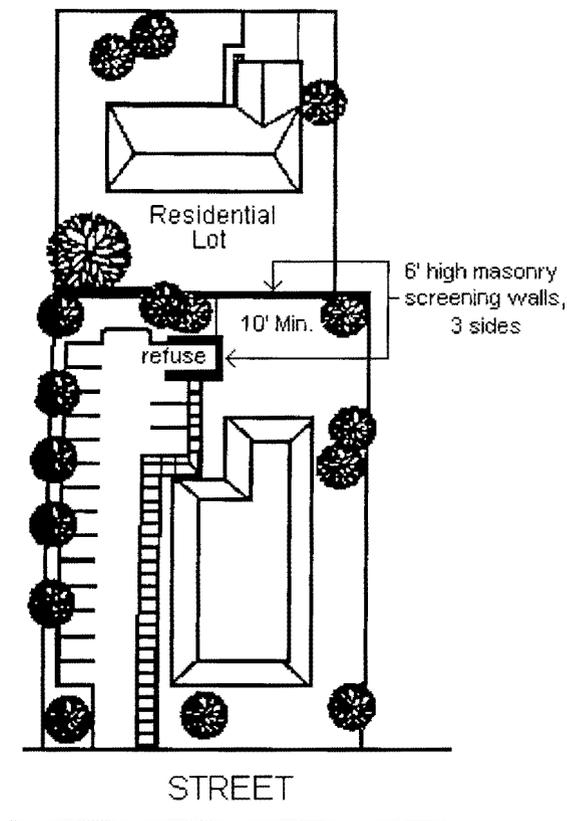


Figure 6, Screen Walls, Section 11-8-4(F).



**Section 2:** That Section 11-18-7 of the Mesa City Code is hereby amended as follows:

**11-18-7: PLANNING AND ZONING BOARD, PLANNING HEARING OFFICER, AND CITY COUNCIL: AMENDMENTS, COUNCIL USE PERMITS, SITE PLAN REVIEWS, AND SITE PLAN MODIFICATIONS:**

- (A) Establishment of the Planning and Zoning Board. The Planning and Zoning Board is established by Section 2-1-1 of the Mesa City Code.
- (B) Organization.
  - 1. The Planning and Zoning Board is composed of seven (7) members who are residents of the City and who serve without pay.
  - 2. The members of the Board are appointed by the Mayor with the approval of the Council. Such appointment is to be for a period of three (3) years, except that in the event of the death or resignation of a member, the vacancy may be filled for the unexpired term.
  - 3. The Board shall elect a chairman and vice chairman from among its members.
- (C) Meetings.

1. Meetings of the Board shall be open to the public, and the minutes of its proceedings, showing the votes of each member and records of its examinations and other official actions, shall be kept and filed in the Planning Division Office as a public record. The secretary of the Board shall be a member of the Planning Division staff.
2. At least four (4) members shall be present to conduct a meeting.
3. The concurring vote of a majority of the Boardmembers present shall be necessary to pass a motion.

(D) Authority and Duties of the Planning and Zoning Board.

1. The Planning and Zoning Board shall (except when a matter is referred by the Planning Director to the Planning Hearing Officer):
  - (a) Hear and recommend action to the City Council on requests for amendments to the General Plan, Zoning Map, Zoning Ordinance, Stipulations on Zoning Ordinances, and on requests for Council Use Permits.
  - (b) Hear and decide on requests for Site Plan Review and Site Plan Modification when all of the following conditions exist: (I) At the time of the application, such requests do not include or require Council action on any of the type of requests listed in paragraph (D)(1)(A); (II) There is no prior applicable Zoning or Site Plan Ordinance containing a stipulation requiring Council approval of a future Site Plan; and (III) The request does not seek to modify or eliminate a condition from a prior applicable Zoning or Site Plan Ordinance.
  - (c) Hear and recommend action to the City Council on all requests for Site Plan Review and Site Plan Modification that are not decided upon by the board under paragraph (D)(1)(B).
  - (d) Consider and decide Preliminary Plats as part of the platting procedures and requirements described in Chapter 9-6 of the Mesa City Code.
  - (e) Hear, make recommendations and/or decide on matters relating to a PC District, as specified in Chapter 9.1 of this Title.
  - (f) Initiate, hear, and recommend action to the City Council on amendments to the Zoning Map, Zoning Ordinance, and General Plan of the City of Mesa.

**(G) ASSUME THE AUTHORITIES AND DUTIES OTHERWISE GRANTED UNDER THIS ZONING ORDINANCE AND STATE STATUTES FOR PROJECTS PROPOSED WITHIN AND MATTERS PERTAINING TO DESIGNATED REDEVELOPMENT AREAS, EXCEPT SUCH POWERS AS MAY BE RESERVED BY THE COUNCIL EITHER BY SPECIFIC STATEMENT OR STATUTE.**

**(H) REVIEW AND MAKE RECOMMENDATIONS TO THE CITY COUNCIL REGARDING JOINT PUBLIC/PRIVATE PROJECTS IN DESIGNATED REDEVELOPMENT AREAS.**

**(I) HOLD PUBLIC HEARINGS ON PROPOSED REDEVELOPMENT PLANS OR AMENDMENTS TO ADOPTED PLANS. SUCH RECOMMENDATIONS SHALL BE ADVISORY ONLY AND SHALL NOT BE BINDING UPON THE FINAL ACTION OF THE CITY COUNCIL.**

**(J) PROPOSE REDEVELOPMENT ACTIONS TO THE COUNCIL WHICH ARE CONSISTENT WITH ADOPTED PLANS AND STATED REDEVELOPMENT GOALS.**

(gK) Hear and recommend action on other matters as directed by the City Council.

2. Requests for Council Use Permits, Development Unit Plans, Preliminary Plats, Site Plan Reviews and Site Plan Modifications, and amendments to the Zoning Map and stipulations on Zoning Ordinances may be referred by the Planning Director to a Planning Hearing Officer.

(E) Establishment of the Planning Hearing Officer. The Planning Hearing Officer is hereby established in the Mesa Planning Division. The Planning Hearing Officer shall be appointed by the City Manager on the basis of training and experience meeting the qualifications to conduct hearings, knowledge of the General Plan, and the ability to recommend ordinances to the City Council based upon findings and conclusions on the matters heard and planning principles.

(F) Authority and Duties of the Planning Hearing Officer. When a matter is referred to the Planning Hearing Officer by the Planning Director pursuant to the Planning Hearing Officer Guidelines, the Planning Hearing Officer shall:

1. Hear and recommend action to the City Council on requests for amendments to the Zoning Map and stipulations on Zoning Ordinances, and on requests for Council Use Permits.

2. Hear and decide on requests for site Plan Review and Site Plan Modification when all of the following conditions exist: (I) At the time of the application, such requests do not include or require Council action on any of the type of requests listed in paragraph (F)(1); (II) There is no prior applicable Zoning or Site Plan Ordinance containing a stipulation requiring Council approval of a future Site Plan; and (III) The request does not seek to modify or eliminate a condition from a prior applicable Zoning or Site Plan Ordinance.

3. Hear and recommend action to the City Council on requests for Site Plan review and Site Plan Modification that are not decided upon by the Planning Hearing Officer under paragraph (F)(2).

4. Consider and decide Preliminary Plats as part of the platting procedures and requirements described in Chapter 9-6 of the Mesa City Code.

5. Hear, make recommendations and/or decide on matters relating to a PC District, as specified in Chapter 9.1 of this Title and in accordance with the applicable Community Plan.

6. Hear and recommend action on other matters as directed by the City Council.

(G) Implementation

1. Occupancy or other utilization of any building, structure, or open land shall not commence and a certificate of occupancy and/or a completion of the final building inspection shall not be issued until all conditions of the Site Plan Approval have been fulfilled.

2. Failure to maintain any building, structure, or site improvement in full compliance with the conditions of approval specified by the Site Plan shall constitute a violation of this chapter.

**Section 3:** That Section 11-18-8 of the Mesa City Code is hereby amended as follows:

**11-18-8: GENERAL PROVISIONS: APPLICATIONS, PROCEDURES, FEES**

- (A) Any amendment to this Zoning Ordinance which changes any property from one zone to another, which imposes any regulation not previously imposed or approved by site plan review or site plan modification, or which removes or modifies any regulation previously imposed shall be adopted in the manner set forth in this Chapter and as specified in Chapter 9.1 for matters relating to PC Districts.
- (B) An ordinance adopting a rezoning or Council Use Permit may be conditioned upon site plan review (SPR). The purpose of SPR is to:
  - 1. Ensure that the proposed development plan will be in compliance with the provisions of this Ordinance.
  - 2. Eliminate or minimize potential land use conflicts.
  - 3. Mitigate any adverse impacts on adjacent developments or land uses that may be caused by specific proposed land uses.
- (C) SPR may specify that special conditions or proposed land uses require one (1) or more of the following:
  - 1. Additional building setbacks.
  - 2. Additional landscaping.
  - 3. Additional on-site parking on loading spaces.
  - 4. Height and area limitations of structures.
  - 5. Limited vehicular access.
  - 6. Walls, fences, and screening devices.
  - 7. Noise-attenuation construction.
  - 8. Off-site improvements in public rights-of-way adjacent to the subject property.
  - 9. Any other restriction necessary to protect and preserve adjacent properties.
- (D) Applications for Preliminary Plat approvals, rezoning amendments, Development Unit Plans, Site Plan modifications, General Plan amendments, Section 106 reviews, Site Plan Reviews, or Council Use Permits shall be made in the office of the Planning Division on a form provided and shall be accompanied by a fee as adopted by Council Resolution following recommendation of the Planning and Zoning Board:

No part of any such fee shall be refundable after an application is filed and such fee paid, except that the continuation fee may be waived at the discretion of the City Council. City Manager or designee, for good cause shown, may waive zoning fees. When more than one (1) type of action is being requested, the total fee shall be the sum of the individual fees specified above.

The Planning Director will determine applying the Simplified Site Plan Modification fee at the time of application. The decision will be based on guidelines for Simplified Site Plan Modification as approved by the City Council.

- (E) Before any such amendments, Development Unit Plans, Site Plan Modifications, Site Plan Reviews or Council Use Permits shall be considered by the Council, the Planning Director, using guidelines adopted by the City Council, shall refer the request or amendment to the Planning Hearing Officer or to the Planning and Zoning Board, who shall hold a public hearing and forward a recommendation to the City Council. After such hearing, the Council may adopt the recommendation of the Planning Hearing Officer or Planning and Zoning Board without holding a second public hearing provided there is no objection, request for public hearing, or other protest.
- (F) Before a Development Unit Plan, Site Plan Review or Site Plan Modification is decided upon by the Planning and Zoning Board or Planning Hearing Officer, the Board or Planning Hearing Officer shall hold a public hearing. Decisions of the Planning and Zoning Board and Planning Hearing Officer on Site Plan Reviews and Site Plan Modifications may be appealed to the City Council by the City Manager, applicant, or any resident of or property owner in the City. Decisions of the Planning and Zoning Board and Planning Hearing Officer on Development Unit Plans may be appealed according to Section 11-9.1-9. All appeals shall be in writing and shall be submitted to the Planning Division Office within fifteen (15) business days of the decision. The filing of an appeal stays the issuance of any permits or development approvals based on the decision that is the subject of the appeal. The City Council shall rehear the case on appeal. City Council may affirm, reverse, or modify the decision and may establish such conditions as are appropriate.
- (G) When an application is determined by the Planning Director as appropriate to be heard by the Planning Hearing Officer pursuant to the Planning Hearing Officer guidelines, the applicant may elect to have the matter placed before the Planning Hearing Officer by submitting the additional fee as specified in Section 11-18-8.
- (H) Notice of the public hearing shall be given for any such amendments, site plan modifications, site plan reviews, or Council Use Permits by publishing a notice of the time and place and purpose of the meeting at least one (1) time in the local newspaper of general circulation not less than fifteen (15) days prior to the hearing and by posting the property in question at least five (5) days in advance of said hearing. It shall not be the responsibility of the City to maintain the posting once erected.
- (I) In proceedings that are not initiated by the property owner involving rezoning of land which may change the zoning classification, notice by first class mail shall be sent to each real property owner as shown on the last assessment of the property of the area to be rezoned and all property owners within three hundred feet (300') of said property.
- (J) In proceedings involving one (1) or more of the following proposed text amendments of the Zoning Ordinance, notice shall be provided in the manner described in this Subsection.
  - 1. A ten percent (10%) or more increase or decrease:
    - (a) In the number of square feet or units that may be developed;
    - (b) In the allowable height of buildings; or
    - (c) In the setback or open space requirements.

2. An increase or reduction in the allowable number of stories of buildings.
  3. An increase or reduction in permitted uses.
- (K) In proceedings governed by Subsection 11-18-8(l), notice to real property owners shall be provided by at least one (1) of the following notification procedures:
1. Notice shall be sent by first class mail to each real property owner as shown on the last assessment whose real property is directly governed by the changes;
  2. Notice shall be sent with utility bills or other mass mailings by the City of Mesa;
  3. Notice shall be provided by a display ad covering not less than one-eighth (1/8) of a full page in a newspaper of general circulation in the City prior to the first hearing on such changes.
  4. If notice is provided by paragraphs 2 or 3 above, the City shall also send notice by first class mail to persons who register their names and addresses with the City as being interested in receiving such notice. The City may charge a fee not to exceed five dollars (\$5.00) per year for providing this service.
- (L) The Planning and Zoning Board may, on its own initiative, recommend to the City Council any rezoning amendment or Zoning Ordinance text amendment in accordance with the public hearing and notification requirements contained in this Chapter.
- (M) For a proposed Rezoning Amendment, Council Use Permit, Development Unit Plan, Site Plan Review or Site Plan Modification, or amendments to such proposals, the owners of twenty percent (20%) or more of the area of lots included in such proposal or of those immediately adjacent in the rear or any side thereof extending one hundred fifty feet (150') therefrom or of those directly opposite thereto extending one hundred fifty feet (150') from the street frontage of the opposite lots, may file a protest in writing against such a proposal that is to be decided on or is appealed to the City Council. Such written protests shall be filed in the office of the Planning Director by no later than twelve (12:00) noon the Monday of the week prior to the City Council meeting at which the proposal will be considered. If such a protest is filed, the proposal shall not become effective except by favorable vote of three-fourths (3/4) of all members of the Governing Body. If any members of the Governing Body are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three-fourths (3/4) of the remaining membership of the governing body, provided that such required number of votes shall in no event be less than a majority of the full membership of the legally established governing body.
- (N) The Council shall hold a public hearing if requested by the party aggrieved or any member of the public and may do so on its own motion. Notice of the time and place of the hearing before the Council shall be given in the time and manner provided for the giving of notice of the hearing by the Planning and Zoning Board as specified in paragraph H hereof, except posting of the property shall not be required.
- (O) Prior to taking final action on any matter that has been forwarded with a recommendation from the Planning and Zoning Board, ~~Downtown Development Committee,~~ or Planning Hearing Officer, the Council may elect to refer the matter back to the Planning and Zoning Board, ~~Downtown Development Committee,~~ or Planning Hearing Officer for additional review, study, and public comment.

- (P) A decision made by the Council involving rezoning of land which changes the zoning classification of such land may not be enacted as an emergency measure, and such a change shall not be effective for at least thirty (30) days after final approval of the change in classification by the Council.
- (Q) Notwithstanding the notice requirements of this Section, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the actions of the City of Mesa for which the notice was given.
- (R) After approval of a Site Plan by the City Council, Planning and Zoning Board, or Planning Hearing Officer, modifications to the Site Plan may be approved by the Planning Director when it is determined that the modifications are minor, such as minor dimensional changes and building configurations. The fee may be waived by the Planning Director if good cause is shown.
- (S) Any modification to a Site Plan approved by the City Council, Planning and Zoning Board, or Planning Hearing Officer, that is considered a major modification by the Planning Director, such as changes in uses, densities, or other major changes, shall follow the procedure described in this Section for the original site plan review.
- (T) Application for amendment of the Mesa General Plan shall be made in the office of the Planning Division on an application form provided therefore. The application shall be accompanied by a fee as specified in Subsection 11-18-8. All General Plan amendments shall be subject to two (2) public hearings by the Planning and Zoning Board and to one (1) public hearing by the City Council prior to adoption.
- (U) When a Council Use Permit is required for any structure, facility, or use specified in this Ordinance:
  1. Any existing structure, facility, or use shall not be modified, altered, enlarged, or expanded unless a Council Use Permit has been approved in accordance with the procedures set forth in this Chapter. The issuance of a Council Use Permit shall require that the existing development site be brought into substantial conformance with the terms of the Mesa City Code, including but not limited to: signs, landscaping, screening, parking, and storm water retention.
  2. The City Council may prescribe in connection with any Council Use Permit such conditions as deemed necessary or appropriate in order to fully carry out the provisions and intent of this Ordinance.
  3. A Council Use Permit granted pursuant to this Chapter may be suspended, revoked, or modified upon a finding at a public hearing as specified in this Chapter that any condition, stipulation, or term of the approval of said Council Use Permit has been violated.

**Section 4:** That Section 11-18-9 of the Mesa City Code is hereby amended as follows:

**11-18-9: DESIGN REVIEW BOARD:**

- (A) Establishment. The Design Review Board is established by Section 2-9-1 of the Mesa City Code.
- (B) Organization.
  1. The Design Review Board is composed of seven (7) members who are residents of the City and

who serve without pay.

2. The members of the Board are appointed by the Mayor with the approval of the Council. Such appointment is to be for a period of three (3) years, except that in the event of the death or resignation of a member, the vacancy may be filled for the unexpired term.
3. The composition of the Board shall include two (2) architects, two (2) from other design professions (i.e., landscaping architecture, engineering, urban planning, interior design, or other design-related background), one (1) contractor or developer, and two (2) citizens.

(C) Meetings.

1. The Board shall meet on an as-needed basis.
2. Meetings of the Board shall be open to the public, and the minutes of its proceedings, showing the votes of each member and records of its examinations and other official actions, shall be kept and filed in the Planning Division Office as a public record. The secretary of the Board shall be a member of the Planning Division staff.
3. At least four (4) members shall be present to conduct a meeting.
4. The concurring vote of a majority of the Boardmembers present shall be necessary to pass a motion.

(D) Authority and Duties of the Design Review Board. The Design Review Board shall:

1. Hear and decide appeals to use alternative materials or methods to satisfy Mesa's design-related development requirements and ensure that the proposed alternatives are at least equivalent to the City's development requirements or as previously approved by the City Council.
2. Recommend proposed changes in design and development standards to the City Council.
3. **REVIEW, DEVELOP AND RECOMMEND DESIGN AND DEVELOPMENT STANDARDS THAT RELATE TO AND REINFORCE THE ARCHITECTURAL QUALITIES, LANDSCAPE PATTERNS AND DESIGN CHARACTER OF DESIGNATED SUB-AREAS OF THE CITY.**
34. Review and make recommendations to the City Council regarding the staff implementation of design-related standards.
45. Hear and decide appeals from staff decisions applying the provisions of the Design Guidelines as specified in Chapter 14 of this Ordinance.
56. Review and decide all requests for exterior illumination used as a means to outline a building or portion thereof for purposes of architectural embellishment as specified in Chapter 13 of this Ordinance.
67. Review and decide requests for exceptions to height limits as specified in Chapter 13 of this Ordinance.
78. Review and **ADVISE THE PLANNING DIRECTOR REGARDING** decide development proposals involving the following:

- (a) Buildings four (4) or more stories in height.
- (b) Multiple-residence projects in the R-3 and R-4 density ranges.
- (c) Commercial and industrial projects that have frontage on an arterial street or that are part of an existing or planned development that has frontage on an arterial street.
- (d) Modifications to existing commercial or industrial projects having frontage on an arterial street or that are part of an existing or planned development having frontage on an arterial street that involve:
  - i. A change in the distinguishing traits or primary features of the use of a building or land as evidenced by increased parking requirements, change in occupancy designation, change in outside storage, or other features.
  - ii. The predominant primary architectural features or materials of existing buildings, such as changes to horizontal or vertical elements of exterior walls, building trim, roof shape or composition, detailing, building height or roof line, and parapets. Such review is limited to the specific architectural building features proposed for modification.
- (e) Commercial and industrial projects which have, or will have, greater than twenty thousand (20,000) square feet of gross floor area.
- (f) Parking garages.
- (g) Municipal projects of the City of Mesa, including fire stations, libraries, parking lots with over fifty (50) spaces, and any building or facility meeting the above height, size, or locational criteria set forth above. Projects not subject to Board review include streets, walls and fences, well sites, **AND** road widenings.

89. Hear, make recommendations or decisions on matters as specified in an adopted Community Plan for a PC District.

910. Hear and make recommendations or decisions on other matters as directed by the City Council.

(E) Implementation.

1. Occupancy or other utilization of any building, structure, or open land shall not commence until all conditions of approval specified by the Design Review Board process have been fulfilled and a certificate of occupancy has been issued.
2. Failure to maintain any building, structure, or site improvement in full compliance with the conditions of approval specified by the Design Review Board process shall constitute a violation of this Chapter.
3. The ~~Design Review Planner, with concurrence of the Planning Director,~~ may approve minor modifications to the architectural components or design elements of a proposed or existing development site provided such modifications are consistent with the purpose and intent of the Conditions of Approval **ATTACHED TO** by the **A** Design Review ~~Board~~ **CASE**. Such requests shall be made in writing and be accompanied by a fee as adopted by Council Resolution following recommendation of the Planning and Zoning Board. The fee may be waived by the

Planning Director if good cause is shown.

**Section 5:** That Section 11-18-10 of the Mesa City Code is hereby amended as follows:

**11-18-10: GENERAL PROVISIONS: APPLICATIONS, PROCEDURES, FEES**

(A) Procedure.

1. Review. The staff shall review all development plans submitted in accordance with plan review procedures **DEVELOPED BY THE PLANNING DIRECTOR** for compliance with the Design Guidelines chapter of this Ordinance.
2. Appeals from staff interpretations regarding compliance with Design Guidelines may be submitted to the Design Review Board. The Design Review Board shall consider the appeal at a public meeting and may reverse or affirm, in whole or in part, or modify the staff's decision.
3. Decisions of the Design Review Board may be appealed to the City Council upon written request submitted to the Planning Division Office within thirty (30) days of the Board's decision, except those decisions which involve sites zoned PC District, which may be appealed as specified in Section 11-9.1-9.

(B) Application. Applications to the Design Review Board shall be made in the office of the Planning Division on a form provided and shall be accompanied by a fee as adopted by Council Resolution following recommendation of the Planning and Zoning Board. No part of any such fee shall be returnable after an application is filed and such fee paid, except the Development **AND SUSTAINABILITY DEPARTMENT DIRECTOR** ~~Services Manager~~, for good cause shown, may waive such fee.

**Section 6:** That Section 11-18-11 of the Mesa City Code is hereby amended as follows:

**11-18-11: DOWNTOWN DEVELOPMENT COMMITTEE:**

(A) ~~Establishment of~~ The Downtown Development Committee. The Downtown Development Committee **HAS BEEN DECOMMISSIONED BY DELETION OF** ~~is established by~~ Section 2-20-1 of the Mesa City Code **PURSUANT TO ORDINANCE 4960, DATED DECEMBER 7, 2009.**

(B) **ALL DECIDED APPLICATIONS FOR WHICH A CONDITION OF APPROVAL REQUIRES A FUTURE REVISION OR MODIFICATION OF THAT DECISION BACK TO THE DOWNTOWN DEVELOPMENT COMMITTEE FOR REVIEW AND EITHER RECOMMENDATION OR DECISION SHALL INSTEAD BE REVIEWED BY THE PLANNING AND ZONING BOARD OR DESIGN REVIEW BOARD, AS DETERMINED BY THE PLANNING DIRECTOR AND BASED ON THE TYPE OF MODIFICATION OR REVISION REQUESTED.**

~~(B) Organization.~~

- ~~1. The Committee is composed of nine (9) members who are residents of the City and who serve without pay.~~
- ~~2. The members of the Committee are appointed by the Mayor with the approval of the Council. Such appointment is for a period of three (3) years, except that in the event of the death or resignation of a member, the vacancy may be filled for the unexpired term.~~

- ~~3. The Committee elects a chairman and vice chairman from among its members annually. 4. The Committee shall adopt rules for the conduct of its business. The Committee may, in such rules, delegate certain responsibilities and/or tasks to be performed by a Subcommittee or Subcommittees of the Committee.~~

~~(C) Meetings.~~

- ~~1. Meetings of the Committee are open to the public, and the minutes of its proceedings are kept and filed in the Redevelopment Office as a public record. The secretary of the Committee is the Redevelopment Director.~~
- ~~2. At least five (5) members of the Committee shall be present to conduct a meeting.~~
- ~~3. The concurring vote of a majority of the Committee members present is necessary to pass a motion.~~
- ~~4. The Committee shall meet at least four (4) times per calendar year.~~

~~(D) Authority and Duties of the Downtown Development Committee. The Downtown Development Committee shall:~~

- ~~1. Assume the authorities and duties otherwise granted to the Design Review Board and the Planning and Zoning Board under this Zoning Ordinance and state statutes for projects proposed within and matters pertaining to designated redevelopment areas, except such powers as may be reserved by the Council either by specific statement or statute.~~
- ~~2. Review and make recommendations to the City Council regarding joint public/private projects in designated redevelopment areas.~~
- ~~3. Propose redevelopment actions to the Council which are consistent with adopted plans and stated redevelopment goals.~~
- ~~4. Hold public hearings and make recommendations to the City Council on requests for amendments to the Zoning Map and Zoning Ordinance, which includes Historic Preservation (HP) overlay districts and designation of Historic Landmarks (HL) within the redevelopment area(s), requests for Council Use Permits, site plan reviews and site plan modifications, preliminary subdivision plat approvals, Special Use Permits, variances, interpretations of the Zoning Ordinance, and other matters as directed by the Council for projects within designated redevelopment areas.~~
- ~~5. Hear and make recommendations on other matters as directed by the City Council.~~

**Section 7:** That Section 11-18-12 of the Mesa City Code is deleted in its entirety.

~~11-18-12: GENERAL PROVISIONS: APPLICATIONS, APPEALS, PROCEDURES, FEES~~

~~(A) Procedure.~~

- ~~1. Variances, Development Incentive Permits, Substantial Conformance Improvement Permits, Special Use Permits, and Interpretations.~~
  - ~~(a) Applications for Variances, Development Incentive Permits, Substantial Conformance~~

~~—Improvement Permits, Special Use Permits, and Interpretations and other appeals pertaining to projects within a designated redevelopment area shall be made in the office of the Town Center Development Director on a form provided therefor and shall be accompanied by a fee in accordance with Section 11-18-6. Such applications and all related materials shall be forwarded to the Office of the Zoning Administrator, who shall schedule a public hearing in accordance with the procedures set forth in Section 11-18-4.~~

~~(b) Any matter heard by the Zoning Administrator may be appealed to the City Council, who acts as the Board of Adjustment for matters within a designated redevelopment area. Prior to Council action, such appealed cases shall be considered at a public hearing by the Downtown Development Committee, who shall forward a recommendation on each case to the City Council.~~

~~(c) Any matter referred directly to the City Council by the Zoning Administrator for action shall first be reviewed at a public hearing by the Downtown Development Committee, who shall forward a recommendation to the City Council.~~

~~2. Amendments, Rezoning, Council Use Permits, Site Plan Reviews, Site Plan Modifications, Historic Preservation (HP) Overlay District, Historic Preservation (HP) Landmark Designation, and Preliminary Plat Approvals:~~

~~(a) Applications for Code amendments, rezonings, Council Use Permits, site plan reviews, site plan modifications, and preliminary plat approvals for projects within a designated redevelopment area or for applications for Historic Preservation (HP) overlay zoning district or historic landmark designation within the corporate City limits shall be made available in the Redevelopment Office, and in the office of the Historic Preservation Officer for projects concerning historic preservation, on a form provided therefor and shall be accompanied by a fee in accordance with Section 11-18-8 of this Ordinance or as specified in Subsection 5 of this Section.~~

~~(b) All such matters shall be forwarded to the Downtown Development Committee, who shall hold a public hearing in accordance with the procedures set forth in Section 11-18-8 of this Ordinance and shall forward a recommendation to the City Council for final action.~~

~~3. Appeals Procedure:~~

~~(a) Appeals from staff interpretations regarding compliance with the Design Guidelines Chapter and other specific design criteria within a designated redevelopment area shall be made in the office of the Redevelopment Director and shall be accompanied by a fee in accordance with Section 11-18-10 or as specified in Subsection (B) of this Section.~~

~~(b) All such matters shall be forwarded to the Downtown Development Committee, who shall consider such appeal at a public meeting in accordance with the procedures set forth in the Zoning Ordinance and may reverse or affirm, in whole or in part, or modify the decision of the staff.~~

~~(c) Decisions of the Downtown Development Committee regarding design review matters may be appealed to the City Council only when such appeal is submitted in writing to the Office of the Redevelopment Director within thirty (30) days of the Downtown Development Committee's decision.~~

~~(d) All such matters shall be forwarded to the City Council, which shall consider such appeal at a public meeting in accordance with the procedures set forth in the Zoning Ordinance,~~

and may reverse, or affirm in whole, or in part, or modify the decision of the Downtown Development Committee.

- ~~(B) Fees. Applications to the Downtown Development Committee that involve more than one (1) type of requested action shall be accompanied by the fee which corresponds to the highest single fee specified for the types of action requested by the applicant. The fee shall be in accordance with Sections 11-18-6 and 11-18-8, as applicable.~~
- ~~(C) After approval of a development plan by the City Council, modifications to the plan may be approved by the Redevelopment Director when it is determined that the modifications are minor, such as minor dimensional changes and building configurations. Such requests shall be made in writing and be accompanied by a fee of two hundred dollars (\$200.00). The fee may be waived by the Redevelopment Director if good cause is shown.~~
- ~~(D) Any modifications to a development plan which has been approved by the City Council that is considered a major modification by the Redevelopment Director, such as changes in uses, densities, or other major changes, shall be returned to the City Council through the procedure described in this Section for the original site plan review.~~

**Section 8: 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 9: PENALTY.**

**CIVIL PENALTIES:**

Upon finding that a person is responsible for a civil violation of this Title, the Civil Hearing Officer shall impose a civil sanction of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each violation. In determining the appropriate sanction the Civil Hearing Officer may assess against the responsible party the City's personnel, mailing, and other costs incurred in investigating and hearing the case, not to exceed a maximum of five hundred dollars (\$500.00).

**EACH DAY SEPARATE VIOLATION:**

Each day in which a violation of this Title continues, or the failure to perform any act or duty required by this Title 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 25<sup>th</sup> day of January, 2010.

APPROVED:



Mayor

ATTEST:



City Clerk



EFFECTIVE DATE: February 25, 2010