

Staff Summary Report



Development Review Commission Date: 08/11/09

Agenda Item Number: ____

SUBJECT: Hold a public hearing for a Code Text Amendment for the ZONING AND DEVELOPMENT CODE.

DOCUMENT NAME: DRCr_CodeTextAmendments_081109
ZONING & DEVELOPMENT CODE (0414-01, -03, -04, -06, -07)

COMMENTS: Request for ZONING AND DEVELOPMENT CODE AMENDMENTS (PL090008) (City of Tempe Development Services Dept., applicant) consisting of changes within the Code for process improvements, clarifications and responses to changing uses and trends for Commercial Abatements; APAC Committee repeal; Hearing Officer duties; revised regulations on Accessory Buildings; Guest Quarters in the AG District; Small Animals; Card Rooms; Recycling Centers; Commercial/Restaurant uses in Industrial Districts; Outdoor Retailing; Service Entrance and Exits; Outdoor Dining Parking; Development Plan Review Criteria and Time Limitations; Use Permit and Variance Time Limitations; Notice of Appeals; Extension Requests; Revocations; and definitions for Card Room, Columbarium, Donation Bins, Livestock, Poultry, Recycling Centers, Reverse Vending Machines, Small Animal and Smoking Establishment. The request includes the following:

ZOA09001 (Ordinance No. 2009.15) – Code Text Amendment for the Zoning and Development Code within Sections 1-201, 1-304, 1-305, 1-306, 3-102, 3-202, 3-302, 3-401, 3-404, 3-411, 3-417, 3-418, 3-503, 4-406, 4-603, 6-306, 6-308, 6-309, 6-310, 6-802, 6-901, 6-902, 7-104, 7-105, 7-113, 7-117, 7-119, 7-120, and 7-121.

PREPARED BY: Ryan Levesque, Senior Planner (480-858-2393)

REVIEWED BY: Lisa Collins, Development Services Planning Director (480-350-8989)

A handwritten signature in black ink, appearing to be 'LC' or similar initials, located next to the name Lisa Collins.

DEPARTMENT REVIEW BY:

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval, subject to conditions

ADDITIONAL INFO: On August 5, 2009, the Neighborhood Advisory Commission recommended unanimous support for this request.

PAGES: 1. List of Attachments
 2-5. Comments
 6. Reason for Approval / History & Facts / Zoning & Development Code Reference

ATTACHMENTS: 1-21. Ordinance No. 2009.15
 22. Accessory Building applications 2005-2009
 23. City of Tempe Map of Neighborhood & Homeowner Associations
 24. Neighborhood Advisory Commission letter

COMMENTS:

This request includes a variety of code text amendments within the Zoning and Development Code. The amendments consist of process improvements for residential and construction entitlement customers, clarifications on how we currently interpret the code and responses to changing uses and trends as a result from the City's approval and decision-making process.

PUBLIC INPUT

The majority of the proposed changes to the Zoning and Development Code are a result of staff working with our Tempe customers and addressing matters that come up from time to time. Those responses are generally described in the section topics below. On March 10, 2009, Development Review Commission held a study session in which staff provided a summary of potential code text amendments.

Staff also provided the same topics to the Neighborhood Advisory Commission on April 1, 2009, as initial feedback from our broad-based community representatives. A follow up meeting was provided to the Neighborhood Advisory Commission on August 5, 2009 with draft ordinance language. The Commission recommended unanimous support for the proposed changes to the Zoning and Development Code.

CODE TEXT AMENDMENTS

Below is a list of code text amendments and their related section of the Zoning and Development Code. Attachments 1-21, Ordinance No. 2009.15 is the ordinance language using legislative format of strikeouts for removed code language and capitalized/underlined for new language.

Commercial Abatements; (Section 1-201 and 6-310)

This is a code amendment process improvement to grant abatement authority on commercial properties to the Hearing Officer. This is necessary when commercial properties have not responded to a citation for nuisances such as weeds and debris found on a property. Currently the Hearing Officer has the powers to grant an approval, continuance or denial for residential property abatement, which results in the clean up of a site and a lien assessed on the property, based on the provisions in Tempe City Code, Chapter 21. This change in procedure will provide an efficient process to bring properties into compliance when the normal notice of violation is not effective.

APAC Committee repeal; (Section 1-304)

This is a code amendment clean up item, removing language relating to the Apache Boulevard Project Area Committee. This Committee held their final meeting in December of 2008 completing the obligations for the group of volunteer residents and business owners as a formal committee within the community. A resolution adopted by the City Council in 1997, created the Apache Boulevard Redevelopment Area, intended to reduce blight and encourage reinvestment for a more desirable neighborhood.

Hearing Officer and Board of Adjustment duties; (Section 1-305 and 1-306)

This is a code amendment clean up item, for rental housing code appeals. The Hearing Officer duties were modified in a past amendment within the Tempe City Code for housing code appeal procedures. The modification was omitted during processing and is now being corrected through this amendment process. The words "public meeting" is being added to Hearing Officers powers to clarify the abatement process as a public meeting procedure. Changes that clarify the Board of Adjustment powers to hear appeals of abatement are also part of this amendment.

New Uses with Definitions; (Section 3-202 and 3-302)

This is a code amendment change proposed for new uses within the Commercial and Industrial use chart of permitted uses. Based on recent trends the following is a list of proposed uses to be identified within the Code:

Card Room: A "Card Room" is defined as a card game, or poker game for example, held where individuals compete against one another without "the house" collecting, thereby eliminating any potential for gambling. Staff is recommending as a permitted use, but requiring approval of a security plan that is conducted by the Police Department.

Recycling Centers (small/large): Recycling centers were a previously defined use in Zoning Ordinance No. 808: allowed in industrial districts with a use permit; and permitted in heavy industrial districts. Staff is proposing a definition that would clarify the difference between a large and smaller recycling. A small recycling center is proposed to define uses such as donation bins, recycling bins, reverse vending machines, not exceeding 500 s.f. in area. This would permit the smaller and limited drop off locations found in commercial centers. Large recycling centers that have more intensive collection of recyclables typically found at heavy industrial sites would not be permitted in commercial districts. A use permit would be required for large recycling centers in the GID, General Industrial District.

Commercial uses in the Industrial District. This is an amendment change that would allow commercial uses in the LID, Light Industrial District with a use permit. Light Industrial Districts consist of less than 0.2% of the Tempe's land base. A proposed clarification identifies in the use chart that all other commercial uses within industrial districts would be permitted subject to a use permit. A clarification is also proposed which allows retail uses up to 15% of the primary industrial uses "building area" as determined for calculating the allowance.

Accessory Buildings; (Section 3-401)

This is a code amendment change proposed for accessory buildings that would provide a set of standard requirements to allow an accessory building on a residential lot as a permitted use. An accessory building in the Zoning and Development Code is defined as a detached structure or building in excess of 8'-0" in height and/or over 200 square feet in area. Currently accessory buildings are required to meet the required height and building setbacks of the zoning district and receive a use permit, which requires a public hearing process. Staff has compiled information on accessory building applications since 2005 (See Attachment 22, Accessory Building data). A more efficient process is proposed, providing consistent standards similar to approvals that have been granted in the past. Below is a comparison chart of past regulations for accessory buildings prior to 2005, the current code regulations, and the proposed amendments:

ACCESSORY BUILDING REGULATIONS			
	Past Ord. 808 version	Current Code	PROPOSED
Defined	All detached buildings are Accessory Buildings	If detached & over 200 s.f. or over 8'-0" in height, then Accessory Building	If detached & over 200 s.f. or over 8'-0" in height, then Accessory Building
Setbacks	If over 8'-0" in height, then 7'-0" setback from property lines, except street side comply w/ setback (10-20')	Meet District setbacks (Typ. 5' side, 10-20' street side, and 15' rear) + alley reduction	(New) 3'-0" setback on all sides and rear, with additional 1'-0" setback for every additional foot over 9', not to exceed 15' (max. 9' setback) + alley reduction
Height	Max. height 15'	Max. height 30' or to the height of the residence, whichever is less	(New) Max. height 15', Use Permit Standard for 16 to 30' height
Use	Permitted	Use Permit required	(New) Permitted

ACCESSORY BUILDING REGULATIONS			
	Past Ord. 808 version	Current Code	PROPOSED
Lot Coverage	Lot coverage, max. allowed in the District (40%);	Lot coverage, max. allowed in the District (typ. 45%)	Lot coverage, max. allowed in the District (typ. 45%)
	No more than 25% coverage between the rear of the building and the rear property line	--	--
	Locate in the rear half of the lot; and	--	--

Proposed Setback for Accessory Buildings

The new proposed setback would provide relief for accessory buildings lower in height (min. 3' setback) and greater setbacks for taller buildings (max. 9' setback). Buildings requiring a greater setback than what is required for the primary building could request a use permit standard for the same setback. Illustrations are provided in the new ordinance regulations.

Proposed Height for Accessory Buildings

Currently accessory buildings are allowed to be a maximum 30 feet in height or the height of the existing residence, whichever is less. This change would allow a maximum height up to 15 feet and require a use permit standard for any height above 15 feet, up to 30 feet max. This provision is consistent with past approvals averaging 14 feet in total height (See Attachment 22).

NOTE: Homeowner Associations (HOA) may govern the location and design of visible structures on a property. Approximately less than 25% of all Tempe neighborhoods are in an HOA. In neighborhoods located south of the US 60, about 40% are within a regulated association. The HOA approval process does not override zoning regulations, but may be an additional step towards decision of a resident's request. (See Attachment 23 for a map of Homeowner Associations in Tempe)

Guest Quarters in the AG District; (Section 3-411)

This is a code amendment change proposed to allow guest quarters back into the AG, Agricultural District. Prior to 2005, agricultural lots, a minimum one acre in size, were permitted to have guest quarters, a separate or attached building for guests of the residents. Since that time, there has been interest from the AG property community about allowing guest quarters. AG district residential properties are located south of Elliot Road, accounting for 684 acres or 5.6% of Tempe's residential land base. Guest quarters as defined in the code cannot be rented or leased separately from the primary building.

Small Animals; (Section 3-404 and 7-120)

This is a code amendment change proposed to address the provisions regulating small animals and remove separation requirements found in the City Code, Chapter 6 relating to the keeping of chickens and other poultry. A new subsection in the Zoning and Development Code Section 3-404, Agricultural Uses, would define "small animals" as an exception to being considered agriculture and permitted on properties with single-family dwellings. The nuisance provisions, including noise and odor, would address any potential issues that may arise as a result of having these types of animals. This section does not apply to dogs and cats currently regulated under Tempe City Code, Chapter 6, and would still prohibit roosters and peafowl (peacocks) in areas other than the AG district.

Outdoor Retailing; (Section 3-417 and 3-418)

This is a code amendment clarification and change proposed for sections on outdoor retailing, which are intended to redefine the various types of outdoor uses and their specific review procedures. The outdoor retailing categories are Permanent Outdoor Retail Display, Temporary Outdoor Retail Display, Temporary Outdoor Vending, Outdoor Retail of Seasonal Merchandise, and Vending Machines. Each category has specific regulations and procedures that outline the requirements necessary for a business to receive

approval for such request. The proposed changes would repeal Section 3-418, Outdoor Retail Display and consolidate provisions within Section 3-417, Outdoor Retailing. One significant change in this section is adopting the policy for allowance of “seasonal merchandise” through an administrative review. This would permit seasonal merchandise, not typically offered in an establishment, on a daily basis including pumpkin patches, holiday tree lots and other exclusive events occurring once in a calendar year.

Legal Non-Conforming Developments; (Section 3-503)

This is a code amendment change proposed for legal non-conforming developments. This change would add language for non-conforming signs, which shall not be re-erected, relocated, or replaced unless in compliance with the code. An exception is proposed which acknowledges City Councils ability to relocate a non-conforming existing sign as part of an authorized Development Agreement.

Service Entrance and Exits; (Section 4-406)

This is a code amendment clarification for security vision panels. The wire glass vision panel is no longer an accepted alternative under the Building Code regulations. A proposed alternative to be identified is the fire-rated glazing in a rated door.

Outdoor Dining Parking; (Table 4-603E)

This is a code amendment change proposed within outdoor parking ratio requirements for bars, restaurants and retail uses. An outdoor parking ratio is proposed for bars consistent with a restaurant use (1 space per 150 sf). A revision is provided to all outdoor parking ratios allowing a limited amount of outdoor space without requiring additional parking. An exception of the first 300 square feet patio would accommodate an area of at least four tables and chairs.

Development Plan Review Criteria; (Section 6-306)

This is a code amendment change proposed to revise the approval criteria determined for a development plan. The amendment eliminates standards already required by our Codes and reduces some duplication of design criteria. The proposed changes are intended to improve the review process by providing applicants a concise outline of our community’s objective.

Time Limitations for Development Plan Review, Use Permit and Variance; (Section 6-306, 6-308, 6-309)

This is a code amendment clarification for approval time limitations. Consistent language for development plan review, use permits and variance approvals are needed to provide a more accurate timing for building permit submittal. The proposed language will provide approval for up to 1 year for submittal of a building application, consistent with past conditions of approval on projects.

Notice of Abatements, Appeals and Revocations; (Section 6-310, 6-802 and 6-902)

This is a code amendment clarification for noticing and hearing procedures for abatements, appeals and revocation of a permit/approval. The proposed amendment will provide clarification and cross references to appropriate procedures for conducting and noticing the meetings or public hearings.

Extension Requests; (Section 6-901)

This is a code amendment change proposed for extension requests. Currently the code states that an application for an extension must be submitted 45 calendar days prior to the expiration. The intent of the submittal time frame was to provide adequate time to process a request before the approval expired. The City’s permit software gives staff the ability to immediately address a potential expiration once an application is filed, eliminating the extended length of time needed to address an extension request.

Other Definitions:

The following is a list of new proposed definitions for new uses in the Zoning and Development Code: “Card room / poker room” “Columbarium” “Donation Bin” “Livestock” “Poultry” “Recycling Centers” “Reverse Vending Machine” “Small animal” “Smoking establishment” and a modified definition for “Tobacco retailer”.

REASONS FOR APPROVAL:

1. The proposed code text amendments will provide clarity in administering the Zoning and Development Code.
2. Addresses recent trends that have been processed through the City Council, boards and commission decision bodies.
3. Provides processing relief to our single-family properties, while ensuring certainty in our standards.
4. The overall changes are consistent with the goals and objectives outlined in the General Plan and other guiding policies.

CONDITIONS OF APPROVAL:

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

None

HISTORY & FACTS:

March 10, 2009	Development Review Commission held a study session in which staff provided a summary list of potential code amendment topics for future consideration.
April 1, 2009	Neighborhood Advisory Commission held a public meeting in which staff provided a summary list of potential code amendment topics for future consideration.
July 14, 2009	Development Review Commission held a study session reviewing a draft of proposed amendments for comments and direction.
August 5, 2009	Neighborhood Advisory Commission unanimously recommended approval of the proposed Zoning and Development Code amendments for this request.

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 6-304, Zoning Map Amendment

ORDINANCE NO. 2009.15

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE ZONING AND DEVELOPMENT CODE, PART 1 – INTRODUCTION, SECTIONS 1-201, 1-304, 1-305, 1-306; PART 3 – LAND USE, SECTIONS 3-102, 3-202, 3-302, 3-401, 3-404, 3-411, 3-417, 3-418, 3-503; PART 4 – DEVELOPMENT STANDARDS, SECTIONS 4-406, 4-603; PART 6 – APPLICATIONS AND REVIEW PROCEDURES, SECTIONS 6-306, 6-308, 6-309, 6-310, 6-802, 6-901, 6-902; AND PART 7 – DEFINITIONS, SECTIONS 7-104, 7-105, 7-113, 7-117, 7-119, 7-120, 7-121.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

SECTION 1. That Section 1-201 (I) of the Zoning and Development Code, pertaining to violations and penalties, is hereby added to read as follows:

- I. ABATEMENTS.** IN ADDITION TO ANY OTHER SANCTION OR PENALTY AUTHORIZED UNDER SECTION 1-201, THE DESIGNATED HEARING OFFICER MAY ISSUE AN ORDER DIRECTING THE OWNER, OCCUPANT, RENTAL AGENT, PROPERTY MANAGER OR RESPONSIBLE PERSON TO ABATE THE VIOLATION OR AUTHORIZE THE CITY TO ABATE THE CONDITION GIVING RISE TO THE VIOLATION. THE COSTS OF SUCH ABATEMENT SHALL BE THE RESPONSIBILITY OF THE OWNER OF THE PROPERTY WHERE THE VIOLATION OCCURRED AND MAY BE COLLECTED AS A LIEN AGAINST THE PROPERTY FOUND TO BE IN VIOLATION.

SECTION 2. That Section 1-304 (C) of the Zoning and Development Code, pertaining to the Apache Boulevard Project Area Committee, is hereby repealed:

~~C. Apache Boulevard Project Area Committee.~~

- ~~1. **Creation and Purpose.** The Apache Boulevard Project Area Committee is created to guide the development within the Apache Boulevard Redevelopment Area, which encourages reinvestment in the Apache Boulevard area in order to build a more desirable neighborhood in which people will enjoy living and working, enhance the positive aspects of this area and promote desirable reuse of the land.~~
- ~~2. **Duties and Powers.** For the purpose of this Code, the Apache Boulevard Project Area Committee shall have the powers to:~~
 - ~~a. Review development proposals within the Apache Boulevard Redevelopment Area;~~
 - ~~b. Review use permits and variances within the Apache Boulevard Redevelopment Area;~~

~~c. The Committee will review applications prior to a public meeting of the Design Review Board and a public hearing of the Hearing Officer, Board of Adjustment, and Planning and Zoning Commission or City Council meeting; and~~

~~d. Any recommendation by the Apache Boulevard Project Area Committee relative to such application will be forwarded to the appropriate decision-making body as a part of the staff report regarding the request.~~

~~3. **Organization.** The Apache Boulevard Project Area Committee shall adopt rules of procedure consistent with the provisions of this Code for the conduct of its business and procedure.~~

~~**Reference** — See Resolution No. 97.75, Apache Boulevard Redevelopment Plan~~

SECTION 3. That Section 1-305 (B) of the Zoning and Development Code, pertaining to Hearing Officer powers, is hereby amended to read as follows:

B. Hearing Officer – Duties and Powers. The Hearing Officer shall have the duty to carry out the provisions and intent of the General Plan and this Code. The Hearing Officer shall have the power to hold a public hearing OR PUBLIC MEETING to review and approve, continue, deny, or approve with conditions, the following:

1. Use permit applications pursuant to Section 6-308;

2. Variance applications pursuant to Section 6-309; AND

~~3. Rental housing code appeals pursuant to Chapter 21 of the Tempe City Code; and~~

3. Abatements pursuant to Chapter 21 of the Tempe City Code and Section 6-310.

4. The Hearing Officer may in connection with any application, impose conditions deemed necessary in order to fully carry out the provisions and intent of this Code, pursuant to Part 6, Chapter 6, Conditions of Approval. Violation of any Hearing Officer condition shall be a violation of this Code.

SECTION 4. That Section 1-306 (B) of the Zoning and Development Code, pertaining to Board of Adjustment powers, is hereby amended to read as follows:

B. Board of Adjustment – Duties and Powers. The Board of Adjustment shall have the duty to carry out the provisions and intent of this Code.

1. The Board of Adjustment shall HAVE THE POWER TO hold a public hearing OR PUBLIC MEETING to review and approve, continue, deny or approve with conditions the following:

2. Variance applications pursuant to Section 6-309;

3. Appeals from decisions made by the Hearing Officer, pertaining to variances AND ABATEMENTS; and

4. Appeals from any decision made by the Zoning Administrator.
5. The Board of Adjustment shall not:
 - a. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning ordinance provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this Code; or
 - b. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.
6. The Board of Adjustment may, in connection with any application, impose conditions as the Board deems necessary in order to fully carry out the provisions and intent of this Code, pursuant to Part 6, Chapter 6, Conditions of Approval. Violation of any Board of Adjustment condition shall be a violation of this Code.

State law reference – A.R.S. 9-462.06(H) Board of adjustment

SECTION 5. That a portion of Table 3-102 in Section 3-102 of the Zoning and Development Code, pertaining to accessory buildings, dwellings and small animals, is hereby amended to read as follows:

Table 3-102 – Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)				
Uses	Status of Use in District			
	AG	SFR	MF	MH/RMH/TP
Accessory Buildings [Section 3-401]	U(S) <u>S</u>	U(S) <u>S</u>	S	S
Small Animals: Aviaries, Chicken, Rabbits, or similar TCC §§6-3 [Section 3-404]				
For farming (AG only)	S	N	N	N
Maximum 5 each, excluding roosters and peafowl	S	S	N <u>S</u>	N
Guest Quarters [Section 3-411]				
Attached	N S	N	N	N
Detached	N S	N	N	N

SECTION 6. That a portion of Table 3-202A and 3-202B of Section 3-202 of the Zoning and Development Code, pertaining to commercial uses, is hereby amended to read as follows:

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)						
Uses	Status of Use District					
	R/O	CSS	CC	PCC-1	PCC-2	RCC
CARD ROOM (A) [SEE SECTION 6-313]	<u>N</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)

Uses	Status of Use District					
	R/O	CSS	CC	PCC-1	PCC-2	RCC
<u>RECYCLING CENTERS</u>						
<u>LARGE</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
<u>SMALL</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Retail Sales [See Appendix M.]	N	P	P	P	P	P
Convenience Store (a)	N	P	P	P	P	P
with Gas/fuel sales (a)	N	U	U	U	U	U
<u>Outdoor retail display [Section 3-418]</u>	<u>N</u>	<u>U(S)</u>	<u>S</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>
Outdoor retailing [Section 3-417]	N	U(S)	<u>S U(S)</u>	U(S)	U(S)	U(S)

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4 and MU-Ed)

Uses	Districts				
	MU-1	MU-2	MU-3	MU-4	MU-Ed
<u>CARD ROOM (A) [SEE SECTION 6-313]</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>
<u>RECYCLING CENTERS</u>					
<u>LARGE</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
<u>SMALL</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Retail Sales [See Appendix M.]	P	P	P	P	P
Convenience Store (a)	P	P	P	P	U
with Gas/fuel sales <u>(OR WITH CONVENIENCE STORE) (a)</u>	N	N	N	N	U

SECTION 7. That a portion of Table 3-302A of the Zoning and Development Code Section 3-302, pertaining to industrial uses, is hereby amended to read as follows:

Table 3-302A Permitted Land Uses (LID, GID, HID)

Uses	Districts		
	LID	GID	HID
<u>RECYCLING CENTERS</u>			
<u>LARGE</u>	<u>N</u>	<u>U</u>	<u>P</u>
<u>SMALL</u>	<u>P</u>	<u>P</u>	<u>P</u>
Commercial Uses – <u>AND ALL OTHER USES UNDER TABLE 3-202A “PERMITTED LAND USES”.</u> <u>UNLESS OTHERWISE SPECIFIED IN THIS TABLE allowed in the commercial and</u> <u>mixed-use districts (except outdoor display and residential unless otherwise noted)</u> <u>[Section 3-202]</u>	<u>U N</u>	U	U

Table 3-302A Permitted Land Uses (LID, GID, HID)

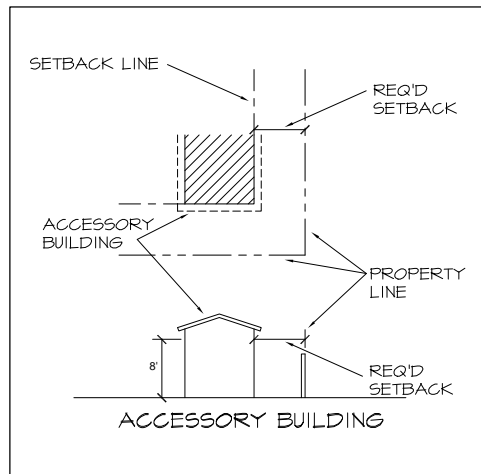
Uses	Districts		
Retail uses – directly related to the primary industrial use may be permitted, provided they do not TO exceed 15% of the TOTAL BUILDING AREA'S primary industrial use.	P N	P	P
Retail AND RESTAURANT Uses – <u>AND ALL OTHER USES UNDER TABLE 3-202, "PERMITTED LAND USES". UNLESS OTHERWISE SPECIFIED IN THIS TABLE allowed in the commercial and mixed-use districts (except outdoor display) [Section 3-202]</u>	<u>U N</u>	U	U

SECTION 8. That Section 3-401 (C) and (D) of the Zoning and Development Code, pertaining to accessory buildings and structures, is hereby amended to read as follows:

C. Accessory Building. Buildings that exceed two hundred (200) s.f. in area or eight (8) feet in height are *accessory buildings* (e.g., freestanding garages, large sheds, workshops, etc.). ~~Such buildings shall not be used for sleeping or living purposes, shall not have cooking facilities, are limited to the height of the existing residence, and must meet the setbacks for the district. SUCH BUILDINGS ARE PERMITTED IN THE SINGLE-FAMILY RESIDENTIAL DISTRICTS, SUBJECT TO THE FOLLOWING:~~

1. ~~Use Permit. A use permit is required for accessory buildings in the AG and all Single-Family Residential Districts. ACCESSORY BUILDINGS SHALL NOT BE USED AS A DWELLING, EXCEPT IN THE AG DISTRICT WHERE PERMITTED AS GUEST QUARTERS.~~
2. ~~Setback Reduction.~~
 - a. ACCESSORY BUILDINGS SHALL NOT BE LOCATED IN THE REQUIRED FRONT YARD AND STREET SIDE YARD BUILDING SETBACKS. SUCH BUILDINGS SHALL BE SETBACK AT LEAST THREE (3) FEET FROM ALL SIDE AND REAR PROPERTY LINES. AN ADDITIONAL ONE (1) FOOT SETBACK IS REQUIRED FOR EVERY ADDITIONAL FOOT IN HEIGHT ABOVE NINE (9) FEET, UP TO FIFTEEN (15) FEET IN HEIGHT. THIS REQUIREMENT MAY BE REDUCED TO THE MINIMUM SETBACK STANDARDS REQUIRED IN THE DISTRICT, SUBJECT TO APPROVAL OF A USE PERMIT STANDARD, PURSUANT TO SECTION 6-308;
 - b. ACCESSORY BUILDINGS IN THE AG DISTRICT SHALL COMPLY WITH THE SETBACK STANDARDS REQUIRED IN THE DISTRICT;
 - c. ~~The rear yard setback for an accessory building may be reduced when adjacent to a dedicated public alley. Setback requirements shall be measured from the midpoint of the alley. WHEN ADJACENT TO A DEDICATED PUBLIC ALLEY, THE SIDE AND REAR YARD SETBACKS FOR AN ACCESSORY BUILDING SHALL BE MEASURED FROM THE MIDPOINT OF THE ALLEY; AND~~
 - d. ACCESSORY BUILDINGS SHALL COMPLY WITH REQUIRED SEPARATION FOR APPLICABLE BUILDING CODES.

Figure 3-401 C1. Accessory Building



3. HEIGHT.

- A. THE MAXIMUM ALLOWED BUILDING HEIGHT SHALL BE FIFTEEN (15) FEET. ADDITIONAL HEIGHT MAY BE PERMITTED UP TO THE MAXIMUM HEIGHT ALLOWED IN THE DISTRICT, SUBJECT TO APPROVAL OF A USE PERMIT STANDARD, PURSUANT TO SECTION 6-308; AND
- B. IN THE AG DISTRICT, ACCESSORY BUILDINGS MAY BE ERECTED TO THE MAXIMUM ALLOWED HEIGHT IN THE DISTRICT.

FIGURE 3-401 C2. ACCESSORY BUILDING ENVELOPE EXAMPLE

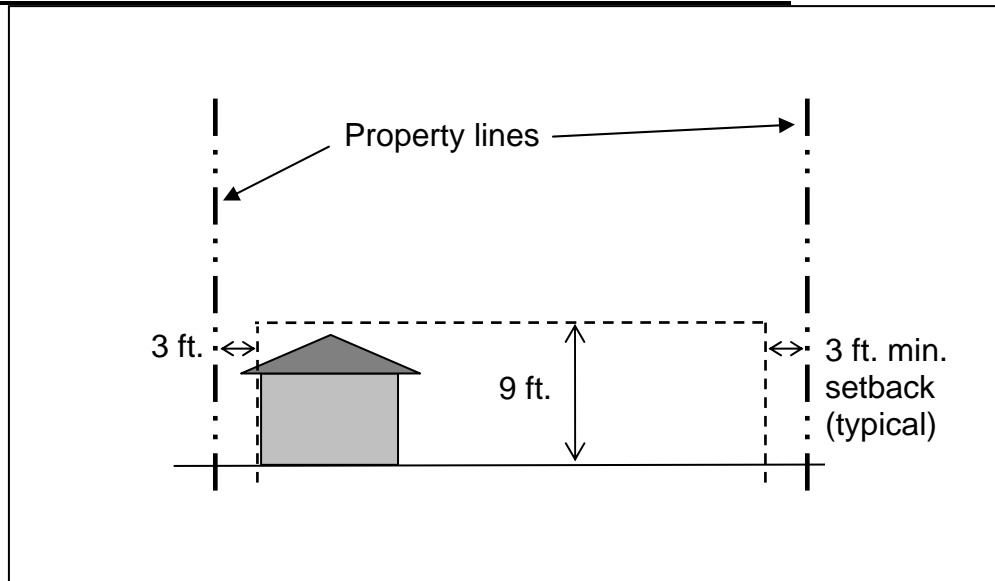
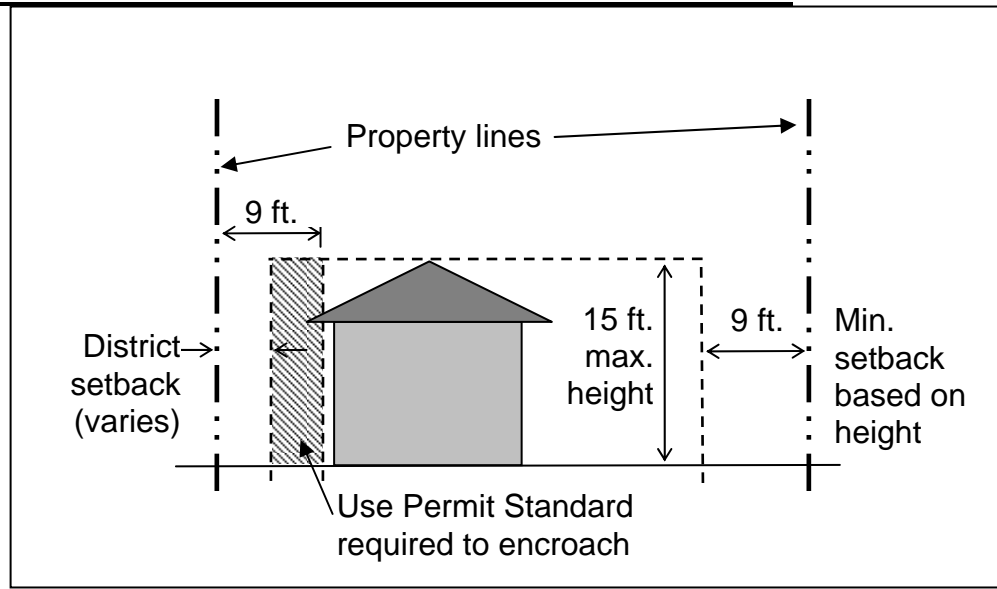


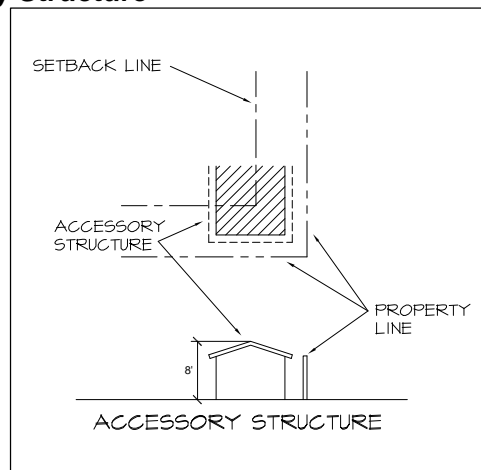
FIGURE 3-401 C3. ACCESSORY BUILDING ENVELOPE EXAMPLE



4. AREA. LOT COVERAGE, AS DEFINED IN THIS CODE, FOR ACCESSORY BUILDINGS SHALL BE INCLUDED IN THE OVERALL MAXIMUM ALLOWED IN THE DISTRICT.

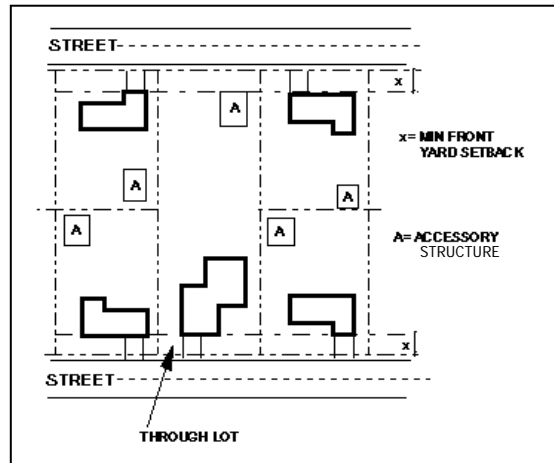
- D. **Accessory Structure.** ~~An Accessory structures (e.g., ramadas, small sheds) shall be located no closer to the front property line than the front yard building setback, be limited ARE STRUCTURES THAT ARE~~ to a maximum OF two hundred (200) s.f. in area and shall be equal to or less than eight (8) feet in height. A structure that exceeds the maximum ~~THIS BUILDING~~ area or height shall be considered an *accessory building* for the purpose of this Code. An accessory ~~structure~~ may encroach into the rear, side, and street side yard setbacks, provided that required separation for fire protection is provided and the following standards are met: SUCH STRUCTURES ARE SUBJECT TO THE FOLLOWING STANDARDS:

Figure 3-401 D1. Accessory Structure



1. On a *lot* in the AG district, an accessory *structure* shall not be located closer than twenty (20) feet from rear and side *property lines*; ACCESSORY STRUCTURES SHALL NOT BE LOCATED IN THE REQUIRED FRONT YARD BUILDING SETBACK. AN ACCESSORY STRUCTURE MAY BE LOCATED IN THE REQUIRED REAR, SIDE, AND STREET SIDE YARD SETBACKS PROVIDED THAT REQUIRED SEPARATION FOR APPLICABLE BUILDING CODES IS PROVIDED.
2. On a *through lot*, an accessory *structure* shall not be located closer to the rear *property line* than the distance required for THE front yard building setback; and

Figure 3-401 D2. Through Lot



3. On a *residential lot* in the AG district, a shelter for the keeping of animals or fowl may be erected to the maximum height allowable for the main *building* in that district. LOT COVERAGE, AS DEFINED IN THIS CODE, FOR ACCESSORY STRUCTURES SHALL BE INCLUDED IN THE OVERALL MAXIMUM ALLOWED IN THE DISTRICT.

SECTION 9. That Section 3-404(I) of the Zoning and Development Code, relating to agricultural uses, is hereby amended to read as follows:

- I. **SMALL ANIMALS.** A NUMBER OF SMALL ANIMALS SHALL NOT BE CONSIDERED AS AN AGRICULTURAL USE AND ARE PERMITTED IN ALL RESIDENTIAL DISTRICTS WHICH HAVE A SINGLE-FAMILY DWELLING, SUBJECT TO THE FOLLOWING:

1. NO MORE THAN FIVE (5) SMALL ANIMALS EACH ARE ALLOWED ON AN INDIVIDUAL LOT;
2. EXCEPT IN THE AG DISTRICT, THE KEEPING OF ROOSTERS OR PEAFOWL IS PROHIBITED; AND
3. IT SHALL BE UNLAWFUL TO KEEP SMALL ANIMALS IN A MANNER THAT CONSTITUTES A NUISANCE.

SECTION 10. That Section 3-411 of the Zoning and Development Code, relating to

guest quarters, is hereby amended to read as follows:

Section 3-411 Guest Quarters

GUEST QUARTERS ARE PERMITTED IN THE AG, AGRICULTURAL DISTRICT ONLY, SUBJECT TO THE STANDARDS SET FORTH IN TABLE 4-202A.

SECTION 11. That Section 3-417 of the Zoning and Development Code, outdoor retailing, is hereby amended to read as follows:

Section 3-417 Outdoor Retailing

A. Purpose. To allow sales ~~OR DISPLAY~~ of merchandise ~~for a limited and temporary time without use of a permanent structure~~ ON THE EXTERIOR OF A BUILDING.

B. Applicability. Outdoor retailing is allowed subject to a ~~use permit~~ and the following regulations:

1. ~~Must be on the site specified by the use permit and outside of the public right-of-way;~~
2. ~~Must have property owner's written authorization;~~
3. ~~Outdoor retailing shall not occupy required parking areas, pedestrian paths, landscaped areas, or vehicular driveways (including fire lanes);~~
4. ~~Any outdoor retailing must allow for a minimum six (6) foot wide pedestrian path across any building frontage and to and from all building entrances and exits;~~
5. ~~The applicant must be in compliance with all regulations related to such permit and all applicable codes and laws~~
6. ~~Sound amplification may not be used for sales demonstrations; and~~
7. ~~Outdoor retailing signage size and location shall be established by the use permit.~~

B. PERMANENT OUTDOOR RETAIL DISPLAY

1. **APPLICABILITY. PERMANENT OUTDOOR RETAIL DISPLAY IS A PERMANENT OUTDOOR SALES COMPONENT WHICH IS AN INTEGRAL PART OF A BUSINESS, INCLUDING BUT NOT LIMITED TO, GARDEN CENTERS AND AUTO, BOAT, AND RV DEALERSHIP DISPLAY LOTS.**
2. **GENERAL REGULATIONS.**
 - A. MUST BE SHOWN AS PART OF A DEVELOPMENT PLAN REVIEW WITH ALL APPLICABLE SITE IMPROVEMENTS.
 - B. IF ADDED TO AN EXISTING SITE. THE USE SHALL OBTAIN DEVELOPMENT PLAN REVIEW APPROVAL WITH ALL APPLICABLE SITE IMPROVEMENTS.
 - C. SHALL COMPLY WITH PARKING RATIOS PER TABLE 4-603E.

C. TEMPORARY OUTDOOR RETAIL DISPLAY

1. APPLICABILITY. TEMPORARY OUTDOOR RETAIL DISPLAY ALLOWS A BUSINESS OR TENANT TO DISPLAY AN INCIDENTAL AMOUNT OF MERCHANDISE SOLD WITHIN THE BUSINESS, IN PROXIMITY TO THE EXTERIOR OF A BUILDING. OUTDOOR DISPLAY IS SUBJECT TO THE FOLLOWING:

2. GENERAL REGULATIONS

A. PERMITTED SUBJECT TO A USE PERMIT IN THE COMMERCIAL (EXCEPT R/O), MIXED-USE, AND INDUSTRIAL DISTRICTS. SUCH DISPLAY IS PERMITTED IN THE CC DISTRICT WITHOUT A USE PERMIT;

B. MERCHANDISE MUST BE ASSOCIATED WITH AN ESTABLISHED BUSINESS AND SHALL BE THE SAME AS THAT SOLD INSIDE THE STORE;

C. DISPLAYS SHALL NOT OCCUPY THE MINIMUM REQUIRED *PARKING AREAS, LANDSCAPED AREAS, OR VEHICULAR DRIVEWAYS (INCLUDING FIRE LANES)*;

D. IN THE CC DISTRICT, DISPLAYS SHALL BE LOCATED WITHIN THREE (3) FEET OF THE BUSINESS SPACE;

E. ANY DISPLAY MUST ALLOW FOR A MINIMUM FOUR (4) FOOT WIDE PEDESTRIAN *PATHWAY* ACROSS THE *BUILDING* FRONTAGE AND TO ALL *BUILDING* ENTRANCES AND EXITS. ON PUBLIC SIDEWALKS A MINIMUM SIX (6) FOOT WIDE PATHWAY CLEARANCE SHALL BE PROVIDED. AN ENCROACHMENT PERMIT SHALL BE REQUIRED WHEN PLACED IN THE PUBLIC RIGHT-OF-WAY, AS DETERMINED BY THE PUBLIC WORKS MANAGER OR DESIGNEE;

F. DISPLAYS ARE LIMITED TO THE NORMAL HOURS OF OPERATION OF THE BUSINESS, UNLESS OTHERWISE AUTHORIZED BY CONDITION;

H. SOUND AMPLIFICATION SHALL NOT BE USED FOR SALES DEMONSTRATIONS; AND

I. OUTDOOR DISPLAY SIGNAGE SHALL NOT EXCEED A TOTAL OF THREE (3) SQUARE FEET.

D. TEMPORARY OUTDOOR VENDING

1. APPLICABILITY. TEMPORARY OUTDOOR VENDING REFERS TO SALE OF MERCHANDISE OR SERVICE NOT WITHIN A BUILDING OR A PERMANENT STRUCTURE ON A SITE. TEMPORARY OUTDOOR VENDING INCLUDES FOOD CARTS, GRILLS AND GENERAL MERCHANDISE OFFERED FOR PURCHASE IN ANY RETAIL ESTABLISHMENT, ON A DAILY BASIS, THROUGHOUT THE CALENDAR YEAR AND LIMITED PERSONAL SERVICES SUCH AS A SHOE POLISHING AND RE-OCCURRING OUTDOOR EVENTS SUCH AS FARMERS MARKETS.

2. GENERAL REGULATIONS

A. PERMITTED SUBJECT TO A USE PERMIT;

B. MUST BE LOCATED ON THE SPECIFIED LOT IDENTIFIED BY THE USE PERMIT AND NOT IN THE PUBLIC RIGHT OF WAY, UNLESS AUTHORIZED WITH AN ENCROACHMENT PERMIT, SUBJECT TO APPROVAL BY PUBLIC WORKS MANAGER OR DESIGNEE;

C. SHALL NOT OCCUPY THE MINIMUM REQUIRED PARKING AREAS, LANDSCAPE AREAS, OR VEHICULAR DRIVEWAYS (INCLUDING FIRE LANES).

D. MUST ALLOW FOR A MINIMUM FOUR (4) FOOT WIDE PEDESTRIAN PATH ACROSS ANY BUILDING FRONTAGE AND TO AND FROM ALL BUILDING ENTRANCES AND EXITS. ON PUBLIC SIDEWALKS A MINIMUM SIX (6) FOOT WIDE PATHWAY CLEARANCE SHALL BE PROVIDED;

E. SOUND AMPLIFICATION MAY NOT BE USED FOR SALES DEMONSTRATIONS;

F. THE ALLOWABLE SIGNAGE, SIZE AND LOCATION OF THE BUSINESS, AND STORAGE OF EQUIPMENT/MATERIALS, SHALL BE ESTABLISHED THROUGH THE USE PERMIT; AND

G. SHALL NOT INCLUDE THE SALE OF THE FOLLOWING COMMODITIES OR PROVIDE THE FOLLOWING SERVICES ON THE PREMISES; VEHICLE SALES WHICH HAVE MORE THAN THREE (3) VEHICLES ON DISPLAY, VEHICLE WASHING OR DETAILING, OR MOTOR VEHICLE REPAIR.

E. OUTDOOR RETAIL OF SEASONAL MERCHANDISE

1. APPLICABILITY. THE OUTDOOR RETAIL ALLOWED UNDER THE PROVISION OF SEASONAL MERCHANDISE INCLUDES ITEMS THAT ARE NOT TYPICALLY OFFERED FOR PURCHASE IN ANY RETAIL ESTABLISHMENT, ON A DAILY BASIS, THROUGHOUT THE CALENDAR YEAR. THESE ITEMS INCLUDE PUMPKIN PATCHES, TREE LOTS AND PARAPHERNALIA ASSOCIATED WITH A SPORT'S CHAMPIONSHIP OR EXCLUSIVE EVENT.

2. GENERAL REGULATIONS

A. REQUIRES AN ADMINISTRATIVE REVIEW PROCESS PRIOR TO COMMENCEMENT OF USE;

B. MUST BE LOCATED ON THE SITE SPECIFIED BY A SITE PLAN AND NOT IN THE PUBLIC RIGHT OF WAY, UNLESS AUTHORIZED WITH AN ENCROACHMENT PERMIT, SUBJECT TO APPROVAL BY THE PUBLIC WORKS MANAGER OR DESIGNEE;

C. SHALL NOT OCCUPY MINIMUM REQUIRED PARKING AREAS, PEDESTRIAN PATHWAYS, LANDSCAPE AREAS, OR VEHICULAR DRIVEWAYS (INCLUDING FIRE LANES), EXCEPT AS GRANTED WITH AN ADMINISTRATIVE APPROVAL;

D. SOUND AMPLIFICATION SHALL NOT BE USED FOR SALES DEMONSTRATIONS; AND

E. THE ALLOWABLE SIGNAGE, SIZE AND LOCATION OF THE BUSINESS AND STORAGE OF EQUIPMENT/MATERIALS, SHALL ESTABLISHED BY THE ADMINISTRATIVE REVIEW.

F. VENDING MACHINES

1. APPLICABILITY. VENDING MACHINES REFER TO AUTOMATED OR SELF SERVICE DISPENSERS OF MERCHANDISE LOCATED ON THE EXTERIOR OF A BUILDING, INCLUDING BUT NOT LIMITED TO SODA, CANDY, OTHER RETAIL DISPENSED ITEMS AND REVERSE VENDING MACHINES.

2. GENERAL REGULATIONS

A. REQUIRES DEVELOPMENT PLAN REVIEW PRIOR TO INSTALLATION;

B. PROPANE GAS CAGES THAT HAVE AN EXISTING FIRE PERMIT, PRIOR TO OCTOBER 8, 2009, DO NOT REQUIRE A SEPARATE DEVELOPMENT PLAN REVIEW;

C. SHALL PROVIDE A MINIMUM FOUR (4) FOOT WIDE PEDESTRIAN PATHWAY ACROSS ANY BUILDING FRONTAGE AND TO ALL BUILDING ENTRANCES AND EXITS; AND

D. SHALL BE SCREENED FROM STREET VIEW OR PROVIDE AN ARCHITECTURALLY COMPATIBLE DESIGN. WATER, ICE, AND PROPANE GAS VENDING ARE NOT REQUIRED TO BE SCREENED.

SECTION 12. That Section 3-418 of the Zoning and Development Code, outdoor retail display, is hereby repealed.

Section 3-418 — ~~Outdoor Retail Display.~~ (REPEALED)

A. ~~Purpose.~~ ~~The purpose of this section is to allow a business or tenant to display an incidental amount of merchandise adjacent to the exterior of a building.~~

B. ~~Applicability.~~ ~~Outdoor displays are allowed, subject to the following regulations:~~

~~1. Displays in city right-of-way are subject to an encroachment permit or lease;~~

~~2. Displays shall not occupy required parking areas, pedestrian paths, landscaped areas, or vehicular driveways (including fire lanes);~~

~~3. Displays shall be located within three (3) feet of the business space;~~

~~4. Any display must allow for a minimum six (6) foot wide pedestrian path across the building frontage and to and from all building entrances and exits;~~

~~5. Displays are limited to the normal hours of operation, unless otherwise authorized by condition;~~

~~6. Solid display structures are limited to four (4) feet in height and total display area shall not obscure more than twenty five percent (25%) of window area;~~

~~7. Display merchandise shall be the same as that sold inside the store;~~

~~8. Sound amplification may not be used for sales demonstrations;~~

9. ~~Outdoor retail display signage shall not exceed a total of three (3) square feet; and~~
10. ~~Sale or transaction of display items shall be made inside the place of business.~~

SECTION 13. That Section 3-503 of the Zoning and Development Code, pertaining to legal non-conforming developments, is hereby amended to read as follows:

Section 3-503 Legal Non-Conforming Development.

All *developments* may be maintained but shall not be re-erected, relocated, or replaced unless brought into compliance with this Code. ALL NONCONFORMING SIGNS MAY BE MAINTAINED, BUT SHALL NOT BE RE-ERECTED, RELOCATED OR REPLACED UNLESS BROUGHT INTO COMPLIANCE WITH THIS CODE, OR OTHERWISE AUTHORIZED THROUGH A DEVELOPMENT AGREEMENT BY THE CITY COUNCIL.

SECTION 14. That Section 4-406 of the Zoning and Development Code, pertaining to employee service entrances and exits, is hereby amended to read as follows:

Section 4-406 Employee Service Entrances and Exits.

Employee service exit and entrance doors shall be equipped with a security vision panel. A vision panel is a maximum three (3) inch wide, by minimum twenty-three (23) inch tall high density, impact resistance acrylic or laminated glass window. The vision panel shall be located on the door with the lowest edge of the panel not more than forty-three (43) inches and the highest edge of the panel not less than sixty-six (66) inches from the bottom edge of the door. This requirement shall comply with current applicable building codes. ~~Wire glass vision panel is acceptable when required.~~ FIRE-RATED GLAZING MAY BE USED WHEN INSTALLED IN A RATED DOOR. This section applies to new doors for remodels or additions, and new *buildings* designed for commercial, office/industrial or institutional uses, and do not apply to exterior doors installed to provide access to *building* utilities only. Multi-Family uses also require doors to be equipped with a security vision panel when not open~~ED~~ directly to a *dwelling* unit. The Development Services Manager, or designee, may approve other types of vision panels providing equal security.

SECTION 15. That a portion of Table 4-603E of the Zoning and Development Code, pertaining to off-street parking for outdoor use, is hereby amended to read as follows:

Table 4-603E: Ratios for Off-Street Parking			
Use	Vehicle Parking Minimums	Bicycle Parking Minimums	Bicycle Commute Area
Club			
Bar/tavern/nightclub/teen night club	1 space per 50 sf	1 per 1,000 sf	1 per 500 sf
Lodge/club or similar	1 space per 125 sf	1 per 2,000 sf	1 per 2,000 sf
<u>OUTDOOR (NO PARKING FIRST 300 SF; PER TENANT SPACE)</u>	<u>1 SPACE 150 SF</u>	<u>1 PER 2,000 SF</u>	<u>1 PER 2,000 SF</u>
Restaurant			
Indoor	1 space per 75 sf	1 per 1,000 sf	1 per 500 sf

Table 4-603E: Ratios for Off-Street Parking

Use	Vehicle Parking Minimums	Bicycle Parking Minimums	Bicycle Commute Area
Outdoor (NO PARKING FIRST 300 SF; PER TENANT SPACE)	1 space per 150 sf, or 1 space per 4 seats/chairs if no patio wall	1 per 2,000 sf, or 1 per 50 seats/chairs if no patio wall	1 per 2,000 sf, or 4 per 50 seats/chairs if no patio wall
Take out only (no tables/chairs)	1 space per 300 sf	1 per 10,000 sf, 2 min	1 per 7,500 sf, 4 min
Retail			
Indoor	1 space per 300 sf	1 per 10,000 sf, 2 min	1 per 7,500 sf, 4 min
Outdoor (NO PARKING FIRST 300 SF; PER TENANT SPACE)	1 space per 500 sf	1 per 5,000 sf	1 per 5,000 sf
Convenience store/gas	1 space per 300 sf	1 per 2,000 sf	1 per 1,000 sf
Furniture sales	First 10,000 sf @ 1 space per 500 sf + 1 space per 5,000 sf remaining	1 per 5,000 sf	1 per 5,000 sf

SECTION 16. That Section 6-306 (D) and (E) of the Zoning and Development Code, regarding development plan review, is hereby amended to read as follows:

D. Approval Criteria. *Development plan* approval SHALL BE BASED ON CONSIDERATION OF ~~requires conformance with~~ the following standards and criteria:

1. ~~The placement of buildings reinforces and provides variety in the street wall, maximizes natural surveillance and visibility of pedestrian areas (building entrances, pathways, parking areas, etc.), enhances the character of the surrounding area, facilitates pedestrian access and circulation and mitigates heat gain and retention through:~~
 - a. ~~Shade for energy conservation and comfort as an integral part of the design;~~
 - b. ~~Materials shall be of superior quality and compatible with the surroundings;~~
 - c. ~~Buildings and landscape elements have proper scale with the site and surroundings;~~
 - d. ~~Large building masses are divided into smaller components that create a human scale as viewed from the sidewalk;~~
 - e. ~~Buildings have a clear base and top, as identified by ground floor elements, roof forms, and detailing;~~
 - f. ~~Building facades have architectural detail and contain windows at the ground level to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility;~~
 - g. ~~Special treatment of doors, windows, doorways and walkways (proportionality, scale, materials, rhythm, etc.) contributes to attractive public spaces;~~
 - h. ~~On-site utilities are placed underground;~~

- ~~i. Clear and well lighted walkways connect *building* entrances to one another and to adjacent sidewalks;~~
- ~~j. *Accessibility* is provided in conformance with the Americans With Disabilities Act (ADA);~~
- ~~k. Plans take into account pleasant and convenient access to multi-modal transportation options, and support the potential for transit patronage;~~
- ~~l. Vehicular circulation is designed to minimize conflicts with pedestrian access and circulation, and with surrounding residential uses. Traffic impacts are minimized, in conformance with city transportation policies, plans, and design criteria;~~
- ~~m. Safe and orderly circulation separates pedestrian and bicycles from vehicular traffic. Projects should be consistent with the Tempe Pedestrian and Bicycle Facility Guidelines, contained the Comprehensive Transportation Plan;~~
- ~~n. Plans appropriately integrate crime prevention principles such as territoriality, natural surveillance, access control, activity support, and *maintenance*;~~
- ~~o. Landscaping accents and separates *parking*, *buildings*, driveways and pedestrian walkways;~~
- ~~p. *Signs* must have design, scale, proportion, location and color compatible with the design, colors, orientation and materials of the *building* or site on which they are located. The decision-making body shall consider the following:~~
 - ~~1. *Sign* copy shall provide contrast with its background;~~
 - ~~2. *Sign* area and copy shall be proportional to the size of the *building* element on which it is located; and~~
 - ~~3. *Signs* for complexes or centers shall utilize materials which are complementary to the *building* and to the other *signs* on the premises.~~
- ~~q. Lighting is compatible with the proposed *building(s)* and adjoining *buildings* and uses, and does not create negative effects.~~

- 1. PLACEMENT, FORM, AND ARTICULATION OF BUILDINGS AND STRUCTURES PROVIDE VARIETY IN THE STREETScape;
- 2. BUILDING DESIGN AND ORIENTATION, TOGETHER WITH LANDSCAPE, COMBINE TO MITIGATE HEAT GAIN/RETENTION WHILE PROVIDING SHADE FOR ENERGY CONSERVATION AND HUMAN COMFORT;
- 3. MATERIALS ARE OF A SUPERIOR QUALITY, PROVIDING DETAIL APPROPRIATE WITH THEIR LOCATION AND FUNCTION WHILE COMPLEMENTING THE SURROUNDINGS;
- 4. BUILDINGS, STRUCTURES, AND LANDSCAPE ELEMENTS ARE APPROPRIATELY SCALED, RELATIVE TO THE SITE AND SURROUNDINGS;

5. LARGE BUILDING MASSES ARE SUFFICIENTLY ARTICULATED SO AS TO RELIEVE MONOTONY AND CREATE A SENSE OF MOVEMENT, RESULTING IN A WELL-DEFINED BASE AND TOP, FEATURING AN ENHANCED PEDESTRIAN EXPERIENCE AT AND NEAR STREET LEVEL;
6. BUILDING FACADES PROVIDE ARCHITECTURAL DETAIL AND INTEREST OVERALL WITH VISIBILITY AT STREET LEVEL (IN PARTICULAR, SPECIAL TREATMENT OF WINDOWS, ENTRIES AND WALKWAYS WITH PARTICULAR ATTENTION TO PROPORTIONALITY, SCALE, MATERIALS, RHYTHM, ETC.) WHILE RESPONDING TO VARYING CLIMATIC AND CONTEXTUAL CONDITIONS.
7. PLANS TAKE INTO ACCOUNT PLEASANT AND CONVENIENT ACCESS TO MULTI-MODAL TRANSPORTATION OPTIONS AND SUPPORT THE POTENTIAL FOR TRANSIT PATRONAGE;
8. VEHICULAR CIRCULATION IS DESIGNED TO MINIMIZE CONFLICTS WITH PEDESTRIAN ACCESS AND CIRCULATION, AND WITH SURROUNDING RESIDENTIAL USES;
9. PLANS APPROPRIATELY INTEGRATE *CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN* PRINCIPLES SUCH AS TERRITORIALITY, NATURAL SURVEILLANCE, ACCESS CONTROL, ACTIVITY SUPPORT, AND MAINTENANCE;
10. LANDSCAPE ACCENTS AND PROVIDES DELINEATION FROM PARKING, BUILDINGS, DRIVEWAYS AND PATHWAYS;
11. Signs must have design, scale, proportion, location and color compatible with the design, colors, orientation and materials of the *building* or site on which they are located; AND
 - a. ~~Sign copy shall provide contrast with its background;~~
 - b. ~~Sign area and copy shall be proportional to the size of the *building* element on which it is located; and~~
 - c. ~~Signs for complexes or centers shall utilize materials which are complementary to the *building* and to the other *signs* on the premises.~~
12. LIGHTING IS COMPATIBLE WITH THE PROPOSED *BUILDING(S)* AND ADJOINING *BUILDINGS* AND USES, AND DOES NOT CREATE NEGATIVE EFFECTS.

- E. **Time Limitations.** *Development plan* approval shall be void if the *development* is not commenced or if AN APPLICATION FOR a building permit has not been ~~obtained~~ SUBMITTED, whichever is applicable, within twelve (12) months after the approval is granted or within the time stipulated by the decision-making body. THE PERIOD OF APPROVAL IS EXTENDED UPON THE TIME REVIEW LIMITATIONS SET FORTH FOR BUILDING PERMIT APPLICATIONS, PURSUANT TO TEMPE BUILDING SAFETY ADMINISTRATIVE CODE, SECTION 8-104.15. AN EXPIRATION OF THE BUILDING PERMIT APPLICATION WILL RESULT IN EXPIRATION OF THE DEVELOPMENT PLAN.

SECTION 17. That Section 6-308 (K) of the Zoning and Development Code, pertaining to use permit time limitations, is hereby amended to read as follows:

- K. **Use Permit Time Limitation.** *Use permits* APPROVALS shall be void if the use is not commenced OR IF AN APPLICATION FOR A BUILDING PERMIT HAS NOT BEEN SUBMITTED, WHICHEVER IS APPLICABLE, within twelve (12) months after the use permit is granted or within the time stipulated by the decision-making body. THE PERIOD OF APPROVAL IS EXTENDED UPON THE TIME REVIEW LIMITATIONS SET FORTH FOR BUILDING PERMIT APPLICATIONS, PURSUANT TO TEMPE BUILDING SAFETY ADMINISTRATIVE CODE, SECTION 8-104.15. AN EXPIRATION OF THE BUILDING PERMIT APPLICATION WILL RESULT IN EXPIRATION OF THE USE PERMIT.

SECTION 18. That Section 6-309 (F) of the Zoning and Development Code, pertaining to variance time limitations, is hereby amended to read as follows:

- F. **Variance Time Limitations.** *Variance* APPROVALS shall be void if the use is not commenced or if AN APPLICATION FOR a building permit has not been obtained SUBMITTED, whichever is applicable, within twelve (12) months of such granting or within the time stipulated by the decision-making body. ~~The time period for a variance may be extended in conformance with Section 6-901, and shall only be renewed upon approval of a new variance application.~~ THE PERIOD OF APPROVAL IS EXTENDED UPON THE TIME REVIEW LIMITATIONS SET FORTH FOR BUILDING PERMIT APPLICATIONS, PURSUANT TO TEMPE BUILDING SAFETY ADMINISTRATIVE CODE, SECTION 8-104.15. AN EXPIRATION OF THE BUILDING PERMIT APPLICATION WILL RESULT IN EXPIRATION OF THE VARIANCE.

SECTION 19. That Section 6-310 of the Zoning and Development Code, pertaining to notices for an abatement, is hereby amended to read as follows:

Section 6-310 Abatement.

- A. **Purpose.** Abatements shall remove code violations from property.
- B. **Applicability.** Refer to Tempe City Code, Chapter 21.

- C. **Procedure.** Abatements are processed through the Hearing Officer as a public hearing MEETING. APPEALS FROM THE HEARING OFFICER SHALL BE ~~with an appeal being heard by the Board of Adjustment, AND then appealed to the Superior Court.~~ NOTICE OF THE ABATEMENT MEETING SHALL BE PROVIDED PURSUANT TO TEMPE CITY CODE SECTION 21-43, NOTICE TO COMPLY, AND SECTION 6-403, NOTICES FOR PUBLIC MEETINGS OF THIS CODE.

SECTION 20. That Section 6-802 (A) of the Zoning and Development Code, pertaining to notices for an appeal, is hereby amended to read as follows:

- A. **Public NOTICE/Hearing.** Such appeals shall be NOTICED AND heard using the same procedures as the original public meeting/~~public hearing,~~ PURSUANT TO PART 6, CHAPTER 4, PUBLIC NOTICE AND STAFF REPORTS AND ~~procedures in Part 6, Chapter 5,~~ PUBLIC MEETINGS AND PUBLIC HEARINGS.

SECTION 21. That Section 6-901 (A) of the Zoning and Development Code, pertaining to extension requests, is hereby amended to read as follows:

- A. **Request for Extension.** If an extension is desired, the holder of the approval or permit must file an application for an extension ~~no later than forty-five (45) calendar days~~ prior to expiration of the approval or permit.

SECTION 22. That Section 6-902 (A) of the Zoning and Development Code, pertaining to revocation procedures, is hereby amended to read as follows:

- A. **Procedure and Criteria.** Following reasonable notice to the permit/approval holder an administrative hearing shall be held to consider all relevant information, conditions, and concerns related to the permit. The permit/approval holder will be given a reasonable opportunity to resolve all related issues. If the permit/approval holder cannot comply with conditions of the permit/approval or otherwise remains in violation of this Code after thirty (30) days, or sooner when the violations constitute an immediate public health, safety and general welfare concern, the Zoning Administrator shall schedule the item on the next regularly scheduled agenda of the original decision-making body, as may be appropriate, at which time revocation of the permit/approval may be considered. NOTICE OF A REVOCATION SHALL BE PROVIDED IN THE SAME MANNER AS THE ORIGINAL MEETING OR HEARING, AS AMENDED WITHIN SECTIONS 6-403 AND 6-404, NOTICES FOR PUBLIC MEETINGS AND HEARINGS. A permit/approval may be revoked if it is determined that:
1. Development which has occurred does not comply with the standards set forth in this Code or any special conditions imposed upon the permit/approval;
 2. The permit/approval was approved based on materially incorrect or incomplete information; or
 3. A change has occurred to city regulations, the General Plan or applicable law, prior to the *development* obtaining a vested right or status as a legal nonconforming use that makes the approved *development* unlawful or not permitted.

SECTION 23. That Section 7-104 of the Zoning and Development Code, pertaining to definitions for card room and columbarium, is hereby amended to read as follows:

Section 7-104 “C” Definitions.

CARD ROOM / POKER ROOM MEANS A GAMBLING ESTABLISHMENT THAT EXCLUSIVELY OFFERS CARD GAMES FOR PLAY BY THE PUBLIC. THE PLAYERS COMPETE AGAINST EACH OTHER, INSTEAD OF AGAINST "THE HOUSE", FOR MONETARY VALUE.

COLUMBARIUM MEANS A VAULT OR OTHER STRUCTURE WITH RECESSES IN THE WALLS TO RECEIVE THE ASHES OF THE DEAD, AND SHALL BE CONSIDERED A PERMITTED ACCESSORY USE FOR CEMETERIES, MAUSOLEUMS OR A PLACE OF WORSHIP.

SECTION 24. That Section 7-105 of the Zoning and Development Code, pertaining to definitions for donation bin, is hereby amended to read as follows:

Section 7-105 “D” Definitions.

DONATION BIN MEANS A LARGE CONTAINER PLACED IN OUTDOOR PUBLIC LOCATIONS FOR PEOPLE TO DROP OFF USED CLOTHING AND HOUSEHOLD GOODS FOR CHARITABLE PURPOSES.

SECTION 25. That Section 7-113 of the Zoning and Development Code, pertaining to definitions for livestock, is hereby amended to read as follows:

Section 7-113 “L” Definitions.

LIVESTOCK MEANS CATTLE, HORSES, EMUS, LLAMAS, OSTRICHES, SHEEP, GOATS, OR SIMILAR ANIMALS, EXCEPT FOR SWINE.

SECTION 26. That Section 7-117 of the Zoning and Development Code, pertaining to definitions for poultry, is hereby amended to read as follows:

Section 7-117 “P” Definitions.

POULTRY MEANS CHICKENS, DUCKS, GEESE, TURKEYS, GUINEA FOWL, OR OTHER DOMESTIC FOWL.

SECTION 27. That Section 7-119 of the Zoning and Development Code, pertaining to definitions for recycling centers and reverse vending machines, is hereby amended to read as follows:

Section 7-119 “R” Definitions.

RECYCLING CENTERS MEANS A PLACE FOR THE FOLLOWING DEVICES,

INCLUDING BUT NOT LIMITED TO, MOBILE RECYCLING UNITS, REVERSE VENDING MACHINES, AND DONATION BINS, FOR DROP-OFF OR DEPOSIT OF RECYCLABLE MATERIALS SUCH AS GLASS, METAL, PAPER PRODUCTS AND OTHER MATERIALS AS DETERMINED BY THE ZONING ADMINISTRATOR. SMALL RECYCLING CENTERS ARE DEFINED AS HAVING AN AREA OF FIVE HUNDRED (500) SQUARE FEET OR LESS. LARGE RECYCLING CENTERS ARE FACILITIES OVER FIVE HUNDRED (500) SQUARE FEET OR INCLUDE MACHINERY FOR PROCESSING MATERIALS.

REVERSE VENDING MACHINE MEANS A MECHANICAL DEVICE THAT ACCEPTS ONE OR MORE TYPES OF EMPTY BEVERAGE CONTAINERS, INCLUDING ALUMINUM CANS, GLASS AND PLASTIC BOTTLES AND CARTONS, AND ISSUES A CASH REFUND OR A REDEEMABLE CREDIT SLIP WITH A VALUE NOT LESS THAN THE CONTAINER'S REDEMPTION VALUE. SEE ALSO RECYCLING CENTERS.

SECTION 28. That Section 7-120 of the Zoning and Development Code, pertaining to definitions for small animal and smoking establishment, is hereby amended to read as follows:

Section 7-120 "S" Definitions.

SMALL ANIMAL MEANS THE KEEPING OF POULTRY AS DEFINED HEREIN, POT-BELLIED PIGS, RABBITS, OR OTHER SIMILAR SMALL ANIMALS.

SMOKING ESTABLISHMENT MEANS ANY BUSINESS OR LOCATION THAT IS DEDICATED, IN WHOLE OR IN PART, TO THE USE OF TOBACCO OR OTHER SUBSTANCES EMITTING SMOKE, INCLUDING BUT NOT LIMITED TO ESTABLISHMENTS ALSO REFERRED AS CIGAR BARS OR LOUNGES, HOOKAH BARS OR LOUNGES, AND TOBACCO CLUBS OR BARS.

SECTION 29. That Section 7-121 of the Zoning and Development Code, pertaining to definitions for tobacco retailer, is hereby amended to read as follows:

Section 7-121 "T" Definitions.

Tobacco retailer means any person or business who primarily sells or offers for sale, tobacco, tobacco products, or tobacco paraphernalia, or who distributes samples of tobacco products or paraphernalia. These businesses include but are not limited to, ~~smoke shops,~~ tobacco shops, cigars and pipe retailer, cigarette retailer, and ~~hookah~~ SMOKING ESTABLISHMENTS ~~lounges.~~

SECTION 30. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this ____ day of _____, 2009.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

ACCESSORY BUILDING(S)

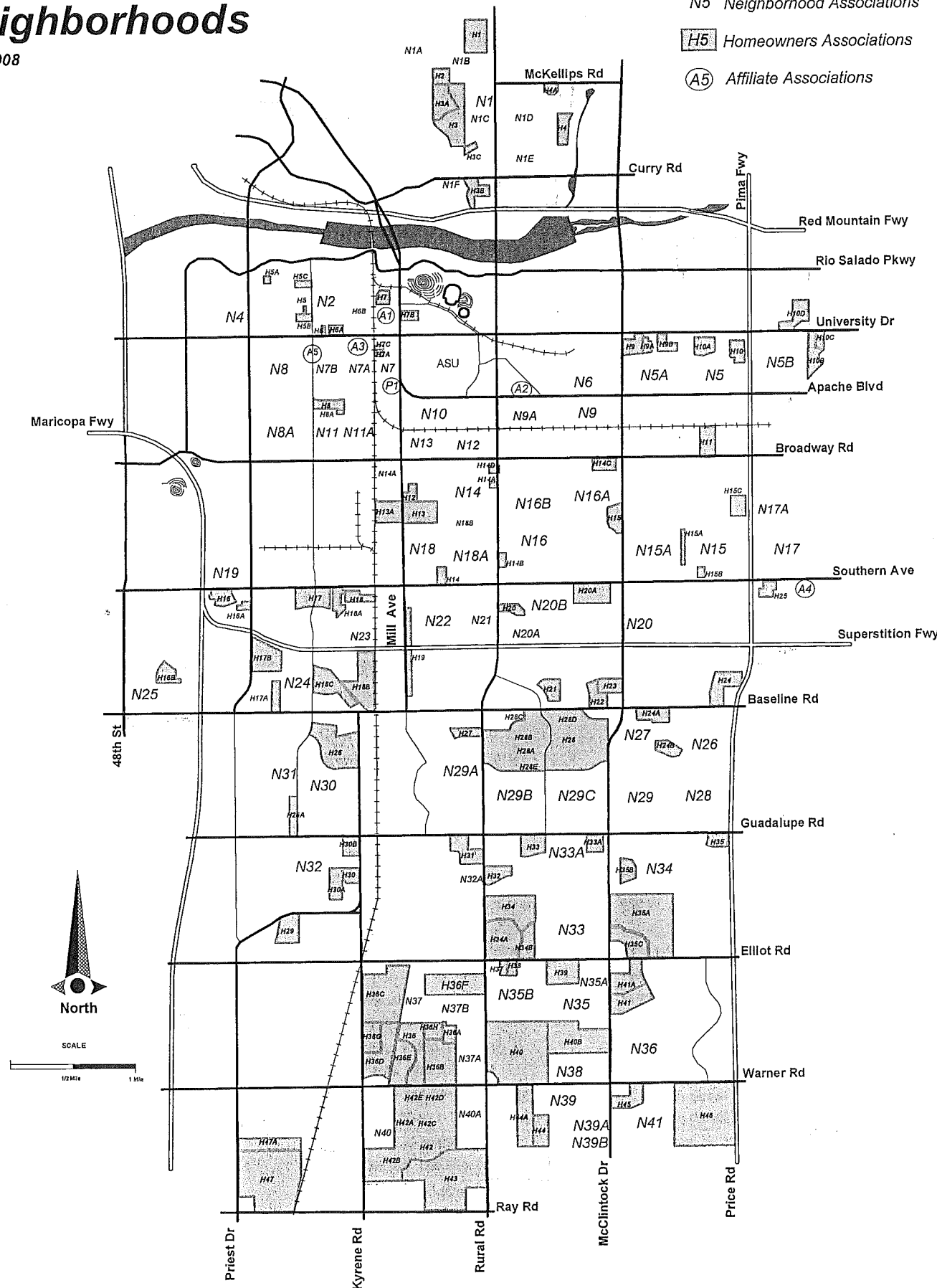
Since July 21, 2009

<u>Year</u>	<u>Zoning</u>	<u>Total #'s</u>	<u>Avg S.F.</u>	<u>Avg Ht</u>
2005	R1-6	7	870 s.f.	13'
	R1-7	1	400 s.f.	15'
	R1-10	1	400 s.f.	11'
	R1-15	3	410 s.f.	13'
	AG	2	640 s.f.	13'
Totals		14	544 s.f.	13'
2006	R1-6	5	690 s.f.	12'
	R1-7	2	336 s.f.	13'
	R1-10	0	----	----
	R1-15	0	----	----
	AG	6	1,434 s.f.	16'
Totals		13	820 s.f.	14'
2007	R1-6	13	782 s.f.	13'
	R1-7	0	----	----
	R1-10	1	550 s.f.	13'
	R1-15	0	----	----
	AG	3	1,060 s.f.	16'
Totals		17	790 s.f.	14'
2008	R1-6	8	450 s.f.	10'
	R1-7	2	600 s.f.	13'
	R1-10	1	500 s.f.	10'
	R1-15	2	350 s.f.	13'
	AG	6	1,207 s.f.	15'
Totals		19	620 s.f.	12'
2009	R1-6	7	515 s.f.	12'
	R1-7	2	438 s.f.	13'
	R1-10	0	-----	-----
	R1-15	1	1,000 s.f.	15'
	AG	4	771 s.f.	14'
Totals		14	681 s.f.	14'

Tempe Neighborhoods

May 2008

- N5 Neighborhood Associations
- H5 Homeowners Associations
- A5 Affiliate Associations



Memorandum

City of Tempe



Date: August 6, 2009

To: Development Review Commission
Ryan Levesque, Senior Planner

From: Shauna Warner, Neighborhood Services Director

Subject: Proposed Zoning and Development Code Amendments

At the August 5, 2009 meeting of the Neighborhood Advisory Commission (NAC), a 21-member commission advising Mayor and Council on issues effecting neighborhoods, Commissioners reviewed Ordinance No. 2009.15, which includes proposed Zoning and Development Code amendments.

At the meeting, members unanimously passed a motion to support the amendments to the Zoning and Development Code.