

RESOLUTION R22-05-08

"EXHIBIT A"

El Mirage, AZ Code of Ordinances

CHAPTER 154: ZONING CODE

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GENERAL PROVISIONS

§ 154.001 CITATION OF CHAPTER.

This chapter shall be known as and may be cited as the “El Mirage Zoning Ordinance”, except that when cited herein, it shall be referred to as “this chapter, this Ordinance or this Code.”

(Prior Code, § 21-1-1)

§ 154.002 ADOPTION.

This chapter is adopted as the city’s Zoning Ordinances relating to Comprehensive Planning and Zoning, pursuant to provisions of Arizona law, including, without limiting the generality of the foregoing, A.R.S. §9-461 and § 9-462, inclusive, as amended.

(Prior Code, § 21-1-2)

§ 154.003 PURPOSE AND NATURE OF REGULATIONS.

It is the intent and purpose of this chapter to protect the public health, safety, and general welfare of the community and the people of the city through the establishment of minimum regulations governing development and use of land. This chapter shall divide the city into districts and establish regulations in regard to location, erection, construction, reconstruction, alteration, and use of structures and land. The regulations are established to promote orderly development and redevelopment; to provide adequate light, air, and access to property; to prevent congestion in the public rights-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and density of population; to provide for compatibility of different land uses; to provide for administration of this chapter; to provide for amendments; to prescribe penalties for violation of the regulations; and to define powers and duties of the city staff, the Planning and Zoning Commission, the Board of Adjustment, and the City Council in relation to this chapter.

(Prior Code, § 21-1-3)

§ 154.004 RELATION TO EL MIRAGE GENERAL PLAN.

All zoning and rezoning ordinances or regulations adopted under this chapter shall be consistent with and conform to the adopted general plan per A.R.S. § 9-462.01(F).

(Res R20-05-06, ratified 11-03-2020)

§ 154.005 SEVERABILITY.

It is hereby declared to be the intention of the city that the provisions of this chapter are separable in accordance with the following:

- (A) If any court of competent jurisdiction shall adjudge any provision of this chapter to be invalid, that judgment shall not affect any other provisions of this chapter not specifically included in the judgment; and/or
- (B) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this chapter to a particular property, building, or other structure, that judgment shall not affect the application of the provision to any other property, building, or structure not specifically included in the judgment.

(Prior Code, § 21-1-5)

§ 154.006 CONFLICT WITH OTHER REGULATIONS.

In the case of a conflict between this chapter and/or any part thereof, or any other ordinance of the city, the more restrictive provision in all cases shall apply unless otherwise stated herein.

(Prior Code, § 21-1-6)

§ 154.007 PRIVATE AGREEMENTS.

(A) The provisions of this chapter are not intended to interfere with or abrogate or annul any easements, covenants, or other agreements between private parties when the easements, covenants, or other agreements are more restrictive or otherwise not in conflict with this chapter.

(B) When the easements, covenants, or other agreements are less restrictive or otherwise in conflict with this chapter, this chapter shall prevail.

(Prior Code, § 21-1-7)

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DEFINITIONS

§ 154.020 DEFINITION OF TERMS.

- (A) Words used in the present tense include the future tense; words used in the singular include the plural, and words used in the plural include the singular; the word “shall” is always mandatory, the word “person” includes a firm, association, organization, partnership, trust, corporation, or company, as well as an individual; the word “lot” includes the words “plot” or “parcel”; the words “used” or “occupied,” as applied to any land or building, shall be construed to include the words “intended, arranged, or designed to be used or occupied”; the words “map” or “zoning map” mean the Zoning Map(s) of the city that delineate the area to be governed by these regulations.
- (B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

100-YEAR FLOOD. The highest level of flooding that, on the average, is likely to occur once every 100 years (i.e., that has a 1% chance of occurring in any given year).

ABANDONED. To discontinue the use or occupancy of a building, parcel or property.

ABUT, ABUTTING. To share, border or physically touch a common boundary, property line or right-of-way.

ACCESSORY BUILDING OR USE. A subordinate building, or portion of the principal building that is fully enclosed and has utilities enabling human habitation, located on the same lot as the principal building, or a subordinate use of land, either of which is customarily incidental to the principal building or to the principal use of land. Where part of an accessory building is connected to part of the principal building in a substantial manner as by a roof, the accessory building shall be counted as part of the principal building. Individual public utility installations above ground are considered **ACCESSORY BUILDINGS**.

ACCESSORY DWELLING UNIT. An ancillary or secondary living unit to a single-family detached dwelling unit (i.e. principal building) that has a kitchenette, bathroom, and sleeping area; is located on the same lot as the principal building, and is either attached to the principal building by a common wall or fully covered breezeway with common roof structure and improved floor or fully detached from the principle building. For purposes of determining maximum density, an accessory dwelling unit shall not count as a dwelling unit.

ACCESSORY STRUCTURE. A subordinate structure to that of a principal building, which is not served with utilities and/or is not fully enclosed, enabling human habitation (i.e. deck, gazebo, tool shed, etc.)

ACRE. A unit of measure for land area containing 43,560 square feet.

ADDITION. An extension or increase in floor area or height of a building or structure.

ADJACENT. See “Adjoining”.

ADJOINING. The condition of having a common dividing line. Two (2) properties which are separated by only a street or alley shall be considered as adjoining one another.

ADULT ENTERTAINMENT

ADULT ENTERTAINMENT BUSINESS. A business that offers adult services such as adult arcades, adult bookstores or video stores, cabarets, adult live entertainment establishments, adult motion picture theaters, adult theaters, adult massage establishments, or nude model studios as defined in the Arizona Revised Statue § 11-811 E.

ADULT ARCADE. Any place to which the public is permitted wherein money-operated, token-operated or credit-operated, or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time in any viewing room of 150 square feet or less, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or NOVELTY STORE. Any commercial establishment:

(1) Which as one of its principal business uses offers for sale or rental, for any consideration, any of the following:

(a) Books, magazines, periodicals or other printed materials, which depict or describe specified sexual activities or specified anatomical areas; or

(b) Films, video cassettes or other video reproductions depicting specified sexual activities or specified anatomical areas; or

(c) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities, excluding condoms and other birth control and disease prevention products; and

(2) Which regularly excludes all minors from the premises because of the sexually explicit nature of the items sold, rented or displayed therein.

(3) For purposes of this definition, 25% or more of the establishment's merchandise constitutes a principal business use.

ADULT CABARET. Any nightclub, bar, restaurant, or other commercial establishment which features live performances or activities on the business premises that are characterized by the exposure of specified anatomical areas or by specified sexual activities; provided that a nude model studio is not an adult cabaret, the term **ADULT CABARET** is intended to apply to businesses which emphasize and seek, through the conduct of any employee or performer, to arouse or excite any patron's sexual desires. Nothing in this definition shall be construed to apply to the presentation or performance of any play, drama, or ballet in any theater, concert hall, fine arts academy, school, institution of higher education or similar establishment as a form of expression of opinion or

communication of ideas or information, as differentiated from the promotion or exploitation of nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

ADULT THEATER. Any business establishment, other than an adult arcade or adult motel, used regularly for the business of exhibiting films, video cassettes or other video reproductions depicting specified sexual activities or specified anatomical areas, and from which all minors are regularly excluded because of the sexually explicit nature of such films, cassettes or reproductions.

NUDE, NUDITY or STATE OF NUDITY. The appearance of the cleft of the buttocks, anus, genitals or areola of the female breast; or a state of dress which fails to opaquely cover the cleft of the buttocks, anus, genitals or areola of the female breast.

NUDE MODEL STUDIO Any place where a person appears nude or semi-nude, and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons for any consideration, the term **NUDE MODEL STUDIO** does not include a proprietary school that is licensed by this state; a college, community college, or university that is supported entirely or in part by taxation; a private college or university that maintains and operates educational programs in which credits are transferable to a college, community college, or university that is supported entirely or in part by taxation; or a structure to which all of the following apply:

- (1) A sign is not visible from the exterior of the structure and no other advertising appears on the premises indicating that a nude or semi-nude person is available for viewing;
- (2) The business does not otherwise advertise itself as an adult business;
- (3) Where in order to participate in a class, a student must enroll at least three days in advance of the class; and
- (4) Where no more than one nude or semi-nude model is on the premises at any one time.

SEMI-NUDE or SEMI-NUDITY. A state of dress which shows the female breast below a horizontal line across the top of the areola at its highest point, or which shows the male or female buttocks. This definition shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, leotard, bathing suit, or other wearing apparel, provided that the areola is not exposed in whole or in part.

SEMI-NUDE BUSINESS. Any commercial establishment, other than an adult cabaret, nude model studio, or topless bar, which features employees who appear semi-nude before customers on the business premises. The term **SEMI-NUDE BUSINESS** is intended to apply to businesses which emphasize and seek, through the conduct of any employee or performer, to arouse or excite any patron's sexual desires. Nothing in this definition shall be construed to apply to the presentation or performance of any play, drama, or ballet in any

theater, concert hall, fine arts academy, school, institution of higher education or similar establishment as a form of expression of opinion or communication of ideas or information, as differentiated from the promotion of exploitation of semi-nudity for the purpose of advancing the economic welfare of a commercial or business enterprise.

SPECIFIED ANATOMICAL AREAS. Human genitals in a state of sexual arousal; the appearance of the cleft of the buttocks, anus, genitals, or areola of the female breast; or a state of dress which fails to opaquely cover the cleft of the buttocks, anus, genitals, or areola of the female breast.

SPECIFIED SEXUAL ACTIVITIES. Activities that depict, describe, or relate to any of the following activities:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any activities set forth in divisions (1) through (3) above.

TOPLESS BAR. Any establishment which is required to hold a liquor license under Arizona law and which offers semi-nude performers as entertainment.

(Ord. O08-07-12, passed 7-10-2008)

ADVERSE IMPACT. A negative consequence for the physical, social, or economic environment resulting from an action, use, or development.

AGRICULTURE, GENERAL. The use of land for purposes included growing and harvesting along with necessary accessory uses (such as greenhouses, raising of animals, or the storage of related equipment used on the premises and temporary storage of related products used and/or produced on the premises). The operation of any such accessory use shall be secondary to that of the principal agricultural activities. General agriculture uses may or may not be owner-occupied and may utilize employees who are not owners or family of the owners. This use does not include dairies, commercial animal breeding, concentrated animal feeding operations (CAFO), slaughter and meatpacking plants, or fertilizer yards.

AIRPORT/ HELIPORT. An area of land consisting of runways and structures designed for the takeoff, landing, and maintenance of aircraft and/or helicopters. Activities may include private flights, commercial and non-commercial flights, flying clubs, and flight training or flight schools.

ALCOHOLIC BEVERAGES, RETAIL SALE. An establishment licensed to sell alcoholic beverages including beer, wine, and liquor and barring all on-site consumption. A drive thru may be included as defined and regulated herein.

ALLEY. A permanent public thoroughfare providing a secondary means of access to abutting lands.

ALTERATION. Any change, addition or modification that changes the exterior architectural appearance or materials of a structure or object. Alteration includes changes in exterior surfaces, changes in materials, additions, remodels, demolitions, and relocation of buildings or structures, but excludes ordinary maintenance and repairs.

AMENDMENT. A change in the wording, context or substance, or the addition of text to this Ordinance; an addition, deletion or change in the district boundaries or classifications on the Zoning Map.

ANIMAL HOSPITAL/ VETERINARY CLINIC. A facility used by one or more licensed veterinarians to provide medical and hygiene-related services to animals. Excludes overnight boarding of animals that are not under medical care.

ANIMAL KENNEL/ SHELTER. A facility where 4 or more domestic animals over the age of 3 months are held for the purposes of boarding, breeding, or selling. The facility may also accept and/or seize domestic animals for the purpose of boarding them overnight, caring for them, placing them through adoption, or carrying out law enforcement. A zoo, pet store, veterinary clinic, animal hospital, and animal husbandry are not considered a kennel.

APPLICANT. Any person applying for any permit, approval or decision governed or required by this Ordinance.

AREA, GROSS. The land area (acres) within the perimeter of a parcel or lot, including all non-dedicated streets, alleys, private roadways and/or alley easements, and canal and/or irrigation easements.

AREA, NET. The land area (acres) within the perimeter of a parcel or lot, excluding all dedicated arterial, collector and local street right-of-ways.

AREA OF SHALLOW FLOODING. A designated AO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

A.R.S. The abbreviation for the Arizona Revised Statutes.

ART GALLERY/ STUDIO. A private establishment for the creation, collection, and display of objects of art, may be open and available to the public.

ASSEMBLY HALL/AUDITORIUM/ CONFERENCE CENTER. A building or structure, or group of buildings or structures, that may or may not be rented for the conducting of organized short-term events such as weddings, receptions, concerts, performances, and conferences. Accessory uses may include meeting rooms, kitchen facilities for preparation of food to be consumed on the premises, parking,

and childcare provided for persons while they are attending assembly functions. Schools associated with assembly uses are not an accessory use.

ASSEMBLY, LIGHT. An establishment engaged only in the on-site assembly of goods. No manufacturing of parts occurs. Goods are shipped to the establishment, assembled, packaged, and reshipped. Assembly and packaging involves only the use of hand tools or domestic mechanical equipment not exceeding two horsepower or a single kiln not exceeding eight kilowatts. Typical light assembly uses include ceramic studios and custom jewelry manufacturing.

ASSISTED LIVING CENTER. A residential care institution that provides resident rooms or residential units to eleven (11) or more persons for the housing of individuals with disabilities (adults or minors). The facility provides on-site care, training or support, or habilitative or rehabilitative services, related to the residents' disabilities. This use includes structured sober living homes and caring for the ambulatory, aged or infirm in a residential setting. Does not include a nursing home, group care home, resident care home or hospital. Care givers are present at all times and may (or may not) reside at the site. Facilities typically include common kitchen and dining areas but may contain individual kitchenettes for residents. An Assisted Living Center shall be licensed by the state of Arizona.

ASSISTED LIVING HOME. A dwelling unit, shared for the housing of and caring for the ambulatory, aged or infirm and licensed by the Arizona State Department of Health services for no more than ten (10) persons excluding staff in a residential setting. Does not include a nursing home, group care home, or assisted living center. Care givers are present at all times, and typically reside at the site.

AUCTIONS, INDOOR. A completely enclosed facility where property is received from willing persons or businesses, when such property is to be sold to third parties, by auction, either publicly or privately, whether for cash, property or other consideration, inside the primary structure. Outdoor storage is allowed as an accessory use, if completely screened.

AUTO WRECKING AND SALVAGE YARD. Any place of which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled, or sorted including, but not limited to: use of salvaged base metal or metals, their compounds or combinations; used or salvaged glass, rubber, lumber, millwork, brick, automobiles, and similar property which are used, owned, or possessed for the purpose of wrecking or salvaging parts therefrom.

AUTOMOBILE/ BOAT/RV, REPAIR MINOR. An establishment with the primary purpose of the service and repair of automobiles, boats, trucks, and motorcycles, including the sale, installation, and servicing of related equipment and parts. This classification includes quick-service oil, tune-up, wheel and brake shops, muffler shops, auto glass services, propeller service, battery replacement and tire sales and installation, where repairs are made or service provided in enclosed bays and no vehicles are stored overnight. This classification excludes establishments

providing engine repair, body, hull and fender work, vehicle/boat painting, or towing. It also excludes repair of commercial trucks and tractor-trailers or construction vehicles.

AUTOMOBILE/ BOAT/RV, REPAIR MAJOR. As establishment with the primary purpose of the repair of automobiles, boats, trucks, motorcycles, motor homes, and recreational vehicles, including the sale, installation, and servicing of related equipment and parts, generally on an overnight basis. This classification includes auto/boat engine repair shops; body, hull and fender shops, transmission shops, restoration, refurbishing, but excludes auto/boat dismantling or salvaging and tire re-treading or recapping.

AUTOMOBILE/ BOAT/RV, SALES & LEASING. As establishment with the primary purpose of the sale, leasing or rental of automobiles, motorcycles, trucks, motor homes and boats, including storage and incidental maintenance.

BAR, LOUNGE, OR TAVERN. A structure or part of a structure used primarily for the sale, dispensing, and on-site consumption of alcoholic beverages or liquor by the drink, which may or may not serve food. Any facility providing both food and alcoholic beverages or liquor by the drink for on-site consumption that does not meet the definition of a restaurant shall be considered a bar, lounge, or tavern.

BASE FLOOD, 100-YEAR. The flood having a 1% chance of being equaled or exceeded in any given year.

BASEMENT. A portion of a building located partly underground but having not less than half its floor-to-ceiling height below the average grade of the adjoining ground.

BED & BREAKFAST (≤6 UNITS). A business in a building originally constructed as a single-family dwelling and/or reconstructed from a commercial building into a single-family dwelling that provides not more than six (6) guest rooms for guest accommodations on a temporary basis with breakfast service being provided on premises. The operator of the bed and breakfast shall live on the premises or abutting premises.

BOARD. The Board of Adjustment of the City of El Mirage, Arizona.

BOAT. Any vessel or motorized device used for traveling in or on water, including, but not limited to, an unpowered vessel; a vessel powered by oars, paddles, sail, or motor; and a raft, whether ridged, supported by pontoons, or inflatable.

BUFFER. A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

BUILDING. Any structure having enclosed space and a roof for the housing and/or enclosure of persons, animals or chattels, except mobile homes, recreational vehicles, and mobile offices.

BUILDING AREA. The maximum horizontal projected area of the principal and accessory building, excluding open steps, terraces, unenclosed porches of one story, and architectural appurtenances projecting not more than two feet. **BUILDING AREA**, as that portion of a lot upon which construction is permitted, is as follows:

That area of a lot that lies within the boundaries of the front, side, and rear yard setback requirements measured from the actual lot line.

BUILDING, FRONT PLANE OF. The face of a building nearest the street right-of-way line or related front, side, or rear lot line.

BUILDING, HEIGHT OF. The vertical distance of a building as measured from the average elevation of the finished grade within 20 feet of the structure to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the highest point of the highest gable of a pitch or hip roof..

BUILDING, NON-CONFORMING. A legally existing building which fails to comply with the regulations set forth in this chapter applicable to the zone in which the building is located.

BUILDING, PRINCIPAL. A building in which is conducted the main, or principal, use of the lot on which the building is situated.

BUILDING MATERIALS SALES. A primarily outdoor establishment for the wholesale or bulk sale of materials, hardware, and lumber customarily used in the construction of buildings and other structures. Outdoor examples include lumber yards and landscaping materials stores. This use does not include home improvement and hardware stores.

BUILDING PERMIT. A permit issued by the City of El Mirage that is required for the construction, modification or moving of any building, structure or use in the City of El Mirage.

BUILDING WALL. The individual sides of a building.

BUSINESS. The engaging in of the purchase, sale, barter, or exchange of goods, wares, merchandise, or service; the maintenance or operation of offices or recreational or amusement enterprises.

BUSINESS NAME. The name by which a business is commonly recognized and referred to by the applicant but does not include slogans or product information.

BUSINESS SERVICES. An establishment that primarily provides goods and services to other businesses on a fee or contract basis including printing and copying, blueprint services, advertising and mailing, office security, custodial services, and photo finishing.

CARGO CONTAINER. An article of transport equipment which falls into any of the following categories:

- (1) Designed or constructed for or used to facilitate the packing, shipping, movement, or transportation of freight, articles, goods or commodities by one or more modes of transport; and/or
- (2) Designed to be or capable of being mounted or moved on a rail car, or mounted on a chassis or bogie for movement by a tractor trailer, or loaded on to a ship; and/or
- (3) A prefabricated metal structure designed for use as an individual shipping container in accordance with international standards or a metal structure designed

and built for use as an enclosed truck trailer in accordance with U.S. Department of Transportation standards.

CARGO CONTAINER, PERMANENT. A period of time limit that exceeds four months on site without being utilized for transportation purposes.

CARGO CONTAINER, STACK/STACKING. A method of storing cargo containers or a chassis in a vertical manner where the floor of the container or bed of the chassis remains parallel to the ground.

CARGO CONTAINER, TEMPORARY. A period of time that does not exceed four months on site while being used for storage purposes.

CARPORT. A structure, open on at least two sides, consisting of a roof and either walls or columns for the purpose of housing automotive vehicles. The structure shall be considered as an accessory structure when detached from the principal building and as a part of the principal building when attached to the principal building along one or more sides of the carport or principal building.

CAR WASH. A facility, coin operated, automatic, or hand wash, for the cleaning of automobiles, providing either self-serve facilities or employees to perform washing operations. The facilities shall be considered incidental to a fueling station if not more than one auto may be washed at one time and if the fueling station is clearly the principal use.

CEMETERY. Land used or dedicated to the interment of human or animal remains, including columbaria, mausoleums, mortuaries, and associated parking and maintenance facilities when operated in conjunction with, and within the boundaries of, such cemetery.

CERTIFICATE OF OCCUPANCY. A document issued by the Building Official allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable codes of the City of El Mirage. As defined in the current building code adopted by the City.

CHANGE OF USE. Any use which differs from the previous use of a building or land.

CHILD CARE, CENTER. Any facility licensed by the Arizona State Department of Health Services in which care and supervision for five or more persons is regularly provided for compensation for periods of less than 24 hours per day. This classification includes nursery schools, preschools, day care for children or adults, and any other non-residential day care facility licensed by the State of Arizona.

CHILD CARE, HOME. A state certified facility, the primary use of which is a residence, in which childcare for not less than five children and not more than ten children through the age of 12 (not related to owner, management, nor staff) or adult day care for at least five and not more than ten adults (not related to owner, management, nor staff) is provided on a daily basis for compensation for periods of less than 24 hours per day. The following uses are not a Child Care, Home use; an Assisted Living Facility, Group Care Home, or Day Care, Home Occupation.

CITY. The City of El Mirage.

CITY ATTORNEY. The City Attorney of the city.

CITY COUNCIL. The governing body of the city.

CITY ENGINEER. The City Engineer of the city.

CITY MANAGER. The City Manager of the city.

COFFEE SHOP/ CAFÉ. An establishment that primarily serves nonalcoholic beverages (such as coffee, tea, juices, and/ or sodas) or specialty snacks (such as ice cream, frozen yogurt, cookies, or pastries) for purchase and consumption. A drive thru may be included as defined and regulated herein.

COLLEGE/ UNIVERSITY, PUBLIC OR PRIVATE. A degree-granting institution, other than a trade school (see Instructional Services or Trade School definition), that provides education beyond the high school level. The use includes, but is not limited to, classroom buildings, offices, laboratories, lecture halls, athletic facilities, clinics, cafeterias and dormitories.

COMMISSION. The City of El Mirage Planning and Zoning Commission.

COMMON AREA. Land in a residential development held in common and/or single ownership and not reserved for the exclusive use or benefit of an individual tenant or owner.

COMMUNITY GARDEN. A lot or any portion thereof, managed and maintained by a person, group, or organization for growing, harvesting, farming, or any other use, which contributes to the production of organic agricultural, floricultural, or horticultural products for recreation or direct local consumption rather than for commercial processing.

COMMUNITY PLAYFIELDS & PARKS. A tract of land owned by a public or private entity and available to the general public for recreational purposes. This definition includes playgrounds, athletic courts and fields, swimming pools, and all necessary maintenance facilities.

COMMUNITY RECREATION CENTER. An indoor facility providing recreation/pool facilities and/or meeting rooms, and typically oriented to the recreational needs of the residents of the surrounding area, including youth and/or seniors.

COMPATIBLE. The use of land or a structure that is capable of existing together in harmony with other structures or uses of land adjacent or in proximity to the land use or structure in question.

CONDITIONAL USE PERMITS. Legal authorization to undertake a conditional use as defined by this chapter.

CONTIGUOUS. In contact with one or more sides.

CORPORATE COUNSEL. The Attorney of the city or any assistant or special counsel of the city.

COUNCIL. The City Council of the city.

COUNTY. Maricopa County, State of Arizona.

CULTURAL FACILITY. An establishment with the primary purpose of the collection, display, and performance of art, music, history, or science, sponsored by a public or quasi-public agency and open and available to the public. Contents may be interactive or observational only.

DATA CENTER. A facility used primarily for the storage, management, processing, and transmission of digital data, which houses computer and/or network equipment, systems, servers, appliances and other associated components related to digital data operations. Such facility may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support sustained operations at a data center.

DAY CARE, HOME OCCUPATION. A permanent residential unit where an occupant provides day care and supervision for no more than four children or adults not residing in the household, whether or not for compensation. The following uses are not a Day care, home occupation use: Group Care Home; Child Care, Home and Child Care Center.

DEDICATION. The designation of land by its owner for any general or public use.

DENSITY, GROSS. The number of residential dwelling units per unit of land.

DENSITY, NET RESIDENTIAL. The number of residential dwelling units per unit of land, excluding any land used or to be used as arterial street rights-of-way or private non-residential uses except parks, open space and recreational areas. For calculating **NET RESIDENTIAL DENSITY**, the following formula shall apply:

$$D = \frac{du}{A - (c+i+s+a)}$$

Where:

D = Residential density

du = Total number of dwelling units in project

A = Total site area (acres)

c = Total commercial land area (acres)

i = Total industrial land area (acres)

s = Reserved but undedicated school sites (acres)

a = Arterial rights-of-way (acres)

DETENTION BASIN. An area requiring landscaping to maintain the purpose and requirements of controlling the flow of water.

DEVELOPMENT. Any human-made change to improve or alter real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

DISABILITY. The term “disability” means, with respect to an individual (A) a physical or mental impairment that substantially limits one or more major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment. For purposes of this definition, a qualified individual with a disability shall not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use, except as provided in 42 U.S.C. § 12210. The term “illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act, 21 U.S.C. § 812. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law. The term, disability, shall be interpreted in a manner consistent with the definition of disability in the Americans with Disabilities Amendment Act of 2008.

DISTRIBUTION YARD, OUTDOOR. An open site, with the primary purpose of receiving, storing, sorting, consolidating, and separating of goods and materials, as well as vehicular transfer, for reshipment to other locations, typically for other businesses.

DISTRIBUTION/WAREHOUSING CENTER, INDOOR. A building whose primary purpose is facilitating the receiving, storage, sorting, transfer to larger or smaller vehicles, consolidation into larger quantities or breaking down into smaller quantities of goods and materials for reshipment to other locations typically for other businesses or direct to home delivery. Uses are not involved in manufacturing or production and include no outdoor storage of goods or materials.

DISTRICT. A portion the City within which certain uniform regulations and requirements or various combinations of requirements are applied under the provisions of this Code.

DRIVE ACCESS. The area between the curb of a street, or edge of the traveled portion of a street when no curb exists, and the right-of-way/property line over which the city will permit vehicular travel from the traveled portion of a street to an individual property or off-street parking space(s).

DRIVE THRU FACILITY. An accessory to a business in which customers are provided a service or a product, where a sale is made without the customer being required to leave the vehicle. The business may be solely accessed via drive thru, or a business may add a drive thru facility as an additional access to a business.

DRIVEWAY. A surfaced area intended solely for the purpose of accessing a garage or parking area.

DUST-FREE SURFACE. A surface such as concrete, asphalt, masonry, crushed rock or aggregate, or other alternative material that does not generate dust and is designed to the specifications of the City Engineer.

DWELLING. A building, or portion thereof, used primarily for residential occupancy, including single-family, two-family, multiple-family dwellings, and resident/group care homes, but not including hotels or motels.

DWELLING, DUPLEX. A single building containing two dwelling units located on an individual lot designed for or used by two families living independently of each other. Sometimes referred to as a Two-Family dwelling. Dwelling units shall share a common wall and may be side by side or up and down.

DWELLING, LIVE/ WORK. An integrated housing unit and working space, occupied and utilized by a single household in either a, detached single-family structure located behind the principal workplace or a unified structure that has been designed or structurally modified to accommodate joint residential occupancy and work activity, and which is in compliance with all applicable building codes; and the working space is reserved for and regularly used by one or more occupants of the unit. Work must be an approved home occupation for the zoning district therein.

DWELLING, MANUFACTURED HOME. A structure built on or after June 15, 1976, in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974 and Title VI of the Housing and Community Development Act of 1974.

DWELLING, MOBILE HOME. A structure, transportable in one or more sections, that is at least eight feet in width and thirty-two feet in length and that is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation, when connected to on-site utilities, and that was not constructed in accordance with the National Manufactured Home Construction and Safety Standards Act of 1974 and Title VI of the Housing and Community Development Act of 1974.

DWELLING, MODULAR HOME. A factory-built building, residential, excluding mobile homes and manufactured homes defined herein. Such housing is certified as meeting the state and local building codes as applicable to modular housing and shall be considered equivalent to a site built building and which requires substantial assembly on site. Also referred to as "factory built" in Department of Building, Fire and Safety Rules, State of Arizona.

DWELLING, MULTI-FAMILY. A single building containing three or more dwelling units on an individual lot for occupancy by families living independently of each other. Sometimes referred to as a Multiple-Family dwelling. Housing units may be side by side or up and down. Within apartments, the building and land are under single ownership and dwelling units are rented or leased. Within a condominium, ownership consists of the airspace within a unit and the building(s) and all land within the development are under common ownership.

DWELLING, SINGLE-FAMILY ATTACHED. A dwelling designed for or used by one family, located on an individual lot, and having any portion of one or more walls in common with adjoining dwellings. Sometimes referred to as a Townhouse dwelling. Housing units are side by side only.

DWELLING, SINGLE-FAMILY DETACHED. A dwelling designed for or used by one family, located on an individual lot, and having no walls in common with adjoining

dwellings. Shall also include a factory-built residential building, excluding mobile homes and manufactured homes defined herein. Such housing is certified as meeting the state and local building codes as applicable to modular housing and shall be considered equivalent to a site-built building and which requires substantial assembly on site. Also referred to as “factory built” in Department of Building, Fire and Safety Rules, State of Arizona.

DWELLING UNIT. A dwelling, or portion of a dwelling, used by one housekeeping unit for residential purposes.

EASEMENT. A legal interest in land granted by the owner to another person or the general public, which allows that person, or the general public, the use of all or a portion of the owner’s land, generally granted for a stated purpose including, but not limited to, access or utility placement.

EGRESS. An exit.

ENCROACHMENT. The act of placing a building or structure on another’s land or within an area mandated by the City, State or Federal Government.

ENLARGEMENT. An increase in the size of an existing structure.

FAÇADE. The entire building front including the parapet.

FAMILY. (1) An individual or two or more persons related by blood, marriage, or adoption, and usual domestic help, living together as a single housekeeping unit in a dwelling unit, or (2) A group of not more than five persons, who need not be related, living together as a single housekeeping unit in a dwelling unit.

FARMERS MARKET, TEMPORARY. Commercial activities, , conducted in an outdoor area, or in semi-enclosed structure where one or more vendor(s) display, barter, or sell directly to the customer food, merchandise and products made or produced locally, such as fresh fruits, vegetables, flowers, herbs, plants, and value-added food products. Farmers market (temporary) does not mean flea market, occasional arts and craft fairs, or festivals.

FEED STORE. An establishment with the primary purpose of the retail sale of supplies directly related to agriculture, ranching, or dairy operations.

FENCE. An artificially constructed barrier of any material or combination of materials, that are not a wall as defined herein, erected to enclose or screen areas of land.

FINANCIAL INSTITUTION. An establishment that provides banking services, lending, or similar financial services to individuals and businesses. This definition includes those chartered institutions engaged in the on-site circulation of cash money and check-cashing but shall not include bail bond brokers or non-chartered financial institutions as defined herein. A drive thru may be included as defined and regulated herein.

FITNESS AND SPORTS CENTER. A facility, typically membership based, primarily featuring equipment for exercise and other active physical fitness and/or recreational sports activities, such as swimming, skating, racquet sports, aerobic dance,

gymnasium facilities, indoor soccer, yoga, and other kinds of sports and fitness facilities. May also include accessory spa facilities.

FLAG. Any flag of the United States, or any state of the United States, foreign nations having diplomatic relations with the United States, the city, corporate flag, or any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, or any other flag whose display is authorized by the Constitution of the United States or the Constitution of the state.

FLEA MARKET, TEMPORARY. An indoor or outdoor premises where the main use is the sale of new or used household goods, personal effects, tools, art work, appliances, and similar merchandise, objects, or equipment in small quantities, by multiple vendors for the use, sale or consumption by the immediate purchaser. This definition does not include temporary retail sidewalk sales, farmers markets, garage sales or special events.

FLEX COMMERCIAL. A singular building that can accommodate a mix of non-residential uses provided such uses are consistent with the permitted uses of the zoning district in which the building is located.

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and risk premium zones applicable to the community.

FLOOD PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to properties and structures which reduce or eliminate flood damage or potential flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

FLOODPLAIN. The area encompassing the floodway area and the floodway fringe.

FLOODWAY, 100-YEAR. The channel of a river or other watercourse and the adjacent land areas which must be kept free of encroachment in order to carry and discharge a flood of 100-year magnitude without substantial increases in flood height.

FLOODWAY FRINGE, 100-YEAR. The area between the floodway and the 100-year flood boundary.

FLOOR AREA, GROSS. The sums of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance, or any such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

FLOOR AREA, NET. The total of all interior useable floor areas of a building measured from the interior face of interior walls, excluding stairwells and elevators

shafts, unenclosed porches, public corridors, public toilets, light shafts, equipment rooms and vertical equipment chases.

FRATERNAL OR SOCIAL CLUB, NONPROFIT. Meeting, recreational, or social facilities of a nonprofit organization primarily for use by members that pay annual dues and their guests. This classification includes union halls and lodges.

FRONTAGE. All of the property of a given lot or any portion thereof lying adjacent to a public street or highway.

FUELING STATION. An establishment engaged in retailing automotive fuels or charging of vehicles and may be in combination with providing convenience services. Establishment may or may not have a car wash or drive thru, with not more than one lane. A drive thru or carwash may be included as defined and regulated herein.

FUNERAL HOME OR CREMATORIUM. A location containing properly installed, certified apparatus intended for use in the act of cremation, or an establishment for the preparation of the deceased for burial and the display of the deceased and rituals connected with, and conducted before, burial or cremation. This definition may include a facility for the permanent storage of cremated remains of the dead as well as the indoor display and sale of goods associated with such services.

GARAGE, PRIVATE. A detached accessory building, or portion of a principal building, used for the storage of self-propelled vehicles

GARAGE SALE. A sale of household items conducted on a residential site and incidental to the principal dwelling.

GENERAL PERSONAL SERVICES. An establishment other than a professional office that provides services or non-medical care to individuals as a primary use, and that may provide accessory retail sales of products related to the services provided. Examples of General Personal Service uses include shoe repair and tailor shops, beauty and barber shops, laundromats, tanning salons, photography studios and dry-cleaning shops. A Drive thru may be included as defined and regulated herein.

GENERAL PLAN. The City of El Mirage General Plan.

GENERAL RECREATION, INDOOR. An establishment offering recreation, game playing, rides, or similar amusements to the public within an enclosed building. This shall include arcades, bowling alleys, billiard parlors, bingo parlors, and laser tag parlors. Establishments may or may not serve food and alcohol.

GENERAL RECREATION, OUTDOOR. Intensely developed recreational uses where the general public typically participates, lighted or unlighted, such as amusement parks, miniature golf courses, batting cages, racecourses, paintball ranges, motocross courses, water parks or slides, courses for paramilitary games, and archery facilities.

GOLF COURSE. A tract of land laid out with a course having nine or more holes for playing the game of golf, including any accessory clubhouse, driving range, office, restaurant, concession stand, picnic tables, pro shop, maintenance building,

restroom facility, or similar accessory use or structure. The accessory buildings may be used for events such as performances, wedding and receptions, both private and public. This term shall not include miniature golf courses as a principal or accessory use, nor shall it include driving ranges that are not accessory to a golf course, nor shall it include lighted golf courses.

GOVERNMENT OFFICES & CIVIC BUILDINGS. An office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to: city employment offices, public assistance offices, post office or motor vehicle licensing and registration services.

GRADE. The average level of the finished ground surfaces surrounding a building.

GROUND FLOOR AREA. The square foot area of a building within its largest outside dimension computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages, exterior stairways, and secondary stairways.

GROUP CARE HOME. A dwelling unit for a group of six (6) or more unrelated persons, excluding staff, who do not have a disability (see “resident care home” for persons with disabilities), and are not living together as a single housekeeping unit. This definition shall include shelter homes for people at risk and halfway/correctional/sex offender transitional facilities but shall not include resident care homes or “residential facilities” for the developmentally disabled as specifically defined and provided for in A.R.S. §36-581 and §36-582. Group care home facilities may or may not be licensed by the state or another government authority.

GUEST. A person who spends time on a temporary basis at another person's home or a person who patronizes a hotel, restaurant, etc., for the lodging, food, or entertainment it provides.

GUEST ROOM. Any room or rooms, used or intended to be used by guests on a temporary basis for sleeping purposes, having no provisions for cooking.

HEALTHCARE/ MEDICAL FACILITY/ CLINIC. A public or private facility consisting of one or more buildings providing, on an outpatient basis, chiropractic, dental, medical, surgical, medical imaging, or other services to individuals, including the offices of chiropractors, physicians, dentists, drug therapists, rehabilitation therapists and other health practitioners, medical and dental laboratories, outpatient care and outpatient care facilities. Patients are not kept overnight except under emergency conditions.

HEAVY EQUIPMENT SALES & RENTAL. Retail establishments selling or renting construction, farm, or other heavy equipment typically via outdoor display. Examples include cranes, earth moving equipment, tractors, commercial trucks, etc.

HOME OCCUPATION OR PROFESSION. An allowed commercial activity conducted entirely within a dwelling or accessory structure, where permitted, that is carried on solely by the occupants thereof and can be conducted without any significantly adverse impact on the surrounding neighborhood.

HOSPITAL. A public or private facility consisting of one or more buildings providing

medical accommodation for sick, injured, or infirm persons, and for the provision of related outpatient services. Services regularly include the keeping of patients overnight. Accessory uses include heliports and related facilities, and parking.

HOTEL/ MOTEL (13+ UNITS). A business consisting of a building or a group of buildings with continuous on-site management containing a minimum of 13 units that provide accommodation and may or may not provide food and drink to guests for compensation.

HOUSEKEEPING UNIT. One (1) or more individuals living, sleeping, and cooking in a single dwelling unit who share housekeeping tasks and responsibilities as an interdependent unit.

INGRESS. Access or entry.

INN (6-12 UNITS). A business consisting of a building or a group of buildings with continuous on-site management containing 6 to 12 units that provide accommodation and may or may not provide food and drink to guests for compensation.

INSTALL. The action of erecting, re-erecting, constructing, placing, posting, and building.

INSTRUCTIONAL SERVICES OR TRADE SCHOOLS. A specialized instructional private establishment that provides on-site training of business, artistic, or commercial skills, or a trade school that prepares students for jobs in a trade (e.g., carpentry). Examples include, but are not limited to, fine arts schools, computer instructional services, and driving schools.

KITCHENETTE. An area used or designed for the preparation of food and containing a sink, refrigerator, and an electrical outlet, which may be used for a microwave oven. No 220V outlet for a range or oven may be provided.

LANDSCAPE MATERIALS. Any materials used for the purpose of landscape improvement which may include, but shall not be limited to, the following: trees, shrubs, groundcover materials, boulders, sculptures, foundations, irrigation equipment, street furniture, outdoor lighting, fences, and walls.

LANDSCAPING. The combination of elements such as trees, shrubs, ground cover, vines, and other organic and inorganic materials for the express purpose of creating an attractive and pleasing environment. Public art, water features, plazas, patios, decorative courtyards and lighting may also be considered landscape elements.

LANDSCAPING PLAN. A graphic representation of the development site indicating the location of all existing and proposed landscape improvements to be present on the site at the completion of the construction of the project. The **LANDSCAPING PLAN** shall consist of preliminary and final plans as set forth herein.

LIBRARY. A facility for storing and loaning books, periodicals, reference materials, audio and videotapes, computers, and other similar media open and available to

the public. Such facilities may or may not include accessory uses such as meeting space, bookstore, cafe or kitchen facilities.

LIVESTOCK. Cattle, horses, sheep, goats, fowl and other similar domestic animals, excluding swine and dogs and cats.

LIVESTOCK PEN. A fenced enclosure that may or may not be covered for the holding of livestock. Pens may confine one or more animals.

LOADING and UNLOADING BAYS. The off-street area required for the receipt of or distribution, by vehicles, of material or merchandise.

LOT. A piece, parcel, plot, tract, or area of land occupied or capable of being occupied by one or more principal buildings, and the accessory buildings or uses customarily incidental to them, and including the open spaces required under this chapter, and having its principal lot frontage on a street.

LOT AREA. The total horizontal area within the boundary lines of a lot.

LOT, CORNER. A lot at a junction of and fronting on two or more intersecting streets.

LOT COVERAGE. The percentage of the lot area covered by buildings.

LOT DEPTH. The horizontal distance of a line measured at a right angle to the front lot line and running between the front lot line and rear lot line of a lot.

LOT GROUND LEVEL. For buildings having walls fronting on only one street, the elevation at the front lot line at the center of a wall fronting on the street; for buildings having walls fronting on more than one street, the average of the elevation of the lot lines at the center of all walls fronting on the streets; for buildings having no walls fronting on the street, the average level of the ground adjacent to the exterior walls of the building.

LOT INTERIOR. A lot other than a corner or through lot.

LOT LINE, FRONT. In the case of an interior lot, a line separating the lot from the street; in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street; and in the case of a through lot, a line separating the lot from the street from which a drive access may be permitted by the city.

LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE. Any lot boundary line not a front lot line or a rear lot line.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH. The horizontal distance between side lot lines, measured at the required front setback line. If the side property lines are parallel, the shortest distance between these side lines; or if the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the axis of the lot at a distance equal to the front setback required for the district in which the lot is located.

The axis of a lot shall be a line joining the midpoints of the front and rear property lines.

MAINTENANCE. The repair, painting, trimming, pruning, watering and other on-going activities which are associated with providing an attractive site appearance and safe buildings and structures.

MANUFACTURED HOME. See **DWELLING, MANUFACTURED HOME**

MANUFACTURED HOME/ RV PARK. A site with two or more spaces for the long-term placement of mobile homes and/or manufactured homes, or temporary short-term parking of recreational vehicles which are occupied or intended to be occupied for dwelling or sleeping purposes. Parks shall include required improvements and utilities and may also include accessory services and facilities for the residents.

MANUFACTURING. The systematic manual, mechanical, or chemical transformation of materials or substances into new products with the division of labor. May include parts assembly, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

MANUFACTURING, HEAVY. An establishment engaged in the manufacture or compounding process of raw materials. Such activities may include the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. Examples include, but are not limited to: refining or initial processing of raw materials; rolling, drawing, or extruding of metals; asphalt batching plants; sawmills; meat slaughtering or packing house; and manufacture or packaging of cement products, feed, fertilizer, flour, glue, paint, petroleum products, soap, turpentine, varnish, charcoal, or distilled products.

MANUFACTURING, LIGHT. An establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing. Examples include, but are not limited to: airplane, automobile, or truck assembly, remodeling, or repair; bottling works; brewery or distillery, boat building, machine or blacksmith shops; metalworking or welding shops; paint shops; and printing and publishing shops.

MARIJUANA

MARIJUANA CULTIVATION SITE. A site that operates as follows:

(1) An off-site location where marijuana is cultivated and processed and where marijuana products may be manufactured for a Marijuana Establishment; or

(2) The one additional location where marijuana may be cultivated, infused, or prepared for sale by and for a Nonprofit Medical Marijuana Dispensary.

MARIJUANA ESTABLISHMENT. An entity licensed by the Arizona Department of Health Services to operate all of the following:

(1) A single retail location at which the licensee may sell marijuana and marijuana products to consumers, cultivate marijuana and manufacture marijuana products.

(2) A single off-site cultivation location at which the licensee may cultivate marijuana, process marijuana and manufacture marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

(3) A single off-site location at which the licensee may manufacture marijuana products and package and store marijuana and marijuana products, but from which marijuana and marijuana products may not be transferred or sold to consumers.

MARIJUANA TESTING FACILITY. The Arizona Department of Health Services or another entity that is licensed by the Arizona Department of Health Services to analyze the potency of marijuana and test marijuana for harmful contaminants.

NONPROFIT MEDICAL MARIJUANA DISPENSARY. means a non-profit entity as defined in A.R.S §36-2801(12).

MICROBREWERY, CRAFT DISTILLERY OR TASTING ROOM. An establishment with the primary purpose of brewing (beer, cider, or mead) or distilling (alcohol) and/or the sale, consumption, and wholesale distribution of brewed, fermented or distilled products produced on site, as well as related merchandise, subject to State licensing requirements.

MINING. The extraction of sand, gravel, or other material from the land in the amount of 400 cubic yards or more and the removal thereof from the site without processing.

MOBILE FOOD VENDING UNIT. Any food establishment that is licensed by the State of Arizona, that is readily moveable and that dispenses food or beverages for immediate service and consumption and other incidental retail items from any vehicle.

MOBILE FOOD VENDOR. Any person who owns, controls, manages or leases a mobile food vending unit or contracts with a person to prepare foods and vend from, drive or operate a mobile food vending unit.

MOBILE HOMES. See **DWELLING, MOBILE HOME**

MOBILE OFFICE. A factory-assembled structure or structures exceeding eight feet in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as an office without a permanent foundation, whether or not the running gear has been removed.

MOBILE OUTDOOR VENDOR. Any privately-owned vendor stand, vendor trailer, or any other non-stationary device that is utilized for the purpose of temporarily displaying, exhibiting, carrying, transporting, storing, selling or offering for sale any goods, wares or merchandise. This definition shall not include; very short duration, primarily non-profit uses such as fundraisers, lemonade and Girl Scout cookie

stands and accessory outdoor display and sales areas.

MODIFICATION. See Alteration

MOVIE THEATER. An indoor establishment with the primary purpose of showing motion pictures to an audience.

NEW CONSTRUCTION. Structures for which the “start of construction” commenced on or after the effective date of this chapter.

NIGHTCLUB. An establishment that dispenses alcoholic beverages for on-site consumption permitting music, entertainment, and dancing.

NON-CHARTERED FINANCIAL INSTITUTION (CHECK CASHING). A business other than a state or federally chartered bank, credit union, mortgage lender, or savings and loan association that offers check cashing services and loans for payment of a percentage fee. Specifically included are check-cashing businesses that charge a percentage fee for cashing a check or negotiable instrument, payday loan businesses that make loans upon assignments of wages to be received, businesses that provide loans secured by title of a vehicle unless the loan is made for the purpose of purchasing the vehicle, and businesses that function as deferred presentment business. A DEFERRED PRESENTMENT BUSINESS is a business that makes transactions pursuant to a written agreement in which the licensee accepts a check and agrees to hold the check for at least three days before presentment for payment or deposit.

NON-CONFORMING USE. See *USE, NON-CONFORMING*.

NURSERY, COMMERCIAL. A full-service retail sales establishment which sells plants and landscaping materials that are purchased wholesale from off site. Accessory items can include packaged fertilizer, seed, mulch, and topsoil, as well as other packaged items commonly associated with a retail plant nursery, as long as such items are stored inside of a solid or screened structure. However, the sale or outdoor storage of bulk items, and/or the on-site storage of commercial vehicles or heavy equipment, shall be prohibited.

NURSING HOME. A health care institution licensed by the State of Arizona with individual rooms supported by communal facilities (such as kitchen, dining, living, and recreation) that provides 24-hour medical, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. Includes rest homes and convalescent hospitals, but excludes assisted living centers and home hospitals or clinics.

OCCUPANT. The person occupying or having custody of a structure or premises as a lessee or other.

OFF-SITE. Not located on the parcel to be developed.

OFF-STREET. Land which is not within the right-of-way of any street or alley.

OFFICE, BUSINESS OR PROFESSIONAL. An establishment that provides executive, management, administrative, or professional services, but not involving the sale of merchandise except as incidental to a permitted use, and not including

a medical office or clinic. Typical examples include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting, broadcasting, call centers, and similar offices.

OFFICES. Structures, or portions of structures, in which commercial activities take place but where goods are not produced, sold, or repaired. These include: banks; general and professional offices; governmental offices; insurance offices; real estate offices; taxicab offices, but not taxi stands; travel agency or transportation ticket offices; telephone exchange; utility offices; radio broadcasting; and similar uses.

OIL AND GAS REFINERY. A facility designed and constructed to remove materials and other constituents or similar substances from oil or gas to allow such natural liquids or gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets.

OPEN SPACE. An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooden areas, and water courses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

OUTDOOR STORAGE. The exterior storage of recreational vehicles/boats or material including goods, wares, merchandise, commodities, or any other items for keeping, sale, lease, processing, distribution and repair outside of a completely enclosed building for a continuous period longer than twenty-four (24) hours.

OVERLAY ZONE. A zone superimposed upon an underlying zone which establishes special requirements in addition to, or in lieu of, those of the underlying zone. Development or use of land or structures must conform to the requirements of both zones or the more restrictive of the two, if in conflict.

OWNER. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be developed under these regulations, or their legal representative.

PARAPET. The portion of a building exterior wall projecting above the plate line of the building.

PARCEL. A legal lot, plot, tract, or area of land having fixed boundaries.

PARKING AREA. An open area, other than a street or alley designated for use, or used, as temporary parking of vehicles for public or private use, whether free or for compensation or as an accommodation for clients or customers.

PARKING LOTS & PARKING STRUCTURES. A stand-alone paved area or structure (with one or more levels partially or fully enclosed) used for the sole purpose of parking motor vehicles, whether free or for compensation. The facility may be above, below, or partially below ground. This use does not include parking areas associated with a permitted use on the same parcel.

PARKING SPACE, OFF-STREET. A space designated for the temporary parking of

a motor vehicle not on the right-of-way or alley but accessible from a street or alley.

PARTY WALL. Any wall of a building or structure which is common to two or more buildings.

PAVED. An artificial covering on a street, road, parking lot, driveway, walkway, patio, or other natural surface of the ground composed of a material as specified by the City of El Mirage Engineering Standards or as approved by the City Engineer unless otherwise stated herein.

PERSONS. Includes a human being and, as the context requires, an enterprise, a public or private corporation, an unincorporated association, a partnership, a firm, a society, a government, a governmental authority or an individual or entity capable of holding a legal or beneficial interest in a property.

PLATE LINE. The point at which any part of the main roof structure first touches or bears upon an external wall.

PRIVATE STREET. Real property recorded as improved roadway for pedestrian and motor vehicle traffic, constructed and maintained by private parties.

PROPERTY, PERSONAL. Property, other than real property, consisting of things temporal and movable.

PROPERTY, REAL. Property consisting of buildings and/or land.

PUBLIC SAFETY FACILITY. A government facility with the primary purpose of providing public safety and emergency services including but not limited to fire stations, police stations, emergency medical and ambulatory services and related administrative and training facilities.

RANCHING, COMMERCIAL. A commercial use for the raising, keeping, and sale of agricultural livestock (e.g., horses, cattle, goats, sheep, etc.) on large tracts of land, along with necessary accessory uses such as heavy equipment storage and limited crop production. Allowed ranch uses shall include; grazing livestock; animal husbandry; and the sale of ranch animals. Common agriculture uses such as equine stables for riding, boarding, training, and lessons shall be considered Agriculture, General. This use does not include Intensive Animal Operation (i.e. Dairy, Poultry Farming, Egg Farming, Pig Farming, Feed Lot, Slaughter etc.)

RECREATIONAL VEHICLE. A vehicular type portable structure without permanent foundation, which can be towed, hauled, or driven primarily designed as temporary living accommodation for recreational, camping, and travel use and including but not limited to travel trailers, truck campers, camping trailers, and self-propelled motor homes. Shall also include personal recreational vehicles such as boats, watercraft and off-road vehicles.

RELIGIOUS ASSEMBLY. A facility with the primary purpose of congregation and worship (see A.R.S. § 41-1493). Accessory uses include cultural events, parking, caretaker's housing, buildings ancillary to a religious function, pastor's housing, and group living facilities such as convents.

RESEARCH LABORATORY. An establishment or facility for carrying on

investigation in the natural, physical, or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.

RESIDENT CARE HOME. Housing for up to ten (10) unrelated persons who live in a dwelling because of disability (see “group care home” for persons without disabilities) and may include staff persons, who may or may not be domiciled in the dwelling, who provide support services, including but not limited to domestic, medical, habilitation, rehabilitation, or other similar services. This definition shall include assisted living homes and sober living homes but shall not include halfway/correctional/sex offender transitional facilities, shelter homes for people at risk or “residential facilities” for the developmentally disabled as specifically defined and provided for in A.R.S. §36-581 and §36-582. A resident care home shall be licensed by the State of Arizona.

RESOURCE EXTRACTION. The extraction of surface or subsurface mineral products or other natural resources, including but not limited to quarries, borrow pits, sand and gravel operations, and mining operations. This process excludes processing the resources extracted.

RESTAURANT. An establishment with the primary purpose of the preparation, consumption, retail sale, and service of food and beverages on the premises or to carry-out. A drive thru may be included as defined and regulated herein.

RETAIL, GENERAL. An establishment that sells or rents goods not specifically listed under another use classification. This classification typically provides goods directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the consumer. Examples include, but are not limited to: pharmacies, jewelry stores, bait shop, bakeries, bookstores, and florists. A drive thru may be included as defined and regulated herein.

RETAIL, LARGE. An establishment that provides goods directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the consumer, and which occupies more than 125,000 square feet of floor area. Examples include, but are not limited to grocery superstores, home improvement stores, apparel shops, appliance stores, electronic stores, department stores, furniture stores, membership-based retail stores, and factory outlet stores.

RETAIL, PAWN SHOP. A business with the primary purpose of advancing money on the security of pledged goods or purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed or variable price within a fixed or variable period.

RETAIL, SMOKE/VAPE SHOP. A cigar shop, hookah lounge, head shop, electronic cigarette or other retail establishment where the primary activity is the sale of tobacco and smoking-related goods/paraphernalia. Smoke/ Vape Shops do not include any individual business establishments that contain tobacco departments/sections that are ancillary to their primary use.

RIGHT-OF-WAY. A public way established or dedicated for public purposes by duly recorded plat, deed, grant, governmental authority, or by operation of the law.

ROOF LINE. The highest point of the main roof structure or the highest point on a parapet but shall not include cupolas, pylons, projections or minor raised portions of the roof.

SCHOOL, PUBLIC OR PRIVATE K-8. Facilities for primary education, including public schools, charter schools, and private institutions (when not conducted as a commercial enterprise for the profit of individual owners or stockholders) having curricula of general academic education consistent with the academic requirements of the State of Arizona, including kindergarten, elementary, and junior high school, including accessory facilities traditionally associated with schools, such as athletic fields, cafeterias, and libraries.

SCHOOL, PUBLIC OR PRIVATE, 9-12. Facilities for secondary high school education, including public schools, charter schools, and private institutions (when not conducted as a commercial enterprise for the profit of individual owners or stockholders) having curricula of general academic education consistent with the academic requirements of the State of Arizona. This includes accessory facilities traditionally associated with schools, such as athletic fields, cafeterias, and libraries.

SCREENING. A solid or nearly solid barrier (i.e., wall, fence, plantings) constructed or installed for the purpose of visual separation.

SCREENING WALL. A solid wall designed and constructed so as to conceal areas used for refuse, mechanical equipment, parking, and service and loading bays from street and public view, and to separate potential incompatible land uses.

SELF-STORAGE, INDOOR. A building or group of buildings with controlled access, fenced or screened, that contains varying sizes of individual, compartmentalized, and controlled access garages, stalls, or lockers for the storage of customers' goods or wares. This use does not include outdoor storage nor boat or recreational vehicle storage of any kind.

SETBACK. The required minimum horizontal distance between the nearest plane of a building and the street right-of-way line or related front, side, or rear lot line.

SETBACK LINE. That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be placed.

SEWER, PUBLIC. Any sanitary sewer line owned and maintained by the city, whether or not installed by the city.

SEWER SYSTEM, COMMUNITY. Any sanitary sewer system, whether treatment plant, septic tank, or lagoon, designed with a sewer collection system to be used by a legally-constituted association of property owners. The system may or may not be a public system.

SHOPPING CENTER. Any grouping of two or more retail uses, whether on a single lot or on abutting lots under multiple or single ownership and whether contained in one building or multiple buildings. Any center with a single or combined use that occupies more than 125,000 square feet of floor area shall be considered Retail, Large as defined herein.

SIGN. Any visual element, or combination of elements, including words or symbols, designed or placed to attract attention or convey information, including any device providing identification, advertising or directional information for a specific business, service, product, person, organization, place, or building, including graphic devices such as logos, obtrusive colored fascia or architectural elements, banners, balloons, streamers, inflatable structures, exterior merchandise displays, projected picture signs, holographic projection signs and other attention attracting media and devices.

SIGN, A-FRAME. A temporary sign, normally supported by its own frame and not affixed to a structure or permanently ground mounted. It is positioned upright in a manner that forms an “A” when in use; also referred to as a “sandwich” or “tent” sign.

SIGN, ABANDONED. Any sign located on a property or premises which is vacant and unoccupied for a period of three months, or a sign which is damaged, in disrepair, or vandalized and not repaired within 30 days of the date of the damaging event.

SIGN, ADVERTISING. A temporary or permanent sign which includes any copy and/or graphics relating to any business, service, product, person, organization, place, or building in addition to simple identification.

SIGN, ALTERATION. Any change in architecture, structure, or copy of an existing sign.

SIGN, ANIMATED. A permanent sign with actual motion, including light changes or color changes, or the illusion of motion.

SIGN, ATTACHED OR WALL MOUNTED. A permanent sign that is directly attached to the façade or face of a building.

SIGN, AWNING/CANOPY. A permanent sign displayed on, or attached flat against, the surface or surfaces of an awning, canopy or any other surface attached to a building that provides shelter.

SIGN, BANNER. A temporary sign made of fabric, plastic, or other pliable material without a rigid structural support or internal illumination on which advertising copy or graphics may be displayed to promote a business or event. This definition shall not include promotional signs as defined herein.

Sign, BILLBOARD. See Off-Premise Sign

SIGN, BUILDING MOUNTED. Any sign mounted onto the vertical surface of a building; see Sign, Wall.

SIGN, BUSINESS. A permanent sign that directs attention to a business or profession or to a commodity or service sold, offered or manufactured or to an entertainment offered on the premises where the sign is located.

SIGN CABINET. An enclosed frame constructed to hold internal components and covered by a face to hold the advertising sign.

SIGN, CANOPY. See Sign, Awning/Canopy.

SIGN, CHANGEABLE COPY. A permanent sign constructed to hold individual letters or individual text sections that are mounted in or on a track system. Changeable Copy Signs are usually used as directory signs.

SIGN, CONSTRUCTION. A temporary sign erected on the premises where construction is taking place during the period of such construction indicating the names of the architects, engineers, landscape architects, contractors or similar artisans and the owner, financial supporter, sponsors and similar individuals or firms having a role or interest with respect to the structure or project.

SIGN COPY. The letters, words, or graphics used to convey information on the sign.

SIGN, DIRECTIONAL. A sign, supplying pertinent maneuvering guidance for the purpose of promoting safety and the flow of vehicular or pedestrian traffic (i.e. “one way”, “entrance”, “exit”, etc.).

SIGN, DIRECTORY. A sign listing the names and/or uses, and/or locations of the various tenants or activities within a building, or in a multi-tenant development, or group of buildings. Directory Signs may also be constructed as Changeable Copy Signs.

SIGN, ELECTRONIC MESSAGE CENTER. A permanent sign that uses computer-generated or electronic components to change advertising copy, messages or color, including signs that flip or rotate.

SIGN, EXTERNALLY ILLUMINATED. A permanent or temporary sign exposed to external artificial lighting (and shielded to prevent light spillage).

SIGN FACE. The area or display surface used for the message.

SIGN, FASCIA. A sign that is permanently affixed to the horizontal member or surface at the edge of a projecting roof.

SIGN, FLASHING. A permanent sign with an intermittent, repetitive or flashing light source.

SIGN, FREESTANDING/MONUMENT. A permanent sign that has its own supporting structure independent of the building or business it identifies.

SIGN, GAS FILLED. Any sign that uses neon, argon, krypton or any similar gas to illuminate transparent or translucent tubing or other materials, or any use of neon, argon, krypton or any similar gas lighting on or near the exterior of a building or window.

SIGN, GROUND MOUNTED. A Freestanding Sign with no visible base.

SIGN, HOLIDAY DECORATION. A temporary sign in the form of decorations and/or window painting that are clearly incidental to and customarily and commonly associated with any national, state, local or religious holiday.

SIGN, IDENTIFICATION. A sign that contains only the name of the business, street address, person, organization, place, or building at that location.

SIGN, ILLUMINATED. A permanent sign, that is lighted, either externally or internally.

SIGN, INTERNALLY ILLUMINATED. A sign constructed with a light source within the sign structure and positioned behind the face of the sign.

SIGN, LEGAL NON–CONFORMING. Any permanent sign in existence or under construction, as of the effective date of this Ordinance, which does not conform to the provisions of this Ordinance but which was or is being constructed, erected or maintained in compliance with all previous regulations.

SIGN, LOGO. A graphic symbol representing a business, activity, or use.

SIGN MAINTENANCE. The replacing or repairing of a part or portion of a sign necessitated by ordinary wear, tear, or damage beyond the control of the owner.

SIGN, MANSARD. A sign permanently affixed to a wall or surface not more than 20 degrees from vertical at the upper edge of a building and extending parallel with the mansard roof line or parapet upon which the sign is attached. Any sign proposed for a building with a Mansard Roof shall have the top of the sign mounted no higher than the lowest point of any portion of the roofline.

SIGN, MENU BOARD. A permanent sign with a changeable face oriented to the drive-through lane of a business that advertises the menu items or services available from the drive-through window.

SIGN, MULTIPLE TENANT COMPLEX/BUILDING. A permanent sign for a building complex or center that contains any number of businesses, greater than one, that share the same site and use common points of vehicular ingress and egress to and from the site.

SIGN, MURAL. A graphic depiction painted on a section of wall which contains no written advertising.

SIGN, NAMEPLATE. A permanent sign that may include street number and name, business hours, and business logo.

SIGN, NONCOMMERCIAL. A sign which does not contain information or advertising for any business, commodity, service, entertainment, or product.

SIGN, NON-CONFORMING. A sign lawfully erected and maintained prior to the adoption of this code which does not conform with the requirements of this code.

SIGN, OFF-SITE/OFF-PREMISE. Any permanent or temporary sign that may display a message, whether commercial or noncommercial, that may not necessarily relate to the premises upon which the sign is located.

SIGN, ON-SITE/ON-PREMISE. Any permanent or temporary sign which pertains to the business operated, activity conducted or products sold or manufactured on the premises upon which the sign is located; or which displays a noncommercial message installed or caused to be installed only by the property owner and/or lessee of the property upon which the sign is located.

SIGN PANEL. The area enclosing the copy and graphic components of a sign.

SIGN, PARAPET. A sign mounted to the face of a building parapet.

SIGN, PERMANENT. Any sign set in the ground with its own foundation or which is painted on or otherwise anchored to a building, wall or other permanent structure and any of which are installed to achieve a lasting and enduring condition and location.

SIGN, POLITICAL. A temporary sign that identifies a person, expresses a position, conveys a message concerning, or advocates a position on, the candidacy of a person, party or issue on an upcoming ballot.

SIGN, PORTABLE. Any sign not affixed to a structure or the ground.

SIGN, PROJECTING. A sign attached to a building or other structure and extending in whole or in part more than 14 inches beyond the building.

SIGN, PROMOTIONAL. Any temporary sign used to advertise special sales, new products or services, or promotions, for a business and may include swooper signs, pennants, balloons, streamers, flags, inflatable structures, character or product likenesses, and other non-merchandise displays. This definition shall not include banner signs as defined herein.

SIGN, PUBLIC. A sign erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, direct or regulate pedestrian or vehicular traffic.

SIGN, READER/SIGN BOARD. A permanent, non-electronic sign only for public facility land uses that conveys schedules of events, rules, regulations, announcements, or similar messages.

SIGN, ROOF. Any sign affixed on, above or over the roof of a building so that it projects above the roofline is prohibited. The top of a parapet wall shall be considered the roofline. The vertical portion of a Mansard Roof shall be considered the roofline. The top of the fascia of a hipped roof shall be considered the roofline. Where a parapet wall is combined with a mansard roof, the roofline shall be the top of the parapet.

SIGN, SANDWICH. See Sign, A-Frame.

SIGN, SPHERICAL. A permanent sign that is three (3) dimensional and embodies imagery of a symbol (i.e. book, shoe, glasses, etc.) that assists in advertising a downtown business.

SIGN, STREET ADDRESS/NUMBER. A permanent sign located on-site, consisting of numerals and letters identifying a property address.

SIGN STRUCTURE. The supports and framework of the sign.

SIGN, SWOOPER. A feather-shaped fabric sign attached to a curved frame. Also referred to as a blade sign.

SIGN, TEMPORARY. A sign intended to display either commercial or non-commercial messages of a transitory or temporary nature. Portable signs, any sign not permanently embedded in the ground, or signs affixed to a building, wall, fence, or sign structure for a non-permanent time period, are considered temporary signs. A banner, pennant, flag, poster, balloon, construction sign, political sign or an A-frame sign shall be considered a temporary sign.

SIGN, TWO-PART. A permanent sign composed of two (2) sign panels, at an angle equal to or more than 45 degrees, whose aggregate sign area shall be computed from the total of both panels.

SIGN WALKER. A person, who wears, holds or balances a portable sign.

SIGN, WALL. A sign mounted flat against and projecting less than 14 inches from, or painted on the wall of a building or structure with the exposed face of the sign in a plane parallel to the face of the wall, but not including window signs.

SIGN, WEEKEND DIRECTIONAL. A temporary sign typically placed on weekends within the right-of-way that is designed for providing direction and/or orientation for pedestrian or vehicular traffic.

SIGN, WINDOW PERMANENT. Any permanent sign, pictures, symbols or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service that is affixed to, or located within any area six (6) feet behind a window pane, positioned to be read from the exterior of a building.

SIGN, WINDOW TEMPORARY. Any temporary sign, pictures, symbols or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service that is painted to a window pane.

SIGN, YARD. Small placard-type signs that are typically associated with, but not limited to, the advertisement of real estate, political campaigns, and meeting or event announcements.

SITE PLAN. A drawing to a scale not less than one-inch equals 100 feet showing the accurate location of all structures, streets, alleys, and parking areas existing and proposed on subject property or any other information as may be required by this chapter.

SOBER LIVING HOME. Any premises, place or building that provides alcohol-free or drug-free housing, promotes independent living and life skill development and provides structured activities that are directed primarily toward recovery from substance use disorders in a supervised setting to a group of unrelated individuals who are recovering from drug or alcohol addiction and who are receiving outpatient behavioral health services for substance abuse or addiction treatment while living in the home. This does not include a private residence in which a related family member is required to receive outpatient behavioral health services for substance abuse or addiction treatment as a condition of continuing to reside in the family dwelling.

SOLAR GENERATION FACILITY. An electrical energy generation plant comprised of one or more freestanding, ground-mounted devices that capture solar energy and convert it to electrical energy for use by an off-site electric utility provider. Solar generation stations typically utilize photovoltaic solar cells, but they can also be combinations of light reflectors, concentrators, and heat exchangers. A solar generation station is also known as a solar plant, solar generation plant, solar farm, concentrated solar power plant, solar power plant, or solar thermal power plant (if non-photovoltaic).

STABLE A building, usually consisting of multiple stalls, for the lodging of horses or other livestock.

START OF CONSTRUCTION. The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure.

(a) For a structure (other than a mobile home) without a basement or poured footings, the **START OF CONSTRUCTION** includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

(b) For mobile homes not within a mobile home park or mobile home subdivision, **START OF CONSTRUCTION** means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, **START OF CONSTRUCTION** is the date on which the construction of facilities, for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

STREET. A right-of-way, other than an alley, dedicated or otherwise legally established for public use, usually affording the principal means of access to abutting property.

STREET, ARTERIAL. A major or minor street with access control, signals at

important intersections, and stop signs on the side streets and restricted parking designed to primarily distribute traffic.

STREET, COLLECTOR. A street which carries (collects) traffic from local streets and connects with minor or major arterial streets.

STREET, LOCAL. A street designed to provide vehicular access to abutting properties and to discourage through traffic.

STREET FRONTAGE. Any property line separating a lot from a street; the front lot line.

STREET, PUBLIC. Any street which has been dedicated or is otherwise publicly owned by the city.

STRUCTURAL ALTERATION. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any change in the exterior walls or the roof.

STRUCTURE. Anything constructed or erected which requires location on the ground.

SUBSTANTIAL IMPROVEMENT.

(a) Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred.

(b) For the purpose of this definition **SUBSTANTIAL IMPROVEMENT** is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places.

TATTOO PARLOR & PIERCING SALON. A business that provides services including tattooing (marking the skin with any indelible design, letter, scroll, figure, symbol or any other mark that is placed by the aid of needles or other instruments upon or under the skin with any substance that will leave color under the skin and that cannot be removed, repaired or reconstructed without a surgical procedure) and or piercing (the practice of puncturing or cutting a part of the human body, creating an opening in which jewelry may be worn, or where an implant could be inserted).

TEMPORARY USE OR BUILDING. A use or structure permitted under this Code to exist for a limited period of up to four (4) months or at the discretion of the Zoning

Administrator, unless otherwise stated within this Code

TRAILER. A device designed for transportation on its own wheels and drawn by another vehicle and designed for the purpose of transportation of items.

TRANSPORTATION TERMINAL. A facility intended for the use of buses or trains to stop and load/ unload passengers. Passengers may also purchase tickets and concessions at the facility.

TRAVEL PLAZA/ TRUCK STOP. A facility whose primary purpose is to provide service and maintenance to commercial trucks and tractor-trailers, including bays for truck washing and fuel dispensing, but excluding the overhaul of large commercial trucks or engines. A travel plaza may also include overnight accommodations and restaurant facilities primarily for the use of truck crews. Other facilities may also be present, such as convenience markets and restaurants.

TURF FACILITY. A land area of five acres or more of continuous turf or grass that is not agricultural use.

USE. The employment or occupation of a building, structure, or land for a person's service, benefit, or enjoyment.

USE, ACCESSORY. See **ACCESSORY BUILDING OR USE.**

USE, CONDITIONALLY PERMITTED. Either a public or private use as listed herein which, because of its unique characteristics, cannot be properly classified as an otherwise permitted use in a particular district. After consideration, in each case, of the impact of the use upon neighboring land and of the public need for the particular use at the particular location, a permit for the conditional use may or may not be granted, subject to all conditions specifically listed in this chapter for any particular conditional use and any other reasonable condition or conditions established by the Planning and Zoning Commission, including time limits, pursuant to the requirements of this chapter. A **CONDITIONAL USE** may be a principal use or an accessory use.

USE, NON-CONFORMING. An existing use of land or building which was legal prior to the effective date of this chapter but which fails to comply with the requirements set forth in this chapter applicable to the zone in which the use is located.

USE, PERMITTED. A use which is lawfully established in a particular district or districts and which conforms with all requirements, regulations, and performance standards of the district. A **PERMITTED USE** may be a principal use or an accessory use.

USE, PRINCIPAL. A use or structure which determines the predominant or major use of the lot on which it is located. A **PRINCIPAL USE** may be either a permitted or a conditional use.

USE, TEMPORARY. A use established for a fixed period of time with the intent to discontinue the use upon the expiration of the time period.

UTILITY FACILITY, MINOR. A service that is necessary to support development within the immediate vicinity and that involves only minor structures. Employees

typically are not located at the site on an ongoing basis. Examples include, but are not limited to: electric transformer stations; gas regulator stations; telephone exchange buildings; well, water, and sewer pumping stations; water storage tanks; and water pressure regulating stations.

UTILITY FACILITY & SERVICE YARD, MAJOR. A service of a regional nature that normally entails the periodic construction/expansion of buildings or structures, and that typically has employees on the site on an ongoing basis. Examples include, but are not limited to wastewater treatment plants, water treatment plants, reservoirs, power plants, and accessory maintenance yards.

VACATION HOME RENTALS. Vacation home rentals are limited to individually or collectively owned single-family or one-to-four-family house or dwelling units or any unit or group of units in a condominium, cooperative or timeshare, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under ARS Section 42-12001. Use of any other unit, dwelling or group of units or dwellings as a vacation rental or short-term rental is prohibited. Vacation rentals do not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or other similar use.

VARIANCE. A modification or variation of the provisions of this chapter as applied to a specific piece of property. Dimensional variances only may be allowed; no variance regarding use of property shall be permitted; no variance decreasing lot area requirements shall be allowed. **VARIANCE** may be permitted only by the Board of Adjustment.

VARIANCE, DIMENSIONAL. Departure from the terms of the zoning regulations pertaining to height or width of structures and size of yard and open spaces where the departure will not be contrary to the public interest and where, owing to conditions peculiar to the property because of its size, shape, or topography, and not as a result of the action of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship.

VEHICLE. Every device by which any person or property is or may be transported or drawn; including but not limited to automobiles, motor homes, travel trailers, utility trailers, or watercraft. Devices moved by human power or used exclusively upon stationary rails or tracks are exempt.

VEHICLE, COMMERCIAL. Any vehicle currently registered as such with the state Department of Motor Vehicles or equivalent out-of-state or federal agency or any vehicle used primarily in the conduct of a business as opposed to private family or individual use.

VEHICLE, INOPERATIVE. Any vehicle which is partially or wholly dismantled, discarded, or wrecked; or on blocks, stands, or similar devices; or stripped or scrapped; or cannot be physically operated due to mechanical disassembly, deflated tire or tires, or other reasons that may include an expired license plate or the absence of a license affixed or assigned thereto.

VEHICLE, PARKING. A defined area used for the placement of vehicles for limited

periods of time.

VEHICLE, PERSONAL. A passenger vehicle that is owned or leased by an individual.

VEHICLE, STORAGE. For the purposes of this ordinance, references to vehicle storage shall not be determined based solely on duration, but rather on the negative effects commonly associated with prolonged parking and/or abandonment. A vehicle shall be deemed stored if any of the following effects exist: after five consecutive days the vehicle has not been moved a minimum of 20 feet, accumulation of spiderwebs, dirt and debris, flat tires, damaged or missing body parts, or broken or unusable windows. Vehicles placed on blocks or similar devices where all or part of the vehicle is not touching the ground shall be considered inoperable.

VEHICLE ACCESS (RV) GATE. A point of access through a block wall, fence or barrier from the front or side yard to the back yard with an opening with a minimum width of eight (8) feet or more.

WALL. An artificially constructed barrier of solid stucco, masonry, rock or concrete material erected to enclose or screen areas of land.

WASTE FACILITY. A facility primarily engaged in the storage, transfer, or transformation of waste from households, businesses, and industries. Includes landfill, transfer station, and recycling facilities.

Landfill: A planned and approved method or system of solid waste disposal in which the solid waste is disposed or buried in thin layers, compacted by earth or other approved methods. Disposal of liquid waste or chemicals, or other potentially toxic substances is not permitted.

Transfer Station: A facility or site where solid waste from households, businesses, and industries is transferred from one type of collection vehicle or container to another. Transfer activities occur entirely within covered structures. A transfer station is an intermediary point between the locations of waste generation and the sites of ultimate processing or disposal. This term does not include liquid waste transfer, hazardous or toxic waste disposal, solid waste disposal, or liquid waste recycling or refining activities.

Recycling: the collection of materials that would otherwise occupy landfills and processing them into new or reusable products.

Recycling Facilities: A public or private facility designed for the conversion of waste into reusable materials. May include plastics, glass, paper, metal, hazardous materials and fluids etc. May be located independently or attached to a transfer station or landfill.

WATCHMAN'S QUARTERS. A dwelling unit that is attached to or detached from a principal nonresidential building that may be used as a permanent residence for employees of businesses or property owners when their presence is required for

security purposes by the employer 24 hours a day.

WHOLESALE ESTABLISHMENT. An establishment primarily engaged in the sale or distribution of goods and materials in large quantity to retailers or other businesses for resale to the general public or business customers, and limited retail uses when directly associated with the wholesale use. This term shall not include heavy manufacturing, resource extraction, bulk storage of hazardous materials, or scrap or salvage operations. Wholesale uses that sale to the general public, including membership-based uses, shall be considered retail, large.

WIRELESS FACILITY. A facility used for the transmission and/or reception of wireless communication services, usually consisting of antennas, microwave dishes, and similar structures. Supporting equipment includes buildings, shelters, cabinets, towers, electrical equipment, parking areas, and other accessory development. Specific use types include, but are not limited to:

ALTERNATIVE DESIGN TOWER. Artificial trees, clock towers, and similar non-traditional structures that are compatible with the existing setting or structures and camouflage or partially conceal the presence of antennas or towers. This includes any antenna or antenna array attached to the alternative design structure.

ALTERNATIVE TOWER STRUCTURE. Ball field light poles, street lights, electric utility poles, water towers, and similar existing structures. This includes any antenna or antenna array attached to the alternative tower structure.

ANTENNA. The surface from which wireless radio signals are sent from and received by a wireless communication facility. **ANTENNA** includes whip antenna, panel antenna, and dish antenna. Any **ANTENNA** not specifically described herein shall be regulated in conformity with the type of antenna described herein which most closely resembles the antenna.

1. Whip antenna is a long and thin device that transmits and/or receives radio frequency signals in a 360-degree radial pattern. Typical size is two to six inches in diameter and one foot to 18 feet in height.
2. Panel antenna is a relatively flat rectangle device that transmits and/or receives radio frequency signals in a directional pattern of less than 360 degrees. Typical size is four feet to five feet high, six inches to 12 inches wide, and six inches to eight inches deep.
3. Dish antenna is a bowl-shaped device for the reception and/or transmission of radio frequency communication signals in a specific directional pattern. Typical size is four feet to six feet in diameter, and one foot to three feet deep.

ANTENNA ARRAY. One or more whip, panel, or dish antennas used for the transmission or reception of radio frequency signals. The **ANTENNA ARRAY** does not include the support structure.

BROADCASTING OR RECORDING STUDIO (NO TOWER) – A building or portion of a building used as a place for radio or television broadcasting or

recording but without a transmission tower.

BUILDING-MOUNTED ANTENNA. Any antenna that is attached to the wall of, or integrated into, buildings, religious assembly steeples, cooling towers, elevator bulkheads, parapets, or penthouses.

COLLOCATE or COLLOCATION. To install, mount, maintain, modify, operate or replace wireless facilities on, within or adjacent to a wireless support structure or utility pole.

EQUIPMENT SHELTER. A cabinet or building located at the base of or near a wireless communication facility within which are housed, among other things, batteries and electrical equipment. This equipment is connected to the antenna by cable.

MONOPOLE. A tower used exclusively for wireless communication that is self-supporting with a single shaft of steel, concrete, or wood.

MOUNT. The ground, base pad, or the structure to which a wireless communication facility is attached.

PRE-EXISTING WIRELESS COMMUNICATION FACILITY. Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this chapter, including permitted towers or antennas that have not yet been constructed so long as the approval is current and not expired.

POLE. The term “pole” shall be used interchangeably with the term “monopole.”

ROOFTOP MOUNTED ANTENNA. An antenna that is located on top of roof and is not a wall-mount or an alternative design structure.

SATELLITE EARTH STATION. A device consisting of an antenna and reflector, having any dimension of more than five feet, and is a solid or open mesh configured structure used for reception or transmission of radio energy to or from an earth orbit satellite or celestial body.

SMALL WIRELESS FACILITY. A wireless facility that meets both of the following qualifications:

1. All antennas are located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of not more than six cubic feet in volume.
2. All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume if the equipment is mounted on the utility pole or wireless support structure, or fifty cubic feet in volume if the equipment is ground mounted, the following types of associated ancillary equipment are not included in the calculation of equipment volume pursuant to this subdivision:

- A. An electric meter.
- B. Concealment elements.
- C. A telecommunications demarcation box.
- D. Grounding equipment.
- E. A power transfer switch.
- F. A cut-off switch.
- G. Vertical cable runs for the connection of power and other services.

STRUCTURE. Anything constructed or erected, which requires location on the ground or attached to something having location on the ground.

TOWER. A structure consisting of more than a single shaft of steel or concrete used to elevate an antenna for wireless communication or broadcasting.

TOWER HEIGHT. When referring to a tower or alternative structure, the distance measured from the finished grade of the parcel to the highest point on the other structure including the base pad.

TRANSMITTING STATION (NO TOWER) – Any facility utilized for the transmission of broadcast information but without a transmission tower. This use includes wireless communication facilities without towers.

YARD. A space on the same lot with a principal building, which is open and unoccupied other than by steps, walks, terraces, driveways, lamp posts, and similar structures, and unobstructed by structures, except as otherwise provided in this chapter.

YARD, FRONT. An open space extending the full width of the lot between the front lot line and the front planes of the building projected to the side lot lines.

YARD, REAR. An open space extending the full width of the lot between the rear lot line and the rear planes of the building projected to the side lot lines, or, for corner lots where a privacy wall or fence exists between the building and the side lot line, projected to the privacy wall or fence.

YARD, SIDE. An open space between the side lot line, and the side planes of the building and extending from the front yard to the rear yard.

ZONING DISTRICT. A designated area in which the same zoning regulations apply throughout a delineated geographic area.

(Prior Code, § 21-3-1) (Ord. O08-07-11, passed 7-10-2008; Ord. O11-04-06, passed 4-14-2011; Ord. O12-11-10, passed 11-8-2012; Ord. O15-10-08, passed 10-6-2015; Ord. O16-03-03, passed 3-1-2016)

ADMINISTRATION

§ 154.035 ADMINISTRATIVE AGENCIES.

The following will have primary responsibility of administering this chapter as established and prescribed in this subchapter:

- (A) City Council as established in Chapter 32 of the El Mirage City Code
- (B) Planning and Zoning Commission;
- (C) Board of Adjustment; and
- (D) Zoning Administrator.

(Prior Code, § 21-2-1)

§ 154.036 PLANNING AND ZONING COMMISSION.

(A) *Establishment of the Planning and Zoning Commission.* There is hereby created a Planning and Zoning Commission of the city, which shall promote the health, safety, order, beauty, prosperity, and general welfare of the city, and shall secure efficiency, economy, and concerted effort in its growth and development.

(B) *Membership.*

- (1) The Planning and Zoning Commission shall consist of five members, who shall be residents of the city, representing, insofar as possible, different professions or occupations. Members shall be appointed with the approval of a majority vote of the City Council. Insofar as possible, appointment of members shall be made so as to constitute equal representation for all areas within the city. Members of the Planning and Zoning Commission shall serve without pay or compensation of any kind and shall hold no other municipal or county office, except that one member may serve on the Board of Adjustment.
 - (2) Within six months of a Planning and Zoning Commission rotation vacancy, the City Clerk shall prepare and implement a recruitment campaign through posting the availability in a local newspaper for one day of two consecutive weeks, publishing notifications on all social media, digital boards, and the City Website, including flyers in utility billings, and physically posting notifications at the County Library branch, Utility Services Office, and the City Hall Exterior Bulletin Board. Each applicant shall be required to fill out a Planning and Zoning Commissioner Application (either a hard copy or on-line) and return it to the City Clerk no later than the noted deadline. The applications will be reviewed by the Commissioner Review Board, followed by candidate interviews, and the Commissioner Review Board will make recommendations for approval to Council for filling rotation vacancies.
 - (3) The Commission Review Board shall be made up of three Council members appointed by Council.
- (C) *Term of office.* The term of office of members of the Planning and Zoning Commission shall be two years, providing that the appointments first made under this chapter shall be two for one year and three for two years, with the effective date of appointment being January 1, 1987. Members may be reappointed. All members

shall hold office until their successors are appointed. Any member of the Planning and Zoning Commission may be removed with the consent of a majority vote of the City Council for inefficiency, neglect of duty, malfeasance in office, or other good and sufficient cause. Failure to attend three regular meetings in a fiscal year and/or three special meetings or any combination thereof resulting in the absence of three consecutive meetings in a fiscal year will be considered cause for removal. Vacancies occurring other than through the expiration of the term shall be filled for the unexpired term by the Mayor with the approval of a majority vote of the City Council.

- (D) *Organization.* The Planning and Zoning Commission shall elect a Chairperson from the members of the Planning and Zoning Commission and shall create and fill such other of its offices as it may determine. The Chairperson shall be eligible for reelection. The Planning and Zoning Commission shall schedule at least one regular meeting in each month at such time and place as may be fixed by the Planning and Zoning Commission. If there is no business to conduct, the meeting may be cancelled by posting the cancellation 24 hours prior to the scheduled meeting. The Zoning Administrator shall be responsible for posting the cancellation. Special meetings of the Planning and Zoning Commission may be called by the Chairperson, by any three members of the Planning and Zoning Commission, or the City Manager. A majority of the Planning and Zoning Commission shall constitute a quorum for the transaction of business. The Planning and Zoning Commission shall adopt such other rules and regulations governing its organization and procedures as it may deem necessary, which rules and regulations shall be subject to the approval of the governing body of the city and shall not be inconsistent with the ordinances of the city and the laws of Arizona. The Planning and Zoning Commission shall keep a record of its findings, and determinations, which record shall be a public record.
- (E) *Duties of the Planning and Zoning Commission.* It shall be the duty of the Planning and Zoning Commission to:
- (1) Submit and recommend to the City Council a zoning map dividing the city into districts of such number, shape, and area as may be determined best suited to carry out the purposes of this chapter and with the provisions of Arizona Revised Statutes and, within such districts, it shall recommend such regulations and restrictions concerning the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land as it shall deem to be in the best interests of the city and its inhabitants;
 - (2) Determine and recommend to the City Council decisions regarding the classification of parcels of land from one zoning district to another;
 - (3) Recommend to the City Council changes in any of the regulations of this chapter as to the use of land in any district, or as to the restrictions upon buildings or structures therein by amendment to this chapter;
 - (4) Review, delegate review, or recommend decisions of plats, site plans for residential developments, commercial development, and industrial development and to determine the appropriate action and requirements for each site plan of the development, as called for in this chapter;

- (5) Make and recommend decisions to the City Council regarding conditional uses as provided for under this chapter;
- (6) Determine and make decisions regarding temporary uses as provided under this chapter;
- (7) Make and recommend to the City Council for adoption a general plan to guide the physical development of the city;
- (8) Provide recommendations to the City Council concerning purchase of sites for city buildings, parks, and other city improvements, the widening, opening, vacation, or other changes to city streets or other public ways, the ornamentation of city sites, streets, grounds of premises, and other issues that may tend to promote the public health, safety, comfort, convenience, utility, and welfare in connection with the City's General Plan; and
- (9) Make recommendations to the City Council on matters regarding the interpretation, enforcement, and administration of the El Mirage Subdivision Ordinance.

(Prior Code, § 21-2-2)

§ 154.037 BOARD OF ADJUSTMENT.

- (A) *Board of Adjustment.* The City Council shall serve as the Board of Adjustment, unless a Board of Adjustment is hereby established consisting of five members to be appointed by the Mayor and with the consent of the City Council. The members shall be residents of the city.
- (B) *Membership.* Each member of the Board of Adjustment shall be appointed for a term of two years, provided that the appointments first made under this chapter shall be two for one year and three for two years, each appointment shall be made for the full term of two years; vacancies shall be filled by appointment for the unexpired term of any member whose term becomes vacant. Members shall not serve more than two consecutive three-year terms. Before entering upon the duties of his or her appointed position, each member shall take and subscribe an oath to support the Constitution and laws of the United States and the State of Arizona, and the ordinances of the city.
- (C) *Adoption of rules.* The Board of Adjustment shall adopt by-laws and rules governing its organization and meetings, and the by-laws and rules shall be subject to the approval of the governing body of the city and shall not be inconsistent with the ordinances of the city and the laws of the State of Arizona. It shall be the duty of the Chairperson to call a meeting of the Board to pass upon and determine all variances and appeals and all other matters upon which it is the duty of the Board to act. The Board shall meet at any other times as it may prescribe in its rules. The Chairperson of the Board, or in his or her absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of all its proceedings, showing the vote of each member upon each question, or if absent, or failing to vote, indicating that fact, and shall keep records of its examination of other official actions, all of which shall be immediately filed in the offices of the Board and shall be of public record.

- (D) *Appeals to the Board of Adjustment.* Appeals to the Board of Adjustment may be taken by any person or by any officer, department, board, or commission of the city, aggrieved or affected by the decision of any administrative officer. The appeal shall be taken within 30 days of the aggrievement by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal specifying the grounds. The officer from whom the appeal is taken shall forthwith transfer to the Board all of the papers constituting the record upon which the appealed action is taken.
- (E) *Duties of the Board of Adjustment.* The Board of Adjustment shall be, and it is hereby, endowed with the following enumerated duties:
- (1) To hear and decide appeals where it is alleged that an error exists in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter or of any ordinance adopted pursuant to this chapter;
 - (2) To vary or adjust the strict application of the requirements of this chapter in the case of an irregular, narrow, shallow, or steep lot or other physical condition applying to a lot or building as a result of which strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved. Any such variance granted shall be granted according to the requirements and procedures established by this chapter. Variances may be granted only for hardships related to the physical characteristics of land. Variances to this chapter related to permitted, accessory, and/or conditional uses in any use district shall not be allowed. No variance or adjustment in the strict application of any provision of an ordinance may be granted unless:
 - (a) Special circumstances or conditions, fully described in the Board's findings, are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of this chapter;
 - (b) For reasons fully set forth in the Board's finding, the circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is necessary for the reasonable use thereof and the adjustment as granted is the minimum adjustment that will accomplish this purpose; and
 - (c) The granting of the adjustment is in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - (3) To grant exceptions and variances upon request where, after a showing that an illegal construction or a non-conforming building or use existed for a period of at least five years in violation of zoning ordinances and the city, with knowledge of the existence of the condition, has not taken any steps toward elimination of the violations.

(Prior Code, § 21-2-3)

§ 154.038 ZONING ADMINISTRATOR.

- (A) Establishment of Zoning Administrator. Pursuant to A.R.S § 9-462.05, the staff position of Zoning Administrator shall be and is hereby established for the general and specific administration of this chapter. The Zoning Administrator shall be appointed by the City Manager and shall perform such duties as set forth in this chapter. In the event that no such person is appointed or if the Zoning Administrator becomes unavailable, the Community Development Director or their designee shall serve as the Zoning Administrator.
- (B) Duties of the Zoning Administrator. It shall be the responsibility of the Zoning Administrator to perform the following duties:
- (1) Receive, process, record, and administer all requests for approvals and permits, as governed by this chapter;
 - (2) Advise and recommend to the Planning and Zoning Commission, the Board of Adjustment, and the City Council regarding requests for approvals and permits as required by this chapter;
 - (3) Direct such inspections, observations, and analyses of any and all erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land within the city relating to the regulations and restrictions as set forth by this chapter;
 - (4) To take such action as is necessary for the enforcement of this chapter relating to violations of the regulations and restrictions;
 - (5) To pass upon all building permits to determine if the proposed construction, remodeling, or alterations are in conformity with the provisions of this chapter; and
 - (6) To ensure compliance with state statutes, following city notification procedures for proposed residential developments impacted by high noise and accident potential generated by Luke Air Force Base will be adhered to effective February 27, 1998. Upon submission by individual(s) on land use and zoning applications, staff will review applications for completeness and proceed with the following:
 - (a) A notice by first class mail shall be sent to the Arizona Military Airport Preservation Committee, Chair and/or Co-Chairs informing them of a proposed residential development that is the vicinity of a military airport and on which the day-night average sound level is 65 decibels or greater.
 - (b) A notice by first class mail shall be sent to the property owner(s) at the address shown on the record of the county assessor 30 days before final approval of the change in the land use plan or zoning regulation.
 - (c) A notice by first class mail shall be sent to the same property owner(s) immediately following the final approval of such a change in the plan or regulation.

(Prior Code, § 21-2-4)

§ 154.039 METHOD OF DOCUMENTING AMENDMENTS.

- (A) Any official amendments to this chapter of the city shall be incorporated in a timely manner. The amendments shall be added to or deleted from the appropriate place. Where additional pages are required due to any amendment, the necessary pages shall be paginated using the proceeding page number followed by the appropriate alphabetical designation (5a, 5b, and the like).
- (B) Amendments will be followed by the ordinance number and date of adoption which shall appear in parentheses.
- (C) The table of contents shall be amended as necessary to reflect the amendments.

(Prior Code, § 21-2-5)

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ZONING DISTRICTS

§ 154.050 ZONING DISTRICTS AND MAP ESTABLISHED

(A) For the purpose of this chapter, the city shall be divided into the following zones:

- (1) **Natural Reserve (NR) Zone.** - The NR zone preserves or encourages the continuation of lands designated for park use, drainage corridors and natural open space. This district provides additional flexibility through conditional uses to recognize potential mining resources as well as other complimentary uses that may support the integration of park, drainage and natural open space lands as an essential component of the existing and future city land use and recreation framework.
- (2) **Rural Area (RA) Zone.** - The RA zone allows low density, single-family residences and limited agricultural uses within a rural environment. This district prohibits most commercial activities. The lots in the RA zone are generally larger than in other districts, and some limited recreational and public/quasi-public uses are permitted.
- (3) **Suburban Neighborhood (SN) Zone.** - The SN zone promotes and preserves safe and attractive low-density, single-family neighborhoods. This district prohibits most commercial activities except for certain conditional neighborhood serving uses. The SN zone is generally comprised of medium sized suburban single-family, detached residential lots, but single-family attached uses may be conditionally permitted. Some limited recreational and public/quasi-public uses are permitted,
- (4) **Mobile/Manufactured Park (MP) Zone.** – The MP zone accommodates residential communities designed for mobile home and manufactured home dwelling units in a park like setting. Some limited recreational and public/quasi-public uses are permitted.
- (5) **Mixed Urban (MU) Zone.** – The MU zone enhances the character of and creates a unique identity for the original City center, to protect existing residential neighborhoods by creating zoning suitable to the area’s unique development pattern, while also attracting quality development and redevelopment in particular areas of the City. Uses in this district include a diverse range of housing types ranging from single-family, detached to single-family, attached residences. The MU zone also supports neighborhood scale commercial and office uses. It is the intent of the MU zone to encourage physical development that is of high quality and is compatible with the character, scale, and function of its surrounding area. Development within this zone may also contain a compatible mix of residential and non-residential uses (mixed-use) in close proximity to each other, rather than separating uses.
- (6) **Urban Corridor (UC) Zone.** - The UC zone provides retail goods and services to satisfy the household and personal needs of the residents of nearby residential neighborhoods, those traveling on adjacent arterial corridors, and to allow for higher intensity general business and service activities. Development in the UC zone should be located and designed to allow for

access by pedestrians, bicyclists, and public transportation, in addition to automobiles. The UC zone is intended to serve “image making” areas in El Mirage such as key gateways and arterial street and above corridors. The UC zone supports distinctive, unified design elements that generate a recognizable character.

- (7) **Transit Development (TD) Zone.** - The TD zone fosters special, sustainable and urban places adjacent to principal arterial roadways that accommodate places to live, work, shop, and recreate. It includes high intensity businesses and high-density residential uses that are in proximity to transit. The variety of use types is greater than the other subdistricts and may include civic and entertainment uses.
 - (8) **Commerce Park (CP) Zone.** - The CP zone provides employment centers with offices, office showrooms, light assembly and manufacturing, research and development operations, and a limited range of associated retail services, at a low- to medium scale with high building design quality in an integrated or campus-like setting.
 - (9) **Employment/Industry (EI) Zone.** - The EI zone is provides locations for more intensive industrial uses that may not be appropriate for other zones, while mitigating impacts on surrounding areas to the extent practicable. It also includes certain public facilities that are needed to serve this district.
 - (10) Floodway Zone (FW).
 - (11) Floodplain Zone (FP).
 - (12) 65-70DB Noise Zone (65LDN).
 - (13) 70-75DB Noise Zone (70LDN).
 - (14) 75-80DB Noise Zone (75LDN).
 - (15) 80+DB Noise Zone (80LDN).
 - (16) APZ1 Accident Potential Zone 1 (APZ1).
 - (17) APZ2 Accident Potential Zone 2 (APZ2).
- (B) The location and boundaries of the zoning districts established by this Code shall be designated upon the official “Zoning Map of the City of El Mirage.” The Zoning Map, together with all data shown on the map and all amendments hereafter adopted, is by reference made a part of this Code.
- (C) The official Zoning Map shall be located in and maintained by the City of El Mirage Community Development Department and made available for inspection at City Hall.
- (1) Any changes to the official Zoning Map shall be considered an amendment to the official Zoning Map and filed in accordance with Section 154.153 of this Code.
 - (2) The official Zoning Map may, from time to time, be republished to delineate any change of zoning approved pursuant to Section 154.153 of this Code or any other amendments thereto.

(Prior Code, § 21-4-1) (Ord. 11-09-17, passed 9-22-2011; Ord. O14-05-02, passed 5-6-2014; Ord. O17-12-13, passed 12-5-2017)

§ 154.051 INTERPRETATION OF ZONE BOUNDARIES.

Where uncertainty exists with respect to any of the boundaries of the zones as shown on the zoning map, the following rules shall apply:

- (A) Where zone boundaries are indicated as approximately following the center lines of street, highway, or railroad rights-of-way or the lines extended, the center lines or the lines extended shall be construed to be such boundaries.
- (B) Where zone boundaries are indicated as approximately following the corporate limit line of the city, the corporate limit line shall be construed to be the boundaries.
- (C) Where zone boundaries are indicated as approximately following property lines or the lines extended, the property lines or the lines extended shall be construed to be the boundaries.
- (D) Where zone boundaries are indicated as approximately following the center line or stream beds or riverbeds, the center lines or the lines extended shall be construed to be the boundaries.
- (E) No zone boundary line shall hereinafter be established to divide one lot into two or more zones unless the size of the lot in question is such that division is determined to be essential by the Planning and Zoning Commission and the City Council. (Prior Code, § 21-4-2)
- (F) Where a public street or alley, railroad, or utility right-of-way is officially vacated or abandoned, the property that was formerly in the right-of-way will be included within the zoning district of the adjoining property on either side of the centerline of the vacated or abandoned right-of-way or easement.
- (G) In case of doubt or disagreement concerning the exact location of a district line, determination shall lie with the Zoning Administrator as defined under Section 154.038. The determination of the Zoning Administrator may be appealed in accordance with the provisions of Section 154.153.

§ 154.052 PERMITTED USES BY ZONE.

The Table of Allowed Uses for All Zoning Districts, lists land uses and indicates whether they are permitted by right or with approval of a conditional use permit, or prohibited in each Zoning District. The Use Table also includes references to additional use-specific standards that may be applicable to that use. The organization headings and individual abbreviations utilized in the table are explained as follows:

- (A) **Use Category** - The “use categories” are an organizational tool that simply help to organize the list of “specific use types” into common groupings for ease of reference.

- (B) **Specific Use Type** - The “specific use types” are regulatory and function as the basis for defining present and future land uses that are appropriate in each zoning district. Rather than list every possible individual land use type, this list classifies individual land uses and activities into specific use types based on common functional, product or physical characteristics, such as the type and amount of activity, the type of customers or residents, and how goods or services are sold or delivered and site conditions. Further definitions of each specific use type can be found in Section 154.020 Definitions.
- (C) **Permitted Uses** - “P” in a cell indicates that the use is allowed by right in that zoning district.
- (D) **Conditional Uses** - “C” in a cell indicates that the use is allowed in the respective zoning district only if reviewed and approved in accordance with the procedures of Section 154.157, Conditional Use Permits.
- (E) **Not Permitted** - “--” in a cell indicates that the use is not permitted/prohibited in that zoning district.
- (F) **Use-Specific Standards** - Section numbers listed in the “Supplemental Use Regulations” column denote the location of additional regulations that are applicable to the specific use type; however, provisions in other sections of this Ordinance may also apply.
- (G) **Non-Specified Uses** - When a use cannot be reasonably classified into a specific use type, or appears to fit into multiple specific use types, the Zoning Administrator or designee is authorized to determine the most similar and thus most appropriate specific use type based on the actual or projected characteristics of the individual use or activity (including but not limited to size, scale, operating characteristics and external impacts) in relationship to the specific use type definitions provided in Section 154.020. Appeal of the Administrator’s decision may be made to the City Council following the procedures under Section 154.161.

Table Of Allowed Uses for All Zoning Districts ¹											
Use Category	Specific Use Type	P = Permitted Use ² C = Conditional Use									Specific Use Requirements (See Section)
		Natural Reserve Zone	Rural Area Zone	Suburban Neighborhood Zone	Mobile Park Zone	Mixed Urban Zone	Urban Corridor Zone	Transit Development Zone	Commerce Park Zone	Employment/Industry Zone	
		NR	RA	SN	MP	MU	UC	TD	CP	EI	
Accessory Uses	Accessory Dwelling Unit		P			P					154.092(D)(1)
	Watchman’s Quarters				P	P	P	P	P	P	
	Home Occupation	C	P	P	P	P	P	P	P	C	154.088
	Cargo Containers		P					P		P	154.092(D)(4)
	Public Art	C	P	P	C	P	P	P	P	C	

Table Of Allowed Uses for All Zoning Districts ¹

Use Category	Specific Use Type	P = Permitted Use ² C = Conditional Use									Specific Use Requirements (See Section)
		Natural Reserve Zone	Rural Area Zone	Suburban Neighborhood Zone	Mobile Park Zone	Mixed Urban Zone	Urban Corridor Zone	Transit Development Zone	Commerce Park Zone	Employment/Industry Zone	
		NR	RA	SN	MP	MU	UC	TD	CP	EI	
	Livestock	C	P						C	P	154.092(D)(3)
	Stable	C	P						C	P	154.092
Residential Use Category	Assisted Living Center					P	P	P			154.086
	Child Care, Home		P	P	P	P	P	P			
	Dwelling, Duplex			P		P	P	P			
	Dwelling, Live/Work					P	P	P			
	Dwelling, Manufactured Home ⁵				P	P					
	Dwelling, Modular Home		P	P	C	P					
	Dwelling, Multi-Family	C		C		C	C	P			
	Dwelling, Single-Family Attached			C	C	P		P			
	Dwelling, Single-Family Detached		P	P	C	P					
	Group Care Home		C	C	C	C					154.086
	Manufactured Home/RV Park ⁵				P						
	Nursing Home					P	P	P			
	Resident Care Home		P	P	C	P					154.086
Vacation Home Rentals		P	P	P	P	P	P				
Public/Quasi-Public Use Category	Airport/heliport	C						C	C	C	
	Assembly Hall/Auditorium/Conference Center	C			C	C	P	P	P	P	
	Cemetery	C	C			C	C	C	C	C	
	College/University, Public or Private	C				C	C	C	C		
	Community Playfields and Parks	C	P	P	P	P	P	P	P	C	
	Community Recreation Center	C	C	C	C	P	P	P	P	C	
	Funeral Home or Crematorium	C				P	P	P	P	C	
	Cultural Facility	C			C	C	C	P	P	C	
	Fraternal or Social Club, Nonprofit	C	C	C	C	P	P	P	P	C	
	Government Offices And Civic Buildings	C		C		P	P	P	P	P	
	Health Care / Medical Facility or Clinic	C			C	P	P	P	P	C	
	Hospital	C				C	C	C	C	C	
	Instructional Services or Trade School	C				C	C	C	P	P	

Table Of Allowed Uses for All Zoning Districts ¹

Use Category	Specific Use Type	P = Permitted Use ² C = Conditional Use									Specific Use Requirements (See Section)
		Natural Reserve Zone	Rural Area Zone	Suburban Neighborhood Zone	Mobile Park Zone	Mixed Urban Zone	Urban Corridor Zone	Transit Development Zone	Commerce Park Zone	Employment/Industry Zone	
		NR	RA	SN	MP	MU	UC	TD	CP	EI	
	Library	C			C	P	P	P	P	C	
	Public Safety Facility	P	P	P	P	P	P	P	P	P	
	Religious Assembly	C	P	P	P	P	P	P	P	P	
	School, Public or Private, K-8		P	P	P	P	P	P	P	C	
	School, Public or Private, 9-12		P	P	P	P	P	P	P	C	
	Solar Generation Facility	C	C	C	C	C	C	C	C	C	
	Transportation Terminal	C			C	C	C	P	P	C	
	Utility Facility, Minor	C	C	C	C	C	C	C	C	P	
	Utility Facility And Service Yard, Major	C	C	C	C	C	C	C	C	P	
	Wireless Facility (Including Tower and Supporting Facilities)	C	C	C	C	C	C	C	C	C	154.091
Agriculture Use Category	Agriculture, General	P	P	C	C	C	C	C	P	P	
	Community Garden		C	C	C	C	C	C			
	Ranching, Commercial									C	
Commercial / Business Use Category	Adult Entertainment Business	C						C	C	C	154.085
	Alcoholic Beverages, Retail Sale ⁴					P	P	P	P	P	
	Animal Kennel / Shelter	C				C	C	C	P	P	
	Animal, Hospital / Veterinarian Clinic					C	C	C	P	P	
	Art gallery / studio	C			C	P	P	P	P	C	
	Automobile / Boat / RV, Repair Major	C					C	C	C	P	
	Automobile / Boat / RV, Repair Minor					C	C	C	P	P	
	Automobile / Boat / RV, Sales And Leasing	C				C	C	C	P	P	
	Bar, Lounge, or Tavern					C	C	C	C	C	
	Business Services					P	P	P	P	P	
	Car Wash ⁴						C	C	P	P	
	Coffee Shop/Café ⁴			C		P	P	P	P	P	
	Commercial Entertainment, Indoor	C				P	P	P	P	P	
	Commercial Entertainment, Outdoor					C	C	C	P	P	
Convenience Store ⁴					P	P	P	P	P		

Table Of Allowed Uses for All Zoning Districts ¹

Use Category	Specific Use Type	P = Permitted Use ² C = Conditional Use									Specific Use Requirements (See Section)
		Natural Reserve Zone	Rural Area Zone	Suburban Neighborhood Zone	Mobile Park Zone	Mixed Urban Zone	Urban Corridor Zone	Transit Development Zone	Commerce Park Zone	Employment/Industry Zone	
		NR	RA	SN	MP	MU	UC	TD	CP	EI	
	Child Care, Center			C	C	P	P	P	C	C	
	Drive-through Facility	C				C	P	P	P	P	154.087
	Feed Store ³		C			C	C		P	P	
	Flex Commercial					P	P	P	P		
	Financial Institution ⁴					P	P	P	P		
	Fitness And Sports Center	C				P	P	P	P	P	
	Fueling Station ⁴	C				C	C	C	P	P	
	General Personal Services ⁴					P	P	P	P		
	General Recreation, Indoor					P	P	P	P	P	
	General Recreation, Outdoor	C						C	C	P	
	Golf Course	C		C	C	C	C	C	C	C	
	Bed and Breakfast (≤6 units)	C	C			P	P	P	P		
	Hotel/Motel (13+ units)	C					P	P	P		
	Inn (6-12 units)	C				P	P	P	P		
	Marijuana Cultivation Site	C			C	C	C	C	C	C	154.089
	Marijuana Establishment	C			C	P	P	P	P	P	154.089
	Marijuana Testing Facility	C			C	C	C	C	C	C	154.089
	Nonprofit Medical Marijuana Dispensary	C			C	P	P	P	P	P	154.089
	Microbrewery, Craft Distillery or Tasting Room					C	C	C	P	P	
	Movie Theater					P	P	P	P	C	
	Nightclub					C	C	C	C	C	
	Nursery, Commercial						C	C	C	P	
	Office, Business Or Professional				C	P	P	P	P	P	
	Self-Storage, Indoor						C	C	C	P	
	Non-Chartered Financial Institution (Check Cashing)						C	C	C	C	154.090
	Mobile Vendor	C			C	C	C	C	C	C	
	Parking Lot And Parking Structure	C			C	P	P	P	P	P	
	Restaurant ⁴	C			C	P	P	P	P	C	
	Retail, General ⁴	C			C	P	P	P	P	C	
	Retail, Large	C				C	P	P	P	C	

Table Of Allowed Uses for All Zoning Districts ¹

Use Category	Specific Use Type	P = Permitted Use ² C = Conditional Use									Specific Use Requirements (See Section)
		Natural Reserve Zone	Rural Area Zone	Suburban Neighborhood Zone	Mobile Park Zone	Mixed Urban Zone	Urban Corridor Zone	Transit Development Zone	Commerce Park Zone	Employment/Industry Zone	
		NR	RA	SN	MP	MU	UC	TD	CP	EI	
	Retail, Smoke/Vape Shop						C	C	C	C	
	Retail, Pawn Shop						C	C	C	C	154.090
	Shopping Center	C				P	P	P	P	C	
	Tattoo Parlor and Piercing Salon					C	P	P	C	C	154.090
	Travel Plaza/Truck Stop								C	P	
Industrial Use Category	Assembly, Light							P	P	P	
	Auctions, Indoor								P	P	
	Auto Wrecking and Salvage Yard									C	
	Building Materials Sales								C	P	
	Data Center								C	C	
	Distribution Yard, Outdoor							C	C	P	
	Distribution/ Warehousing Center, Indoor	C					C	C	C	P	
	Heavy Equipment Sales and Rental								C	P	
	Manufacturing, Light	C				C	C	C	P	P	
	Manufacturing, Heavy	C								P	
	Outdoor Storage						C	C	C	P	
	Oil and gas refinery									C	
	Research Laboratory	C						C	C	P	
	Resource Extraction	C								C	
Waste Facility									C		
Wholesale Establishment								P	P		

1. All uses are subject to Military Airport Overlay Zones per ARS 28-8481
2. City facilities are permitted in any district and exempt from the site plan approval process
3. Limited to arterial street frontage only.
4. Drive through's may be permitted subject to the requirements set forth under the Drive-through use type as defined and regulated herein.
Only pre-existing, in place mobile homes shall be allowed for residential or non-residential use on an existing lot or within an existing mobile home park, subject to all applicable A.R.S. The relocation of a pre-existing mobile home from its current location, lot or mobile home park shall be prohibited.

(Prior Code, § 21-4-3) (Ord. O10-01-02, passed 1-14-2010; Ord. O10-04-03, passed 4-8-2010; Ord. O11-09-17, passed 9-22-2011; Ord. O12-11-10, passed 11-8-2012; Ord. O14-07-06, passed 7-1-2014; Ord. O15-02-03, passed 2-17-2015; Ord. O15-10-08, passed 10-6-2015; Ord. O15-12-12, passed 12-1-2015; Ord. O17-08-08, passed 8-15-2017; Ord. O18-12-15, passed 12-4-2018)

§ 154.053 ZONING STANDARDS.

The standards for each zone are set forth in the table below:

NR	Natural Reserve
RA	Rural Area
SN	Suburban Neighborhood
MP	Mobile/Manufactured Park
MU	Mixed Urban
UC	Urban Corridor
TD	Transit Development
CP/EI	Commerce Park and Employment/Industry

TABLE OF ZONE STANDARDS								
Standard	NR	RA	SN	MP	MU	UC	TD	CP/EI
LOT OCCUPATION								
Lot Area (sq. ft.)	per site plan	43,560	5,000	2,000	4,000	2,000	1,000	2,000
Lot Width (minimum)	per site plan	120 ft.	45 ft.	40 ft.	40 ft.	20 ft.	20 ft.	50 ft.
Lot Cover (maximum)	per site plan	25%	55%	80%	90%	90%	90%	90%
MINIMUM SETBACKS - PRINCIPAL BUILDING								
Front (minimum)	per site plan	30 ft.	20 ft.	5 ft.	10 ft.	5 ft. *	5 ft. *	20 ft.
Side St. (minimum)	per site plan	20 ft.	10 ft.	5 ft.	10 ft.	5 ft. *	5 ft. *	10 ft.
Int. Side (minimum)	per site plan	20 ft.	5 ft.	5 ft. *	5 ft. *	5 ft. *	5 ft. *	5 ft. *
Rear (minimum)	per site plan	30 ft.	20 ft. ****	5 ft.	10 ft.	5 ft. *	5 ft. *	5 ft. *
MINIMUM SETBACKS-ACCESSORY BUILDING, STUCTURES & USES								
See Section 154.092(B)								
MAXIMUM BUILDING HEIGHT***								
Principal (height/stories)	per site plan**	30 ft./2	30 ft./2	30 ft./2**	30 ft./2**	40 ft./3**	70 ft./5**	66 ft. **

* No setback is required if structure is fire resistant per International Building Code and Fire Code (IBC and IFC).

** Principal Buildings may exceed the maximum building height or stories with Conditional Use Permit approval.

*** Any building above 30 feet in height shall be subject to additional fire protection precautions per IBC and IFC.

(Ord. O11-09-17, passed 9-22-2011; Ord. O17-08-09, passed 8-15-2017)

**** The minimum rear setback for developments over 30 acres shall be fifteen (15) feet.

SPECIAL & OVERLAY DISTRICT REGULATIONS

§ 154.065 PLANNED AREA DEVELOPMENT (P.A.D.) SPECIAL DISTRICT.

(A) Purpose.

- (1) As an alternative to conventional zoning and development approaches and processes, the Planned Area Development (P.A.D.) procedures and regulations are set forth to:
 - (a) enhance the city in order that the public health, safety, and general welfare be maintained as the city increasingly urbanizes;
 - (b) encourage innovations in residential, commercial, and industrial development so that greater opportunities for better housing, recreation, shopping, and employment may extend to all citizens and residents of the city;
 - (c) reflect changes in the technology of land development;
 - (d) encourage a more creative approach in the utilization of land in order to accomplish a more efficient, aesthetic, and desirable development which may be characterized by special features of the geography, topography, size, or shape of a particular property; and
 - (e) provide a compatible and stable, developed, environment in harmony with that of the surrounding area.
- (2) The P.A.D. may include any development having one or more principal use or structures on a single parcel of ground or contiguous parcels. The P.A.D. shall consist of a harmonious selection of uses and groupings of buildings, parking areas, circulation, and open spaces, and shall be designated as an integrated unit, in such manner as to constitute a safe, efficient, and convenient urban area development.

(B) General requirements and standards.

- (1) *Ownership.* The tract shall be a development of land under unified control at the time of application and planned and scheduled to be developed as a whole.
- (2) *Conformance with general plan.* The land uses and design of the proposed P.A.D. shall be consistent with the city's General Plan.
- (3) *Conformance with City Ordinances and Regulations.* A P.A.D. shall conform to all regulations pertaining to land development within this Code and the Subdivision Ordinance, and all other rules, regulations, specifications and standards set forth in all other applicable City Codes, unless specific deviations are approved by the City Council during the P.A.D. approval process.
- (4) *Official Zoning Map.* All approved P.A.D.'s shall be shown as a P.A.D. Special

District on the City's official zoning map

- (5) *P.A.D. size regulations.* The minimum total P.A.D. shall be no less than three acres unless the applicant can show that the minimum P.A.D. requirements should be waived by the Zoning Administrator because the waiver would be in the public interest and that one or both of the following conditions exist:
 - (a) Unusual physical features of the property itself or of the surrounding area are such that development under the standard provisions of this zoning ordinance would not be appropriate in order to conserve a physical or terrain feature of importance to the neighborhood or community.
 - (b) The property is adjacent to or across the street from property which has been developed under the provisions of this section and will contribute to the amenities of the area.
- (6) *P.A.D. general regulations.* Unless otherwise expressly modified as part of the PAD approval process, PADs shall utilize the base zoning districts and all applicable standards established in this Code to regulate all proposed uses and development. The City Council is authorized to approve PADs that deviate from strict compliance with specified standards if they determine that the resulting development satisfies the approval criteria of Section 154.160 below. The PAD standards may be more or less restrictive than those in the Code subject to the following:
 - (a) Uses permitted by right or by conditional use permit within a base zoning district may be permitted within said PAD zoning districts. PAD zoning districts may not include uses that are not permitted within a base zoning district, but may modify or define standards for the operation and performance of permitted/conditionally permitted uses within PAD zoning districts.
 - (b) Development standards pertaining to the size, dimensions, height, lot coverage, placement, or setback of uses may be defined. However, the total number of dwelling units in a PAD Plan shall not exceed the maximum number permitted by the General Plan density for the total area of the PAD designated for residential use.
- (7) *One housing type not inconsistent with intent.* A P.A.D. which only involves one housing type such as all detached or all attached units shall not be considered inconsistent with the stated purposes and objectives of this section and shall not be the sole basis for denial or approval.
- (8) *Architectural style, appearance.* Architectural style of buildings shall not solely be a basis for denial or approval of a plan. However, the overall appearance and compatibility of individual buildings to other site elements or to surrounding development will be primary considerations during P.A.D. review by the Planning and Zoning Commission and Council.
- (9) *Phasing of development.*
 - (a) Any P.A.D. plan proposed to be constructed in phases shall include full

details relating thereto, and the City Council may approve or modify, where necessary, any such proposals.

- (b) The phasing shall include the time for beginning and completion of each phase. The timing may be modified by the city on the showing of good cause by the developer.
 - (c) The landowner or developer shall make such easements, covenants, and other arrangements and shall furnish such financial guarantees as may be determined by the city to be reasonably required to assure performance in accordance with the plan and to protect the public.
- (10) *Street utilities, services, and public facilities.* The uniqueness of each proposal for a P.A.D. may allow specifications and standards for streets, utilities, and specifications and standards for streets, utilities, and services to be subject to minor modifications of the specifications and standards established in this and other city ordinances governing their construction. The city may, therefore, waive or modify the specifications or standards where it is found that they are not required in the interests of the residents of the P.A.D. or the city. The plans and profiles of all streets, utilities, and services shall be reviewed, modified if necessary, and approved by the city prior to the final approval of the P.A.D. All P.A.D.s shall be served by public or community water and sewer systems.
- (11) *Open space provision.* At least 10% of the total P.A.D. area shall be set aside for public and/or private open space and recreational use. The city shall determine what portion of the 10% shall be private and what shall be public.
- (12) *Operating and maintenance requirements for planned area development common facilities.* In the event that certain land areas or structures are provided within the P.A.D. for private recreational use or as service facilities, the owner of the land and buildings shall establish an arrangement to assure the city of a continued standard of maintenance. These common areas may be placed under the ownership of one of the following, depending upon which is more appropriate:
- (a) Dedicated to public where a community-wide use would be anticipated;
 - (b) Landlord control; and/or
 - (c) Landowners association, provided all of the following conditions are met:
 - (i) The landowners association must be established prior to any sale;
 - (ii) Membership may be mandatory for each owner and any successive buyer;
 - (iii) The open space restrictions must be permanent or tied to a long-term agreement (e.g., 99 years);
 - (iv) The association must be responsible for liability insurance and the maintenance of recreational, service, and other facilities as deemed necessary by the city;
 - (v) Landowners must pay their pro rata share of the cost and the

assessment levied by the association that can become a lien on the property in accordance with Arizona Statutes;

- (vi) The association must be required to adjust its assessment to meet changing needs; and
 - (vii) The association must be required to, at minimum, adjust its assessment on an annual basis by a percentage not less than the previous year's increase in the Consumer Price Index.
- (13) *Landscaping.* Landscaping and/or fencing shall be provided according to a plan approved by the city and shall include a detailed planting list with sizes indicated.
- (14) *Utilities.* All utilities, including electricity and telephone, shall be installed underground.
- (15) *Additional standards.* Development within a P.A.D. shall conform to all conditions and standards agreed upon by the applicant and the city at time of P.A.D. approval.
- (C) *Property in floodplains or airfield impact areas.* Any property located in a P.A.D. zone and any F-1, F-2, or A-1 Overlay Zone must comply with the regulations of the applicable overlay zone.

(Prior Code, § 21-5-12) (Ord. O11-09-17, passed 9-22-2011; Ord. O14-05-02, passed 5-6-2014)

§ 154.066 FLOODWAY OVERLAY ZONE (F-1).

- (A) *Purpose.* The F-1 Floodway Zone is intended to allow unimpeded passage of water during a flood through those areas of the city identified as the floodway by the Federal Insurance Administration of the National Flood Insurance Program of the U.S. Department of Housing and Urban Development and shown as such on the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map for the city. The purpose of these regulations is to promote the public health, safety, and general welfare, and to minimize public and private losses because of flood conditions. Since the floodway is an extremely hazardous area because of the velocity of flood waters, which carry debris and erosion potential, development is closely regulated.
- (B) *Principally permitted uses.* Those principally permitted uses which are allowed in the underlying zoning district only if a technical evaluation demonstrates that encroachments, fill, new construction, substantial improvements, or other development shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (C) *Conditionally permitted uses.* Those conditionally permitted uses which are allowed in the underlying zoning district only if a technical evaluation demonstrates that encroachments, fill, new construction, substantial improvements, or other development shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (D) *Non-conforming uses.* Non-conforming uses in the floodway overlay zone shall not

be expanded but may be modified, altered, or repaired to incorporate flood-proofing measures providing the measures do not raise the level of a 100-year flood.

(Prior Code, § 21-5-13) (Ord. O11-09-17, passed 9-22-2011)

§ 154.067 FLOODPLAIN OVERLAY ZONE (F-2).

- (A) *Purpose.* The F-2 Floodplain Overlay Zone is intended to regulate the nature of permitted development in the 100-year floodplain as identified by the Federal Insurance Administration of the National Flood Insurance Program of the U.S. Department of Housing and Urban Development and shown as “A” Zones on the city’s Flood Insurance Rate Maps, so as to lessen property damage and hazards resulting from such events.
- (B) *Principally permitted uses.* Those principally permitted uses of the underlying zoning district, which may be any of the residential, commercial, or industrial zones defined in this chapter, provided, however, that the uses comply with the restrictions of divisions (E) and (F) of this section, below.
- (C) *Conditionally permitted uses.* Those conditionally permitted uses of the underlying zoning district, which may be any of the residential, commercial, or industrial zones defined in this chapter, provided, however, that such uses comply with the restrictions of divisions (E) and (F) of this section, below.
- (D) *Permitted accessory uses.* Those permitted accessory uses of the underlying zoning district, which may be any of the residential, commercial, or industrial zones defined in this chapter, provided, however, that such uses comply with the restrictions of divisions (E) and (F) of this section, below.
- (E) *General standards for flood hazard reduction.* In all floodway and floodplain areas, the following standards are required.
 - (1) *Anchoring.*
 - (a) All new construction and substantial improvements shall be anchored to prevent floatation, collapse, or lateral movement of the structure.
 - (b) All existing mobile homes shall be anchored to resist floatation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:
 - (i) Over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations; mobile homes less than 50 feet long require only one additional tie per side;
 - (ii) Frame ties be provided at each corner of the mobile home with five additional ties per side at intermediate points with mobile homes less than 50 feet requiring only four additional ties per side;
 - (iii) All components of the anchoring system are capable of carrying a force of 4,800 pounds; and
 - (iv) Any additions to the mobile home be similarly anchored.

(2) *Utilities.*

- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(F) *Specific standards for flood hazard reduction.* The following standards shall apply in all areas where base flood elevation data has been established by the Federal Insurance Administrator of the National Flood Insurance Program of the U.S. Department of Housing and Urban Development.

(1) *Residential construction.*

- (a) New construction and substantial improvement of any residential structure shall have the lowest finished flood elevation, including basement, at least one foot above the base flood elevation.
- (b) New construction and substantial improvement of any residential structure located in an AO zone as specified on the community's Flood Insurance Rate Map (FIRM) shall have the lowest floor, including basement, elevated above the crown of the nearest street or to the depth number specified in the community's FIRM.

(2) *Non-residential construction.*

- (a) New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall either have the lowest floor, including basement, elevated to one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - (i) Be flood proofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (iii) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. The certifications shall be provided to the Building Department and the Maricopa County Flood Control District.
- (b) New construction and substantial improvement of any non-residential structure located in an AO zone as specified on the community's FIRM shall have the lowest floor, including basement, elevated above the crown of the nearest street or to the depth number specified on the community's FIRM or together with attendant utility and sanitary facilities shall:

- (i) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - (ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (iii) Be certified by a registered professional engineer that the standards of this division are satisfied. The certifications shall be provided to the Building Department and the Maricopa County Flood Control District.
- (3) *Mobile homes.*
- (a) Existing mobile homes shall be anchored in accordance with division (E)(1) of this section, above.
 - (b) No mobile homes shall be placed in any floodway or floodplain after the effective date of this chapter.

(Prior Code, § 21-5-14) (Ord. O11-09-17, passed 9-22-2011)

§ 154.068 AIRFIELD IMPACT OVERLAY ZONE (A-1).

(A) *Purpose.*

- (1) The principal purpose of the Airfield Impact Overlay zone is to promote and protect the public health, safety, and general welfare in the vicinity of Luke Air Force Base by minimizing exposure to high noise levels and accident hazards generated by airport operations and to encourage future development which is compatible with the continued operation of the airports.
- (2) In addition, it is the purpose of the Airfield Impact Overlay Zone to minimize future conflicts between land uses and excessive noise generated by aircraft.
- (3) It is the intent of this overlay zone to regulate land uses within designed existing or projected airfield noise impact areas by requiring acoustical performance standards. Nothing herein shall be construed as altering building materials or construction methods from those which are specified in the Uniform Building Code.
- (4) It is also the intent of this overlay zone to prohibit uses in the accident potential zone that, if otherwise permitted, would endanger lives or invite destruction of property.

(B) *Zone and area boundaries.* All zoning and rezoning ordinances or regulations shall be subject to provisions of A.R.S. § 28-8481 et seq.

(C) *Establishment of zones and areas.*

- (1) *Airfield Impact Overlay Zone.* The Airfield Impact Overlay Zone shall be established in like manner as any other zone permitted by this chapter. The boundaries of this zone and its areas may be subject to periodic updating and may be amended in accordance with the provision of § 154.152 and § 154.153 of this chapter.

- (2) *Airfield overlay areas.* For purposes of administering these regulations there shall be three airfield noise overlay areas.
- (a) Airfield noise overlay area one (AI-I). The area between the 60 Ldn and 70 Ldn noise contour lines developed by the application of day-night average sound level methodology of sound measurement (Ldn).
 - (b) Airfield noise overlay area two (AI-II). The area between the 70 Ldn and the 75 Ldn noise contour lines developed by the application of day-night average sound level methodology of sound measurement (Ldn).
 - (c) Airfield noise overlay area three (AI-III). The Area within the 75Ldn noise contour lines developed by the application of day-night average sound level methodology of sound measurement (Ldn).
- (3) *Purpose of airfield overlay areas.* The boundaries of the areas shall be established in accordance with the provision of division (C)(1) above. The purpose of the establishment of three airfield overlay areas is to distinguish between the severity of the levels of noise impact so that appropriate uses and acoustical performance standards can be established to mitigate the adverse impacts of aircraft noise and hazards to protect the public health, safety, and welfare.
- (4) *Lots divided by airfield zone boundaries.* Whenever a lot of record is divided by an airfield zone boundary, the development shall conform to the land use and design criteria of the more restrictive district in accordance with all city codes and regulations.
- (D) Permitted uses.
- (1) *Noise attenuation matrix.* Within the Airfield Impact Overlay Zone, there shall be three overlay areas (AI-I, AI-II, and AI-III). The uses permitted in the overlay areas shall be those uses permitted in the underlying zoning district, and shall be subject to all conditions and procedures of the underlying district. The uses shall also comply with the restrictions of the following noise attenuation matrix, unless a land use category is specifically not permitted in the matrix, in which case such uses classified in the designated land use category shall not be permitted.

ATTENUATION MATRIX

Code	Restrictions
NR	No restrictions as a result of noise
1	The land use or activity is permitted; however, the level of noise within the principally permitted structures must be reduced by the developer of this land use activity, in accordance with Chapter 35 Sound Transmission Control of the most recent edition of the UBC.
2	The land use or activity is permitted; however, the level of noise within principally permitted structures shall not exceed 55 Ldn.
3	The land use or activity is permitted; however, the level of noise within principally permitted structures shall not exceed 60 Ldn.
4	The land use or activity is permitted when the level of noise does not exceed 70 Ldn within the principally permitted structure, unless 70 Ldn is exceeded by self

	generated noise.
5	Uses which produce air pollutants that may obscure vision in any way, or which pose a potential explosive hazard are not permitted.
6	Above ground transmission lines are not permitted.
-	Uses within this category are not permitted.

	AI-I	AI-II	AI-III
Single-family, duplex, multi-family	1,2	1,2	-
Mobile homes, parks, or courts	1,2	1,2	-
Other residential uses	1,2	1,2	-
Educational facilities	2	-	-
Religious facilities, libraries, museums, galleries, clubs, and lodges	2	2	-
Outdoor sport events, entertainment, and public assembly, except amphitheatres	2	2	-
Indoor recreation, amusements, athletic clubs, gyms, and spectator events	3	3	-
Neighborhood parks	NR	NR	-
Community and regional parks	NR	NR	-
Outdoor recreation: tennis, golf courses, riding trails, and the like	NR	NR	-
Cemeteries	NR	NR	-
Hotels/Motels	2	2	-
Hospitals and other health care services	2	2	-
Services: finance, real estate, insurance, professional, and government offices	2	2	-
Retail sales: building materials, farm equipment, automotive, marine, mobile homes, recreational vehicles, and accessories	NR	4	4
Restaurants, eating and drinking establishments	3	3	3
Retail sales: general merchandise, food, drugs, apparel, and the like	3	3	3
Personal services: barber and beauty shops, laundry and dry cleaning, and the like	3	3	3
Automobile service stations	NR	4	4
Repair services	NR	4	4
Processing of food, wood and paper products; printing and publishing, warehouses, wholesale and storage activities	NR	4	4
Refining, manufacturing, and storage of chemicals, petroleum and related products, manufacturing and assembly of electronic components, and the like	NR	4	4
Manufacturing of stone, clay, glass, leather, gravel, and metal products; construction and salvage yards; natural resource extraction and processing, agricultural, mills and gins	NR	5	5

	AI-I	AI-II	AI-III
Animal husbandry: livestock, farming, breeding, and feeding	NR	NR	-
Plant nurseries (excluding retail sales)	NR	NR	NR
Farming (except livestock)	NR	NR	NR
Transportation terminals, utility and communication	NR	NR	NR

facilities			
Vehicle parking	NR	NR	NR
Signs	NR	NR	NR

- (2) *Non-conforming uses.* Nothing herein shall require any change or alteration in a lawfully constructed or established building, structure, or use in existence at the time of the adoption of any airfield overlay areas, as established in § 154.107 of this chapter.

(E) Certification of noise attenuation.

- (1) *Certification.* Prior to issuance of a building permit in any AI-I, AI-II, or AI-III area, a certification by a registered acoustical engineer or registered architect that the construction practices and/or materials of the structure will achieve the interior noise level required in the noise attenuation matrix shall be submitted. The engineer or architect shall submit relevant information to permit the Zoning Administrator to verify that the proposed measures will achieve the interior noise level standard.
- (2) *Inaccurate data.* False or inaccurate data shall be cause for rendering null and void any building permit and may result in non-issuance of an occupancy permit.
- (3) *City liability.* The city, its employees, and officers shall not be held liable for any permit issued on the basis of false information.

(F) *Avigational easement and release.* Prior to issuance of any building or development permit for property within the Airfield Impact Overlay Zone, the owner of the property shall provide the city with an avigational easement over the subject property and release the city from all liability for any and all claims for damages originating from dust, noise, vibration, fumes, fuel, and lubricant particles, and the like. The avigational easement and release form shall be available from the city.

(G) Additional height and safety regulations.

- (1) *Hazard marking and lighting.* Luke Air Force Base personnel will determine whether the construction and/or existence of any structure, pole, tower, tank, or plant material constitutes a hazard to an aircraft operation in the vicinity of the airfield. When such a determination is made, the owner of the structure, pole, tower, tank, or plant material shall, at his or her own expense, reduce in height or install, operate, and maintain such markers and lights as may be necessary to indicate to aircraft operators the presence of an airfield hazard.
- (2) *Communications facilities.* Any activity within this district which may create any electrical interference with communications between Luke Air Force Base and aircraft is prohibited.

(Prior Code, § 21-5-15) (Ord. O11-09-17, passed 9-22-2011)

§ 154.069 THUNDERBIRD ROAD OVERLAY DISTRICT (TROD).

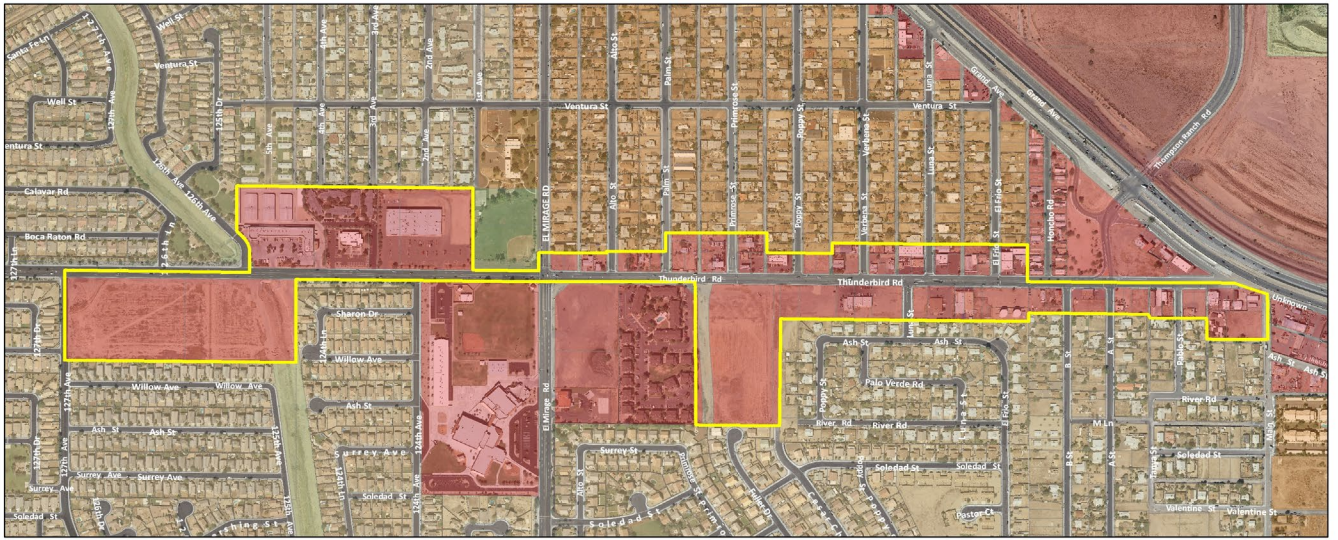
In order to more fully implement the recently adopted General Plan and form-based zoning and create a walkable urban environment, all properties adjacent to Thunderbird Road from 127th Avenue to Grand Avenue as identified on the map attached to Ord. O12-09-06, passed 9-18-2012, are subject to the following design standards:

- (A) All new principal buildings shall be built along the front property line for at least 50% of the ground floor facade. All areas in front of facades shall be paved or landscaped to form a part of the pedestrian corridor.
- (B) On-site parking shall be provided in the side and/or rear of the property.
- (C) Awnings may be built to front property lines or projecting over rights-of-way to provide shade to building facades and adjacent pedestrian walkways.
- (D) Ground floor facades shall be reserved for retail and/or service uses with office and/or residential uses either above or to the rear of the property.
- (E) At least 50% of the ground floor facade and at least 25% of all upper stories shall be provided with doors and/or window openings to allow natural surveillance between the street and businesses.
- (F) Notwithstanding the requirements as set forth above, any other building configurations may be considered and approved by conditional use permit.
- (G) These provisions shall not hinder the continued use of any existing buildings but any additions or new structures shall comply with these regulations.
- (H) Any residential use within the 65+ DB LDN noise zone is subject to review by Luke Air Force Base per A.R.S. § 28-8481(J).

(Ord. O12-09-06, passed 9-18-2012)



City of El Mirage
Thunderbird Road Overlay District
 (127th Avenue to Grand Avenue)



- | | |
|-----------------------------------|--------------------------|
| THUNDERBIRD ROAD OVERLAY DISTRICT | MU - MIXED URBAN |
| NR - NATURAL RESERVE | UC - URBAN CORRIDOR |
| RA - RURAL AREA | TD - TRANSIT DEVELOPMENT |
| SN - SUBURBAN NEIGHBORHOOD | CP - COMMERCE PARK |
| MP - MOBILE PARK | EI - EMPLOYMENT/INDUSTRY |



DRAFT

SPECIFIC USE REQUIREMENTS

§ 154.085 ADULT OR SEXUALLY ORIENTED BUSINESS

(A) Location Regulations.

- (1) Findings, purpose and intent.
 - (a) It is the intent of this section to regulate the location of adult business establishments so as to protect and promote the health, safety, and general welfare of the citizens of the city and its visitors, and to establish reasonable and uniform regulations to prevent the concentration of adult businesses and their secondary effects.
 - (b) This section has neither the purpose, nor effect of imposing a limitation or restriction on the content of any communications or communicative materials, including sexually oriented business.
 - (c) It is not the purpose or intent of this section either to restrict or deny lawful access by adults to adult and sexually oriented materials or to deny accesses by the distributors of adult or sexually oriented materials to their intended market.
 - (d) It is not the purpose or intent of this section to impose judgment on the content or merits of any constitutionally protected form of speech or expression.
- (2) Prohibited locations of any type of adult or sexually oriented business:
 - (a) An operator of an adult or sexually oriented business is in violation of this subchapter if the business is operated in a zoning district which does not expressly permit that type of use in the district.
 - (b) In addition to being located in a proper zoning district, an operator commits a violation if the adult or sexually oriented business is operated within 1,000 feet of an existing adult or sexually oriented business or establishment having an Arizona Spirituous Liquor License Series #06 or #07; or 1,320 feet of an existing:
 - (i) Religious assembly (including synagogue or other house of worship);
 - (ii) School (public, private or charter);
 - (iii) Public park;
 - (iv) Residential use or residentially zoned property;
 - (v) Child care center; or
 - (vi) Designated historic district.
 - (c) The measurement of the distance, for the purposes of division (2)(b) above, shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property line of an existing religious assembly, school, child care center, or adult business,

or from the boundary line of a public park, residential use or residentially zoned property or designated historic district, to the nearest property line of the property used or sought to be used as an adult or sexually oriented business.

- (d) The measurement of the distance for the purposes of division (2)(b) above shall also include religious assemblies, schools, child care centers, residential use or residentially zoned properties, public parks, or other adult or sexually oriented business uses which are located outside the city.
- (e) A person commits a violation by causing or permitting the establishment or operation of more than one adult or sexually oriented business use in the same building or structure, or on any portion of the site on which an adult or sexually oriented business currently operates.

(Ord. O08-07-12, passed 7-10-2008; Ord. O13-02-03, passed 2-5-2013)

(B) Application. Submittal or application for adult or sexually oriented business use:

- (1) Application for an adult or sexually oriented business use shall be submitted to the Planning Department for review. The application shall include a narrative statement describing the nature of the business for determination of conformity with a listed adult or sexually oriented business use. The application shall also include a site plan and Maricopa County assessor parcel map clearly identifying surrounding properties with depiction of the required distances from the uses detailed in § 154.085(A)(2) above. This application shall state the distance from each of the uses identified in § 154.086(A)(2) above.
- (2) Review of a site application for completeness of information shall be completed within ten business days of the submission of the application. The applicant will be notified by first class mail if the application is complete or requires additional information.

(Ord. O08-07-12, passed 7-10-2008)

(C) Existing Nonconforming Uses. The following are provisions for existing nonconforming uses: An adult or sexually oriented business otherwise lawfully operating prior to the adoption of this subchapter that was lawfully established and maintained under prior zoning ordinance provisions shall be deemed a legal nonconforming use. The nonconforming use shall not be increased, enlarged, extended, or altered except the use may be voluntarily changed by the operator to a conforming use within the property's zoning district which meets all other applicable requirements of city.

(Ord. O08-07-12, passed 7-10-2008)

§ 154.086 RESIDENT CARE HOMES, GROUP CARE HOMES AND ASSISTED LIVING CENTERS

- (A) Resident Care Homes, Group Care Homes, and Assisted Living Centers are subject to the following criteria (unless permitted by Section 36-582(A), Arizona Revised Statutes):
- (1) The location of a Resident Care Home, Group Care Home, or Assisted Living Center shall be approved by the Development Services Department subject to any additional requirements as defined in Section 154.052;
 - (2) A Resident Care Home, Group Care Home or Assisted Living Center shall not be located within twelve hundred (1200) feet, measured by a straight line from lot line to lot line, of another Resident Care Home, Group Care Home or Assisted Living Center.
 - (3) All buildings and premises shall be maintained in a clean, well-kept condition that is consistent in materials and design style with homes in the surrounding or adjacent neighborhood.
 - (4) No exterior change which would alter its residential character shall be made to the exterior of the building(s) and the grounds;
 - (5) Where legally required, the Resident Care Home, Group Care Home or Assisted Living Center shall be licensed by, certified by, approved by, registered with, or under contract with a Federal, State, or local government and evidence of such shall be provided to the Development Services Department within sixty (60) days of approval of the Planning Department;
- (B) An administrative record of each Resident Care Home, Group Care Home, and Assisted Living Center shall be maintained with the Development Services Department.
- (C) Disability Accommodation: An applicant may request a disability accommodation from the above criteria or a development standard pursuant to Section 154.053 of this Zoning Ordinance if the requirement prohibits a Resident Care Home or Assisted Living Center subject to the following:
- (1) A disability accommodation from a development standard or separation requirement shall not be authorized unless the Board of Adjustment shall find upon sufficient evidence all of the following:
 - (a) The requested accommodation is requested by or on the behalf of one (1) or more individuals with a disability protected under Federal and Arizona fair housing laws (42 U.S.C. § 3600 et seq. And A.R.S. § 41-1491 et seq.);
 - (b) The requested accommodation is necessary to afford an individual with a disability equal opportunity to use and enjoy a dwelling;
 - (c) The standard or requirement unduly restricts the opportunity for a person with a disability from finding adequate housing within the City of El Mirage;

- (d) The requested accommodation does not fundamentally alter the nature and purpose of the zoning ordinance of the City of El Mirage;
 - (e) The requested accommodation will not impose an undue financial or administrative burden on the City, as "undue financial or administrative burden" is defined in Federal or Arizona fair housing laws (42 U.S.C. § 3600 et seq. And A.R.S. § 41-1491 et seq.) And interpretive case law;
- (2) The profitability or financial hardship of the owner/service provider of a facility shall not be considered in determining whether to grant a disability accommodation.
 - (3) The requested accommodation must comply with all applicable building and fire codes.
 - (4) The requested accommodation must not, under the specific facts of the application, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

§ 154.087 DRIVE-THROUGH FACILITIES.

This section shall apply to all principal uses that include a drive-through facility.

- (A) Menu boards shall not be placed facing the primary street. In addition, every effort shall be made to avoid placing payment and/or pick-up windows adjacent to public streets.
- (B) Drive through aisles that face or are adjacent to public streets shall be screened from public view by a minimum three-foot-tall masonry wall that matches the primary structure.
- (C) No drive-through aisles shall exit directly onto a public right-of-way.
- (D) Drive through queuing length shall be approved in accordance with the City Engineer.
- (E) Clearly marked pedestrian crosswalks shall be provided for each walk-in customer access point to the facility that is located adjacent to a drive-through lane(s).

§ 154.088 HOME OCCUPATIONS.

- (A) *Purpose.* It is the intent of this section to eliminate as home occupations all uses except those that conform to the standards set forth in this section. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The standards for home occupations in this section are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood, and a clearly secondary or incidental status in relation to the residential use of the main building.
- (B) All Zones Except the Rural Area (RA) Zone

- (1) *Generally.* A home occupation is an accessory use of a dwelling unit, conducted entirely within the dwelling unit, and shall meet the following criteria:
 - (a) The home occupation shall be carried on by one or more persons, all of whom reside within the dwelling unit;
 - (b) No persons are employed other than residents or domestic help;
 - (c) The use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part;
 - (d) There shall be no outside storage of any kind;
 - (e) Any indoor storage, construction, alterations, or electrical or mechanical equipment used, shall not change the fire rating of the structure or the fire district in which the structure is located;
 - (f) The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time;
 - (g) The use shall not cause an increase in the use of one or more utilities (water, sewer, or garbage) so that the combined total use for dwelling and home occupation purposes of one or more utilities exceeds the average for residences in the neighborhood;
 - (h) The owner, lessee, or other persons who have a legal right to the use of the dwelling unit also have the vested right to conduct the home occupation after securing special permission to do so from the Zoning Administrator;
 - (i) The owner, lessee, or other persons who have legal right to the use of the dwelling shall be subject to all conditions set forth in this chapter, such as off-street parking, and to all other permits required by the city, such as building permits and business licenses, and is encouraged to check with city officials before establishing such home occupation.
- (2) *Necessary conditions.* Home occupations are permitted accessory uses in residential use classifications only so long as all the following conditions are observed.
 - (a) The occupation shall be conducted solely by resident occupants in their residence.
 - (b) No more than one room including an attached garage or 25% of the gross area of one floor of the residence, whichever is less, shall be used for the purpose. Use of accessory buildings or garages for these purposes is prohibited.
 - (c) No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure or the fire district in which the structure is located.

- (d) No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, garbage, and the like) so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood.
 - (e) There shall be no outside storage or any kind related to the home occupation.
 - (f) The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time.
 - (g) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
 - (h) Complaints by citizens or residents may be cause for termination of the home occupation.
 - (i) Business signage shall be prohibited.
- (3) *Examples of the uses that frequently qualify as home occupations.* The following are typical examples of uses which can be conducted within the limits of the restrictions established in this section and thereby qualify as home occupations. Uses which may qualify as “home occupations” are not limited to those named in this division (nor does the listing of a use in this paragraph automatically qualify as a home occupation); accountant; architect; artist; attorney-at-law; author; consultant; music instrument instruction; individual tutoring; insurance;; preserving and home cooking; realtor.
- (4) *Uses that are prohibited.* The following uses by the nature of the investment of operation have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residential purposes. Therefore, the following uses shall not be permitted as home occupations: auto repair, minor or major; carpentry work; dental office; medical office; painting of vehicles, trailers, or boats;; private schools with organized classes; large appliance repair; and upholstery.

(Prior Code, § 21-6-15)

(C) Rural Area (RA) Zone Only

- (1) *Generally.* Due to the rural character of the Rural Area (RA) Zone, home occupation allowances in this zone are less restrictive than those found in other residential zones within the City. Home occupations are an accessory use of a single-family residential dwelling unit, typically conducted within the dwelling unit, with certain exceptions, and are clearly incidental and secondary to the use of the dwelling for residential purposes. Home occupations shall not alter the character of the area or adversely affect the primary uses permitted in the zoning district and shall adhere to the following:

- (a) The business shall be operated by at least one permanent resident of the home and may employ up to one non-resident who is required to report in-person to the home for employment at the home, except for those uses identified below which are unique to the RA – Rural Area Zone.
- (b) The owner, lessee, or other persons who have legal right to the use of the dwelling shall be subject to all conditions set forth in this chapter, such as off-street parking and lighting, and to all other permits required by the city, such as building permits and business licenses, and is encouraged to check with city officials before establishing such home occupation.
- (c) Business conducted on the property shall be conducted entirely indoors, except for those uses identified below which are unique to the RA – Rural Area Zone.
- (d) No more than one room or 25% of the gross area of one floor of the principal dwelling, whichever is less, or any accessory building shall be used for the purpose, except for those uses identified below which are unique to the RA – Rural Area Zone.
- (e) No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure or the fire district in which the structure is located.
- (f) Hours of business operation shall be limited to 7:00am to 6:00pm MF, or obtain a conditional use permit.
- (g) No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, garbage, and the like) so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood.
- (h) There shall be no outside storage of any kind related to the home occupation, except for those uses identified below which are unique to the RA – Rural Area Zone.
- (i) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.
- (j) Complaints by citizens or residents may be cause for termination of the home occupation.
- (k) The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time, except for those uses identified below which are unique to the RA – Rural Area Zone.
- (l) For all home occupations requiring customer or employee parking,

parking shall be provided on the subject property on a designated surface that minimizes dust and has a designated border, parking in landscape areas shall be prohibited.

- (m) In-person retail sale of new or used merchandise shall be by appointment only.
 - (n) Business signage shall be prohibited.
- (2) *Specific conditions.* Specific home occupations are permitted accessory uses in the Rural Area (RA) Zone provided the following conditions are observed:
- (a) Businesses such as landscape maintenance and general construction, where work is performed off-site, but employees regularly report to the home for instruction and/or to pick up equipment are permitted subject to the following:
 - (i) All employee vehicles shall be parked on the subject property
 - (ii) Work trailers or equipment may be parked on the subject property, but shall be screened from public view and be subject to Section 154.104(C).
 - (b) Businesses with outdoor components including, but not limited to, swim lessons, horseback riding / training, or similar uses requiring outdoor activities are permitted subject to the following:
 - (i) No more than five client vehicles on the property at any given time.
 - (ii) Arena and stadium lighting shall be prohibited in any front yard.
 - (iii) Special events, shows, or similar uses that include spectators shall be prohibited.
 - (c) Automotive uses consisting of retail sale and installation of aftermarket components and accessories, machining or fabrication of parts; body work; painting; and similar uses are prohibited with the following exceptions:
 - (i) Minor repairs such as maintenance and removal and replacement of standard parts shall be permitted provided: All work and storage shall occur indoors; No more than one (1) vehicle to be serviced shall be located on the property at any given time; and testing and tuning of non-muffled or other open-exhaust vehicles shall be prohibited.
 - (ii) All other automotive related uses shall require a Conditional Use Permit (CUP).
 - (d) Creative Endeavors, including fabrication with wood, metal, glass, clay or similar mediums shall include and be subject to the following:
 - (i) All noise generating activities shall occur indoors.

- (ii) Outside storage of fabrication material shall be permitted, but shall be kept in an orderly manner and screened from public view.
- (iii) On-site mass produced commercial-scale manufacturing and/or sales shall be prohibited. For example: non-custom cabinet making or furniture making, or bulk sales shall not be considered a Creative Endeavor.

§ 154.089 MARIJUANA REGULATIONS

- (A) Purpose. The purpose of this Section and associated definitions is to incorporate use regulations and development standards related to the medical and responsible adult use of recreational marijuana and to provide for regulations necessary to protect the public health, safety and welfare for the general public by limiting the possible negative secondary effects of marijuana activities. The provisions of this Section, along with Chapter 97 and all other applicable Chapters of the El Mirage City Code, shall apply to all marijuana operations located within the corporate limits of the City of El Mirage, Arizona.
- (B) Marijuana Establishment and/or Nonprofit Medical Marijuana Dispensary. Marijuana Establishment and/or Nonprofit Medical Marijuana Dispensary as defined in this Ordinance are subject to the City Code of El Mirage, state law and all rules adopted by the Arizona Department of Health Services and the entity may only have retail sale / dispersal of product, with ancillary cultivation, extraction, and infusion for on-site retail sale / dispersal of product.
- (C) Marijuana Cultivation Site and/or Marijuana Test Facility. Marijuana Cultivation Site and/or Marijuana Test Facility as defined in this Ordinance are subject to the City Code of El Mirage, state law and all rules adopted by the Arizona Department of Health Services.

(Res R21-04-08, ratified 04-06-2021)

§ 154.090 SPECIFIC USE LOCATION RESTRICTIONS.

- (A) In order to promote the health, safety, and general welfare of the city and its citizens and prevent the concentration and proliferation of businesses that tend to lower property values, in addition to being located in a proper zoning district and obtaining a conditional use permit:
 - (1) Non-chartered financial institutions and pawnshops shall be located no closer than 1,000 feet [property line to property line] to another similar use and no closer than 1,320 feet [property line to property line] to any residential use or district, school, religious assembly, or city-owned park. (Ord. O13-02-03, passed 2-5-2013)
 - (2) Tattoo parlors, and/or piercing salons shall be located no closer than 500 feet (property line to property line) to another similar use.

§ 154.091 WIRELESS COMMUNICATION FACILITIES.

- (A) *Intent.* It is the intent of this section to promote the use of appropriate wireless communication facilities while encouraging co-location and design techniques that

minimize the impacts of the facilities on the community. The city encourages providers to explore all co-location options, locations on existing municipal facilities or locations on existing vertical structures prior to applying for a new facility. The city further encourages applicants to explore all camouflaging and screening options available to reduce the visual and environmental impacts of the facilities on the community.

(B) *General provisions.*

- (1) Wireless communication facilities, as defined in this chapter, shall be a conditionally permitted use in all zones, and; small wireless communication facilities are classified as permitted use by right if collocated in a right-of-way in any zone.
- (2) Wireless communication facilities shall be subject to the limitations contained in this section and as otherwise set forth in city codes.

(C) *General requirements.* All wireless communication facilities (hereinafter referred to as facility) shall meet the following general requirements.

- (1) *Inventory of existing sites.* Each applicant for a facility shall provide to the city an inventory of its existing facilities or sites approved for facilities that are located either within the city or the city municipal planning area boundary (MPA). In addition to showing all existing and approved sites, inventories shall show all other wireless communication sites located within one mile of the proposed site, regardless of jurisdictional location. Each inventory shall include general information about the location, height, and design of each tower. The city may share this information with other applicants applying for conditional use permits under this section or other organizations seeking to locate antennas within the city; provided however, that the city is not, by sharing the information, in any way representing or warranting that the information is accurate, and that sites are available or suitable.
- (2) *State or federal requirements.* All facilities must meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the state or federal government with the authority to regulate towers and antennas. if the standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring the towers and antennas into compliance with the revised standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring facilities and antennas into compliance with the revised standards and regulations shall constitute grounds for removal of the tower or antenna at the owner's expense.
- (3) *Building code safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state and local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with the codes and standards and

constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring the tower into compliance with the standards. Failure to bring the tower into compliance within 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- (4) *Measurement.* For the purpose of determining separation distances, distances from property lines or districts, and setback distances, distance shall be measured from the closest portion of the pole or structure to the property line, district, pole, or structure in question. Tower setbacks and separation distances shall be calculated and applied to facilities located in the city, irrespective of municipal and county jurisdictional boundaries. Minimum setbacks for equipment shall conform to the International Building Code.
- (5) *Franchises and licenses.* Owners and/or operators of wireless facilities shall certify that all franchises or licenses required by law for the construction and/or operation of a wireless communication system in the city have been obtained and shall file a copy of all required franchises or licenses with the city.
- (6) *Pre-existing towers.* Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (routine maintenance does not include replacement with a new tower of like construction and height) and construction related to the use of the pole or structure for the purposes of adding additional carriers shall be permitted on the pre-existing towers. New construction, including replacement of an existing tower, other than routine maintenance on a preexisting tower, shall comply with the requirements of this section.
- (7) *Rebuilding damaged or destroyed non-conforming towers or antennas.* Notwithstanding this chapter, bona fide non-conforming towers or antennas that are damaged to the extent that repairs constitute 50% of the value of the undamaged tower or antennas, or destroyed shall not be rebuilt without first obtaining a conditional use permit and meeting separation requirements specified in this section. The type, height, and location of the tower onsite shall be of the same type and of no greater intensity than the original facility approval. Building permits to rebuild the facility shall comply with the then-applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained, or if the permit expires, the tower or antenna shall be deemed abandoned as specified in this chapter.
- (8) *Abandonment of towers or facilities.* A facility shall be deemed abandoned when the facility is not in use for a period of six consecutive months. The owner of the facility shall remove the facility within 90 days of receipt of notice from the city notifying the owner of the abandonment. Failure to remove an abandoned antenna or tower within the 90 days shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until users cease using the tower.
- (9) *Federal, state, and local government exemption.* Wireless communication

facilities owned by the federal, state, or city government shall be exempt from the provisions of this section.

- (10) *City Council approval.* Any tower over 65 feet in height is required to go to City Council for approval after being presented to the Planning and Zoning Commission.
- (D) *Conditionally permitted use.* A wireless communication facility shall be a conditionally permitted use and processed in accordance with § 154.15 of this chapter, except for small wireless facilities collocated in a right-of-way in any zone. All conditionally permitted wireless communication facility uses shall meet the following minimum development standards.
- (1) The maximum height of the facility, except for rooftop or wall mounted facilities, facilities co-locating on an existing wireless communication facility, facilities locating on existing utility poles, or facilities located on existing vertical structures on school or municipal property, shall be 80 feet, provided, however, if the facility is located in any residential district or within 75 feet of the property line of residential use or district, the maximum height shall be 65 feet.
 - (2) An installation co-locating on an existing facility shall not increase the overall pole or tower height by more than 15 feet, and the antennas shall not exceed a maximum height of 95 feet or 65 feet in any residential district. Installations co-locating on existing utility poles may increase the height of the pole by not more than 15 feet. Installations locating on existing vertical structures on school or municipal property shall follow the non-residential height requirements.
 - (3) The facility replacing an existing pole on school or park grounds does not increase the original pole circumference by more than is necessary to accommodate the additional structural requirements.
 - (4) The pole or tower shall be set back from all adjacent residential zoning districts or residential land use property lines a minimum of 110% of the height of the tower or pole. The pole shall be set back from all non-residential zoning district or non-residential property lines a minimum of five feet and shall be set back from all street property lines equal to or greater than the building setback for the district in which the pole or tower is located.
 - (5) Facilities co-locating on utility poles, facilities within the right-of-way, or facilities located on school or city property shall not be required to meet the setback requirements set forth above.
 - (6) Tower and monopole facilities visible from off-site residential or business district view shall be camouflaged using an alternative design tower as defined in this chapter.
 - (7) A rooftop or wall mounted facility shall be hidden from off-site views and shall be camouflaged and screened to the extent possible by screen walls and/or the building parapet.
 - (8) A rooftop mounted facility shall be 15 feet or less in height as measured from

the surrounding rooftop height to the top of all appurtenances.

- (9) A wall-mounted facility shall be 12 feet or less in height. Wall-mounted facilities shall be mounted so as not to extend above the roofline of the building and shall not project more than 12 inches from the building face.
 - (10) The colors and texture of the facility shall be compatible with the surrounding environment as determined by the city, except as otherwise required by the FAA.
 - (11) No commercial advertising or signage shall be allowed on-site; however, each facility shall have an identification plaque no larger than 12 inches square permanently affixed which clearly identifies the name, address, and emergency phone number of the provider.
 - (12) A facility shall have at least one parking space designed to city standards. This requirement shall also include maneuvering areas and access drives. This requirement shall be waived when sufficient hard surface parking exists.
 - (13) The facility shall not be artificially lighted, unless required by the FAA or other applicable authority.
 - (14) A facility may not be allowed within 1,320 feet of a city or state designated historical site.
 - (15) The minimum separation between facilities, except for approved alternate tower structures, rooftop or wall mounted facilities, facilities located within the industrial zoning districts, and facilities located on existing vertical structures on school or municipal property, shall be 1,000 feet, unless otherwise approved by the City Council.
 - (16) Security fencing is required and shall not exceed eight feet in height. Fencing shall be effectively screened from view by the use of landscaping.
 - (17) Anti-climbing features shall be incorporated in the wireless communication facility, as needed, to reduce potential for trespass and injury.
 - (18) Co-location of city or other public safety agency wireless communication facilities shall be permitted at no cost to the public on private wireless communication facilities approved in accordance with this section.
- (E) *Design standards.* Wireless communication facilities shall be designed and constructed in conformity with and/or architecturally integrated with surrounding building designs or natural settings to minimize the adverse visual impact and ensure the facility is compatible with the environment in which it is located. Methods of camouflage design include:
- (1) Canister, facilities under 45 feet in height shall conceal antennas with a canister or approved equal.
 - (2) Monopine, facilities over 45 feet, less than 65 feet in height shall conceal the antennas with a monopine pole or approved equal.
 - (3) Monopalm, facilities over 65 feet in height shall conceal the antennas with a

monopalm pole or approved equal.

- (4) Screening, ground equipment shall be screened with landscaping plantings or a material approved by the City Engineer or designee.
 - (5) Color, facilities poles and ground equipment color shall match the surrounding existing poles or a color approved by the City Engineer or designee.
- (F) *Standards of service.* Company shall operate the site areas in a first-class manner, and shall keep the site areas attractively maintained, orderly, clean, neat and tidy at all times, including immediate removal of graffiti.

(Prior Code, § 21-6-17) (Ord. O11-09-17, passed 9-22-2011; Ord. 18-01-01, passed 1-4-2018; Ord. O18-02-02, passed 2-22-2018)

§ 154.092 ACCESSORY BUILDINGS, STRUCTURES AND USES.

All accessory buildings, structures and uses are subject to the following regulations, unless otherwise permitted or restricted by specific regulations of this section and Ordinance.

(A) General Regulations for Accessory Buildings, Structures and Uses

- (1) No accessory building, structure or use shall be established on a lot prior to the time of construction of the principal building to which it is accessory, except by conditional use permit.
- (2) All accessory buildings or structures that exceed one hundred and twenty (120) square feet in gross floor area shall require a building permit unless the City's adopted building codes exempt such buildings or structures.
- (3) No permit shall be issued for the construction of more than one detached, accessory building located on a residential lot. However, there shall be no limit on the number of accessory buildings located on a residential lot within the RA Zoning District or located on any non-residential lot.
- (4) Accessory buildings, structures and uses must be operated and maintained under the same ownership as the principal building to which they are accessory, unless otherwise expressly stated.
- (5) No accessory building shall include a 220V outlet for a range or oven and shall not be used for living, sleeping, or housekeeping purposes, except as allowed within an accessory dwelling unit.

(B) Location Regulations for Accessory Buildings, Structures and Uses

- (1) Accessory buildings, structures and uses must be located on the same lot as the principal building to which they are accessory, unless otherwise expressly stated.
- (2) If attached by any part of a common wall or covered roof to the principal building, an accessory building shall be deemed a part of the principal building and shall conform to the zoning standards of the zoning district in which the principal building is located.
- (3) Detached Accessory buildings, structures or uses shall not be erected or

placed in any right-of-way, easement, or required front setback.

- (4) A detached accessory building or structure shall have a setback of at least three (3) feet if fire rated and five (5) feet if not fire rated, excluding property line fences and walls, from every side and rear property line, with the following exemption or as otherwise stated within this ordinance or applicable building or fire code:
 - (a) The setback shall be the same as required for the principal building in the zoning district in which the accessory building or structure is located whenever the accessory building or structure exceeds 7 feet in height.
- (5) No detached accessory building (e.g. freestanding garage, workshop, stable, pool house, etc.) shall be located within six (6) feet if fire rated and ten (10) feet if not fire rated of the site's principal building.
- (6) Accessory structures (e.g., deck, trellis, sunshade, etc.) may be attached or detached from the principal building. All required separation for applicable building and fire codes shall be met.
- (7) All accessory buildings or structures shall be further subject to applicable encroachments, limitations and exceptions as stated in Section 154.098.

(C) Size Regulations for Accessory Buildings and Structures

- (1) The footprint area of the principal building, accessory buildings and accessory structures together must comply with the applicable lot coverage requirements of the zoning district in which they are located.
- (2) The maximum gross floor area for any accessory building or structure shall not exceed 50 percent of the principal building footprint without a conditional use permit. Except the maximum gross floor area for any accessory building or structure located within the RA zoning district shall not exceed 100 percent of the principal building gross floor area without a conditional use permit.
- (3) Accessory buildings and structures located on residential lots shall not exceed the height of the principal building. Except the maximum height of accessory buildings and structures located within the RA zoning district shall be limited to the maximum height requirements of the base RA zoning district.
- (4) No accessory building or structure located on any lot with a non-residential use shall exceed the height of the principal building except by conditional use permit.

(D) Additional Regulations for Accessory Buildings, Structures and Uses by Type

- (1) Accessory Dwelling Unit (ADU)
 - (a) One ADU is permitted per lot, subject to Section 154.052. The ADU shall be located on the same lot as the principal building.
 - (b) ADUs may only be placed on a lot where a single-family detached dwelling exists.
 - (c) ADUs may be fully detached or attached to the principal building by a

common wall or fully covered breezeway with a common roof structure and improved floor.

- (d) ADUs may include a kitchenette, bathroom, and sleeping area.
 - (e) The ADU shall not be sold separately.
 - (f) If owner-occupied, the property owner, which shall include title holders and contract purchasers, must occupy either the principal building or the ADU as their principal residence. The residence or ADU that is not occupied by the property owner may be rented or leased. If not owner-occupied, ADUs may not be leased, subleased, or rented separate and apart from the principal building. Whether the entire property is rented short-term (less than 30-days) or long-term (30-days or greater), the principal building and the ADU must be rented as a whole and may not be rented or offered for rent independently.
 - (g) An ADU shall have no separate water or utility meters.
 - (h) Mobile homes, manufactured housing, recreational vehicles, travel trailers, and any other wheeled or transportable structure shall not be used as ADUs.
 - (i) ADUs shall conform to the setbacks standards as specified in Section 154.092(B) and lot coverage standards of the zoning district in which the principal building is located.
 - (j) ADUs shall not exceed the height of the principal building.
 - (k) The maximum size of an ADU shall be no more than 50 percent of the principal building footprint.
 - (l) ADUs shall not be considered a unit of density and therefore are not included in the density calculation for a residential property.
 - (m) Home occupations are permitted in an ADU.
 - (n) One additional off-street parking space must be provided for any ADU that exceeds 600 square feet in area.
- (2) Swimming pools; private or semi-private. All private or semi-private swimming pools shall meet the following standards.
- (a) The pool and all structures housing appurtenances thereto shall be not less than five feet from the nearest property line except, however, that the pool or structure shall not be located between the front property line and the front building setback line.
 - (b) Pool barriers shall be installed in accordance with state statutes. All wall or fence must be set back from the edge of the swimming pool a minimum of five feet.
 - (c) The pool or mechanical equipment shall be located so as to minimize the noise and lessen the nuisance to nearby occupants of apartments and houses.

- (d) All swimming pool plans and safety devices proposed to be built or erected in conjunction with swimming pools shall be first presented to the Zoning Administrator for approval.
- (3) Agricultural Uses
- (a) Livestock
 - (i) The keeping of livestock shall be permitted as specified in the Accessory Use Category of Section 154.052, except all swine shall be prohibited.
 - (ii) All areas (i.e. corrals or pens) used for grazing, exercising, or training of livestock shall be securely fenced to prevent the livestock from straying, or a suitable restraint shall be provided to prevent straying.
 - (iii) All structures, stables, or barns used for the keeping of livestock shall be located behind the front face plane of the principal building. Said livestock shelters fifteen feet (15') in height or less shall be set back a minimum of five feet (5') from the rear and side property lines and livestock shelters over fifteen feet (15') in height shall adhere to the setback regulations of the principal building, except no livestock shelter shall be placed within fifty (50) feet of any residence, other than that of the residence owning the livestock.
 - (iv) Stables, coops, hives, aviaries, and other shelters used for the keeping of livestock shall not exceed the height regulations of the applicable zoning district.
 - (v) On-site slaughter shall be limited to livestock kept on property. Slaughter shall not occur in view from any public area or any adjacent property owned by another. Slaughter must be for personal consumption and shall be conducted in a humane manner in accordance with A.R.S. § 3-2016.
 - (vi) All livestock pens, corrals, stables, shelters, and pastures shall be clean and well maintained to minimize odor and pests. Animal wastes shall be stored and removed in a manner that does not become a nuisance or violate the health and sanitation provisions of the City Code and Maricopa County's Environmental Health Code.
 - (vii) It shall be unlawful to keep livestock in a manner that constitutes a nuisance as specified under the City Code.
- (Prior Code, § 21-6-4) (Ord. O11-09-17, passed 9-22-2011)
- (4) Cargo Containers
- (a) Permitted Locations. Cargo containers are permitted as an accessory structure as identified in Section 154.052 subject to the following:

- (i) Cargo containers may not be placed, stored or used on property dedicated to principal uses listed in the Residential Use Category of Section 154.052, except as provided in division C of this section
 - (ii) Cargo containers may be placed, stored or used for temporary or permanent storage on property dedicated to principal uses listed in the Agriculture Use Category, Public/Quasi-Public Use Category, Commercial/Business Use Category, and Industrial Use Category of Section 154.052, provided the use has obtained a temporary use (for temporary use) or building permit (for permanent use) from the Zoning Administrator, and provided the placement, condition and use of the cargo container complies with the provisions of division (b) and (c) below.
- (b) Standards and Regulations
- (i) Cargo containers shall not be stacked on one another, unless a Conditional Use Permit is obtained.
 - (ii) Cargo containers shall not be used for living quarters and may be provided with the same provisions as buildings..
 - (iii) Cargo containers used for permanent storage must be placed on an asphalt or concrete surface and secured thereto.
 - (iv) Cargo containers used for permanent or temporary storage must be placed to the rear of the principal building and may not be placed within any required setback, designated landscape area, flood retention or detention areas or required parking areas.
 - (v) No cargo containers may be placed, stored or used on property or any area that is within the flood plain or flood way.
- (c) Exemptions
- (i) Cargo containers used as a form of construction material for a principal building shall be regulated as any other site-built building and be subject to the requirements of all City Ordinances and Building Codes.
 - (ii) Contractors licensed by the Arizona Registrar of Contractors may use cargo containers in any zoning district for the storage of equipment and materials during the period of construction at the construction site subject to the following:
 - The construction must be properly permitted by the city;
 - The container shall be removed from the property no later than seven calendar days after the final inspection and approval of the construction by the city; or
 - If construction ceases for a period of 30 days or is abandoned, the cargo container shall be removed not later than seven days after notice to remove issued by the city.

- (iii) Containers used during moving may be placed on residential zoned property for a maximum of 14 days.
- (iv) Residential uses within the RA Zoning District may place and use cargo containers for permanent storage subject to the following:
 - Cargo containers that exceed 120 square feet in gross floor area shall be considered an accessory building and require a building permit prior to placement.
 - A maximum of two cargo containers, with a total maximum length of 80 feet, are permitted per residential lot. The container(s) shall be located on the same lot as the principal building. Placement of additional cargo containers shall require a Conditional Use Permit.
 - Containers must be placed in the rear yard of the principal building and not on the street side of a corner lot.
 - Stacking of cargo containers shall be prohibited.
 - Containers must adhere to the regulations of the principal building with regard to zoning standards (e.g., height, setback requirements, building coverage).

(d) Removal by City

Any cargo container(s) placed, stored or used in violation of this section may be removed by the city if the property owner on which the cargo container(s) is located fails to remove the cargo container(s) within 14 calendar days of notice by the city of violation and order to remove. A notice of violation and order to remove shall be deemed received by the property owner if the notice and order are mailed to the address of the owner as listed in the records of the county assessor and a copy of the notice and order are posted on the main entrance door or gate of the property. The city's cost to remove and dispose of the cargo container shall be recorded as a lien against the property.

(e) Existing Nonconforming Uses.

A cargo container otherwise lawfully existing on property prior to the adoption of this section that was lawfully placed and maintained under prior zoning ordinance provisions shall be deemed a legal nonconforming use. Such nonconforming use shall not be increased, enlarged, extended or altered, except the use may be voluntarily changed by the operator to a conforming use within the property's zoning district which meets all other applicable requirements of the City Code.

(Ord. 009-10-12, passed 10-8-2009)

(5) Outdoor Display and Sales

- (f) Outdoor display and/or sale of merchandise may be allowed as an accessory use for all commercial, mixed-use and industrial uses, provided that the display meets the following guidelines and regulations:
 - (i) Outdoor display and/or sale area shall be clearly defined on a site

plan and approved by the Zoning Administrator and may be subject to appropriate conditions by the Administrator to ensure compliance with the provisions of this subsection. Exceptions: A permanent outdoor retail display area which is an integral part of a business, including but not limited to, Garden Centers and Auto Dealership display lots shall obtain site plan approval with all applicable development/improvements.

- (ii) Shall be a fixed location that does not disrupt the normal function of the site or its circulation, and does not encroach upon required driveways, landscaped areas, parking lots, sidewalks, loading zones, or fire lanes. Displays shall not obstruct any entrance to a building or traffic safety sight areas or otherwise create hazards for pedestrian or vehicle traffic.
- (iii) Display/sale of goods shall not be in any public right-of-way.
- (iv) Shall directly relate to a business occupying a permanent structure on the same site, and shall display only goods of the primary business on the same site, unless associated with a non-profit organization.
- (v) Shall be limited to the hours of operation of the business and portable and removed from public view at the close of each business day, unless otherwise permitted through the site plan or development review process.
- (vi) No merchandise shall be affixed to the exterior of a building or displayed so as to impede or interfere with the reasonable use of the store front windows for display purposes.
- (vii) Shall be managed so that display structures and goods are maintained at all times in a clean and neat condition, and in good repair.
- (viii) All signage shall adhere to the Sign Regulations of this Chapter.

(6) Alternative Energy Systems

- (a) Alternative energy systems, other than utility-scale (major) electrical generating facilities, may be administratively approved as an accessory use within any zoning district, subject to approval of a building permit and meeting any applicable Federal, State, County or City regulations.
- (b) Alternative energy systems may be located on a parcel in a manner consistent with any development standard (i.e. setback, height, lot coverage) or accessory structure regulation (i.e. location standards) in the respective zoning district in which the parcel is located.
- (c) As part of the building permit review process, the Building Official may require that Design Plans and an Engineering Report (e.g. mechanical/electrical/structural), prepared and certified by an Arizona Licensed Professional Engineer, be included as a part of the building

permit submittal.

§ 154.093 TEMPORARY USES AND STRUCTURES

(A) Purpose

This Section allows for the establishment of temporary uses and/or activities that might not meet the normal development or use standards of the applicable zoning district, but may be considered acceptable because of their temporary nature. These activities are regulated to ensure that basic health, safety, and community welfare standards are met, while also ensuring compatibility is maintained between the proposed activity and surrounding areas.

(B) Temporary Use Approval

All allowed temporary uses shall obtain a Temporary Use permit, (unless otherwise stated in Section 154.093(C) or exempt as identified in subsection 154.093(D)), pursuant to Section 154.159 Temporary Use Permit, of this Ordinance and provided that the temporary use complies with the standards and/or conditions specified in subsection C below.

(C) Allowed Temporary Uses and Structures

- (1) All temporary uses and structures, unless otherwise specified, shall comply with the dimensional and development standards of the zoning districts in which they are located. In the case of any conflict, the more restrictive standards, as determined by the Zoning Administrator, shall apply.
- (2) A construction trailer/yard may be permitted in any Zoning District during the construction of a permanent building when a valid building permit is in effect, provided the following conditions are met:
 - (a) The uses are only associated with the developer/owner and subdivision or project in which they are located.
 - (b) Off-street parking shall be provided for the office and construction staff.
 - (c) Such structures and uses shall be located on the site no more than 30 days prior to the start of construction and removed no more than 30 days after completion of the project or expiration of the approved TUP, whichever occurs first. Unless satisfactory evidence is provided by the property owner/contractor justifying the need for the extension of these time limitations.
 - (d) The construction trailer/yard complex shall be permitted for no longer than 1 year from the date of such approval, and may be renewed for like periods thereafter upon submittal of satisfactory evidence from the property owner indicating that the need for the use continues to exist on the property.
- (3) A temporary sales office, leasing office or model home may be permitted,

provided the following conditions are met:

- (a) Such offices shall be located on the property being offered for sale or lease. The temporary structures use shall be limited to the sale or lease of on-site subdivided lots, dwelling units, or other types of on-site real property.
 - (b) Off-street parking shall be provided for the sales office or model home.
 - (c) All structures must meet all building code and permit requirements for the appropriate category of construction.
 - (d) Any Temporary Use Permit (TUP) approved for such office shall be limited to a period of time not to exceed two (2) years from the date of issue and said permit may be renewed for like periods thereafter if the real property being offered for sale or leased on the site has not been sold or leased.
 - (e) Upon sale of the development, cessation of the need for the use (90% buildout) or termination of TUP, whichever comes first, all modifications to structures and uses shall be removed.
- (4) Carnivals, Circuses, Concerts, Revivals, Rodeos and Similar Activities may be permitted, provided the following conditions are met:
- (a) A Temporary Use Permit shall be obtained or a Special Event Permit as determined by the Zoning Administrator.
 - (b) Staff shall ensure that health and fire safety is considered and shall solicit the comments of the County Health Department and Fire Chief/Marshal as necessary.
 - (c) Staff shall ensure that land area is adequate for the proposed use's parking; and shall ensure that traffic safety is considered.
 - (d) Staff shall require measures to adequately protect surrounding property.
 - (e) Permanent structures shall not be allowed.
 - (f) Temporary Use Permit or a Special Event Permit shall pertain to the allowable activity permitted during the time limit of the permit. A change in ownership or sponsor applicant for the same activity during the time limit of the permit shall not constitute grounds for extending the time granted for the activity in the original permit.
- (5) Mobile Food Vendors, subject to the following conditions:
- (a) A mobile food vendor shall not be required to obtain a Temporary Use Permit, however, shall be required to obtain a license to operate a mobile food vending unit from the Development Services Department as well as maintain all other required licenses in compliance with the provisions of Arizona Revised Statutes §36-1761 and Maricopa County Environmental Health Code Chapter 8, Section 3.
 - (b) Vending operations shall only be limited to sale of food items for

immediate consumption.

- (c) Vending operations shall only be conducted from a mobile food vending unit that is in good working order, both aesthetically and operationally, and has been inspected and approved by the county health department.
- (d) Vending operations are subject to all City noise regulations.
- (e) Vending operations shall be taken down when not in use.
- (f) All licenses/permits shall be displayed in a visible and conspicuous location at all times during the operation of vending.
- (g) Mobile food vending units shall not be left unattended
- (h) Mobile food vending units shall not be parked on property owned by the City, excluding rights-of-ways, but including parks and parking lots or other areas designated by the Planning Director or Zoning Administrator, except if in accordance with a City approved and permitted event.
- (i) If a mobile food vending unit operates within public rights-of-ways the mobile food vendor must obtain insurance naming the City as an additional insured in amounts required by the City and in compliance with A.R.S. Title 9, Chapter 4, Article 7.2. The policy must designate, by manufacturer's serial or identification number, all mobile food units for which coverage is granted.
- (j) Mobile food vending units shall not be parked or placed in any area that might impede or inconvenience the public.
- (k) Mobile food vending units shall not be parked within a roadway sight visibility triangle.
- (l) One (1) A-Frame or Sandwich sign shall be allowed per mobile food vending unit.
- (m) A mobile food vending unit operating within the public right-of-way is further subject to the following:
 - (i) A mobile food vending unit shall only operate in a legal parking space within the public right-of-way.
 - (ii) A mobile food vending unit, including any semi-permanent structure used or associated with the mobile food vending unit, may use no more than one (1) legal parking space.
 - (iii) A mobile food vending unit must abide by all parking regulations, including posted time limits. If there are no time restrictions on the use of a marked legal parking space, a mobile food vending unit must not occupy a legal parking space for more than six (6) hours in a twenty-four (24) hour period. "Occupy" within this Subsection means within one thousand (1,000) feet of the place in which the mobile food vending unit was initially parked.
 - (iv) A mobile food vending unit is restricted from operating within any

portion of a Zoning District that is principally dedicated to residential uses, except operators of ice cream trucks or human powered food vending vehicles that sell ice cream products or similar frozen food novelties may operate on public rights-of-way within Zoning District areas that are principally dedicated to residential uses.

- (n) A mobile food vending unit operating on private property is further subject to the following:
 - (i) A mobile food vending unit may only operate on private property with the written permission of the property owner and shall provide proof of such written permission on demand by City officials or law enforcement officers.
 - (ii) A mobile food vending unit must not occupy a legal parking space at a site with insufficient parking capacity as prescribed by applicable law and in compliance with A.R.S. Title 9, Chapter 4, Article 7.2 and includes that a mobile food vending unit must not occupy a legal parking space at a site when the occupation reduces the number of available parking spaces required for the principal use or uses of the site.
 - (iii) A mobile food vending unit shall not operate at the same site or center for more than six (6) consecutive hours within a 24-hour period for a maximum of four (4) consecutive days. This period includes time needed for setup, operation and takedown. "One location" within this subsection means a location within a parcel of land and includes movements from different parked positions within the same parcel.
 - (iv) No more than one mobile food vending unit shall operate at the same time at the same site or center, unless a Special Event Permit has been obtained.
- (6) Mobile Outdoor Vendors subject to the following conditions:
 - (a) A mobile outdoor vendor shall not be required to obtain a Temporary Use Permit, however, shall be required to obtain a license to operate a mobile outdoor vending unit and maintain an active business license from the City.
 - (b) The provisions of this subsection shall not apply to any event located on City owned property or authorized by any other permit issued by the City, such as a farmer's market; an authorized festival; or recreational event if the mobile vendor is in partnership with the organization conducting the event and is located on the site of the event.
 - (c) A mobile outdoor vendor shall only be permitted to operate on city owned property or on private property with the written permission of the owner and shall provide proof of such written permission on demand by City officials or law enforcement officers.

- (d) A mobile outdoor vendor is only permitted on properties that have been established with principal uses. Mobile Outdoor Vendors shall be prohibited from operating on vacant or unoccupied parcels.
 - (e) Mobile Outdoor Vendors shall be restricted from operating within the public right-of-way or any portion of a Zoning District that is principally dedicated to residential uses.
 - (f) A mobile outdoor vendor shall not operate at the same site or center for more than six (6) consecutive hours within a 24-hour period for a maximum of four (4) consecutive days. This period includes time needed for setup, operation and takedown. "One location" within this subsection means a location within a parcel of land and includes movements from different parked positions within the same parcel.
 - (g) No more than one mobile outdoor vendor shall operate at the same time at the same site or center, unless a Special Event Permit has been obtained.
 - (h) All licenses/permits shall display in a visible and conspicuous location at all times during the operation of vending.
 - (i) One (1) A-Frame or Sandwich sign shall be allowed per vending operation.
 - (j) Vending operations are subject to all City noise regulations.
 - (k) Vending operations shall be taken down when not in use.
 - (l) Vending operations shall provide the City a Certificate of Insurance evidencing general and product liability coverage and naming the City as an additional insured.
 - (m) Mobile Outdoor Vendors shall not:
 - (i) Be left unattended
 - (ii) Be parked or placed in any area that might impede or inconvenience the public.
 - (iii) Be parked within the sight visibility triangle.
- (7) Seasonal and holiday sales, such as Christmas tree or pumpkin sales on any open lot or parking lot in commercial or industrial zones are limited to one (1) sale per calendar quarter, lasting no longer than forty-five (45) consecutive days of site occupation and operation.
- (8) Outdoor arts and crafts shows and exhibits subject to not more than fifteen (15) days of operation or exhibition in any ninety (90) day period.
- (9) Outdoor promotional event or parking lot sale events sponsored by businesses shall be located on paved areas on the same lot as the structure containing the business holding the event and are limited to one (1) event/sale per calendar quarter, lasting no longer than one (1) week in duration.

Rummage and other outdoor sales sponsored by local non-profit organizations are limited to one (1) sale in each six (6) month period.

- (10) Farmers market, temporary subject to not more than one (1) day of operation per seven (7) day period.
- (11) Flea market, temporary shall be limited to a maximum of 3 days every quarter in a calendar year per permitted location.
- (12) Stands for the sale of produce products are subject to not more than thirty-six (36) days a calendar year. Said stands shall not be located within any public right-of-way and shall be kept free of litter and debris. The time provisions of this subsection do not apply to the sale of produce raised on the premises.
- (13) Other temporary uses or structures may be approved using the process established in Section 154.159 Temporary Use Permit Procedures.

(D) Exempt Temporary Uses

The following temporary uses and events are exempt from the requirement for a Temporary Use Permit, but may require other City approval to ensure public health, safety, and welfare.

- (1) Garage sales, yard sales, and the sale of similar home-type products, shall be limited to a maximum of 3 days every quarter in a calendar year per residential location.
- (2) Indoor promotional activities related to the primary product lines of a retail business, and similar activities (e.g. book readings and signings at book stores, opening receptions at art galleries).
- (3) Emergency public health and safety activities.
- (4) Temporary nonprofit or fundraising car washes are permitted in non-residential districts.
- (5) City sponsored events.
- (6) Events held on City owned property shall obtain a Special Event Permit.

GENERAL BUILDING AND DEVELOPMENT STANDARDS

§ 154.095 PURPOSE.

The purpose of this subchapter of the Zoning Ordinance is to establish general development standards. These standards are intended and designed to assure compatibility of uses, to prevent urban blight, deterioration, and decay, and to enhance the health, safety, and general welfare of the residents of the community.
(Prior Code, § 21-6-1)

§ 154.096 USE OF LANDS, BUILDINGS, AND STRUCTURES.

- (A) *Only permitted uses to be constructed.* No building or structure or part thereof shall be erected, altered, or enlarged for a use, nor shall any existing building, structure, or part thereof, or land, be used for a purpose or in a manner that is not in conformity with the uses listed as principal, accessory or conditionally permitted uses for the zone in which the buildings, structure, or land is situated subject to the provisions of this chapter.
- (B) *Height requirements enforced.* No building, or part thereof, or structure shall be erected, reconstructed, or structurally altered to exceed in height the limit herein designated for the district in which the building is located, except as is specified in § 154.155.
- (C) *Yard requirements enforced.* No building or part thereof or structure shall be erected, nor shall any existing building be altered, enlarged, or rebuilt or moved into any zone, nor shall any open space be encroached upon or reduced in any manner, except in conformity to the yard, setback and accessory regulations designed for the zone in which the building or open space is located except as is specified in § 154.155.
- (D) *Yard areas “non-transferable”.* No yard provided around any building for the purpose of complying with provisions of this chapter shall be considered as providing a yard for any other building, and no yard for one building site shall be considered as providing a yard for a building on any other building site.
- (E) *Use of mobile/manufactured home outside of approved park.* No person shall park or occupy any recreational vehicle, mobile home or manufactured home on the premises of any occupied dwelling or on any lot which is not a part of the premises of any occupied dwelling, either of which is situated outside of any approved mobile home park or mobile home subdivision.

§ 154.097 OCCUPANCY RESTRICTIONS.

- (A) No person shall occupy or otherwise use, or permit the occupancy or use of all or any portion of the following until a certificate of occupancy is applied for and then issued by the Building Official:
 - (1) Any building, structure or other improvement constructed upon all or any portion of real property;
 - (2) Any building, structure or other improvement that has been altered, added to, enlarged or moved upon all or any portion of real property;
 - (3) All or any portion of any real property, building, structure or other improvement whose legally permitted use is changed.

§ 154.098 SETBACK ENCROACHMENTS, LIMITATIONS AND EXCEPTIONS.

Every part of a required setback shall be unobstructed from ground level to the sky, except as follows or otherwise stated herein:

- (A) *In any setback.* Setback restrictions shall not apply to posts; sills; pilasters; lintels, cornices; eaves; gutter; awnings; bay windows no more than ten feet in width, open terraces; uncovered porches ; steps; stoops; chimneys; ornamental features; open fire escapes; sidewalks; exposed ramps (wheelchair) or similar features provided they do not extend to a distance of less than three feet from any lot line nor less than one foot from any existing or proposed access drive. Also, setback restrictions shall not apply to yard lights and nameplate signs in residential districts; trees; shrubs; plants; floodlights or other sources of light-illumination, authorized lights or light standards for illuminating parking areas, loading areas, or yards for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent, residential property. Accessory structures other than those listed above may be further subject to Section 154.098. Fences, walls and required screening may be located in any required setback subject to Section 154.101. Signs may extend into or be located in any required setback subject to Section 154.125 to 154.136.
- (B) *Right-of-way.* Awnings, canopies, signs and marquees may project over public rights-of-ways subject to obtaining a right-of-way encroachment permit.
- (C) *Front setbacks averaging.* When more than 25% of the frontage on the side of a street between intersections is occupied by structures having setbacks from the street rights-of-way of greater or lesser amounts than hereinafter required, the average setback of all existing buildings between the intersections shall be maintained by all new or relocated structures. In the event a building is to be built where there is an established average setback different from that required hereinafter and there are existing buildings on one side only, the front setback of the new building needs to be no greater than that of the next adjoining existing building. In a case where a building is to be built where there is such an established average setback and there are existing buildings on both sides of the new building, the front setback shall not be required to be greater than that which would be established by connecting a straight line between the furthest extension of the first adjacent building

on each side.

(Prior Code, § 21-6-5) (Ord. O11-09-17, passed 9-22-2011)

§ 154.099 HEIGHT ENCROACHMENTS, LIMITATIONS, AND EXCEPTIONS.

- (A) *Exempt appurtenances.* The maximum building or structure height limits established shall not apply to the appurtenances or structural elements identified below.
- (1) Lawfully established religious assembly spires, belfries, cupolas, and domes; monuments; chimneys and smokestacks; flag poles; public and private utility facilities; transmission towers of commercial radio broadcasting stations; and mechanical equipment provided they:
 - (a) Cover not more than 25 percent of the roof area of the building or structure to which they are attached; and
 - (b) Comply with applicable screening standards for mechanical equipment and appurtenances in 154.101.
 - (2) Private communication, radio and television antennas, or satellite dishes attached to the principal building may only extend five (5) feet above the allowed maximum height of the underlying base zoning district.
 - (3) Parapet walls extending no more than four feet above the allowed maximum height of the underlying base zoning district except as hereinafter provided; and
 - (4) Wind energy conversion systems and solar-energy collectors and equipment used for the mounting or operation of the systems/collectors may extend up to 5 feet above the applicable maximum zoning district height limit, provided they do not extend more than 5 feet above the roof line.
- (B) *Public building exceptions.* Places of public assembly in religious assemblies, schools, and other permitted public and semi-public buildings may exceed height limitations otherwise established by this chapter; provided that these are located on the ground floor of the buildings and provided that, for each one foot by which the height of the building exceeds the maximum height otherwise permitted in the zone, its side and rear yards shall be increased in width or depth by an additional foot over the side and rear yards required for the highest building otherwise permitted in the zone.
- (C) *Towers and monument exceptions.* Ground mounted towers and monuments, cooling towers, gas holders, or other structures, where the manufacturing process requires a greater height and grain elevators and silos are exempt from this chapter; provided that any structure above the height otherwise permitted in the zone shall occupy no more than 25% of the area of the lot and shall be at least 25 feet from every lot line.

(Prior Code, § 21-6-6)

§ 154.100 FENCES AND WALLS.

- (A) *Permit required.* No persons, firm, or corporation, except permitted agriculture uses, shall hereafter construct, or cause to be constructed or erected within the city any

fence or wall without first making an application for and securing a building permit. Temporary fences and barricades around temporary events, construction sites or the like shall require a temporary use permit.

- (B) *Locations.* All fences shall be located entirely upon the private property of the persons, firms, or corporation constructing, or causing the construction, of the fence unless the owner of the property adjoining agrees, in writing, that the fence may be erected on the division line of the respective properties.
- (C) *Construction, maintenance, and height measurement.*
 - (1) Every fence or wall shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence or wall is proposed to be used. Every fence or wall shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair, damage, or unsightliness, or constitute a nuisance, public or private. Any such fence or wall which is, or has become, dangerous to the public safety, health, or welfare, shall be subject to the penalties and enforcement provisions of this code.
 - (2) Chain link or wire fences, wherever permitted, shall be constructed in such a manner that no barbed ends shall be at the top, except in the Employment/Industry Zone and shall be constructed of at least 11-gauge wire or its comparable.
 - (3) Electrical, barbed wire, concertina wire or similar security wire fences shall be prohibited, except in the Employment/Industry Zone and public/private utility or government facilities with approval by the Zoning Administrator based on security needs. Security wire fences may not be installed adjacent to any residential or commercial uses, or along arterial or collector streets unless located outside of required setbacks or buffers.
 - (4) *Measuring fence and wall height.* The height of any fence shall be calculated to the uppermost points as follows.
 - (a) In required yards abutting a street, the height of the fence shall be the total effective height measured from the finished grade on the side nearest the street but allowing up to two feet of additional height for retaining walls.
 - (b) In other required yards, the height of the fence shall be the total effective height above the finished grade measured on the side nearest the abutting property.
 - (c) On property lines, the height may be measured from the finished grade of either side when the abutting property owners are in joint agreements, with the agreement submitted in writing.
- (D) Residential fences and walls.
 - (1) For all uses within the residential use category, no fence or wall shall be erected or maintained more than six feet in height and also:

- (a) No chain link or wire fence shall be allowed within the front yard setbacks; except in RA Rural Area Zone;
 - (b) No fence or wall over four feet in height shall be allowed in any residential front yard setback, except in the RA Rural Area Zone, open fences (chain link, wrought iron, pole fences, wooden rail, and the like) may exceed four feet in front yard setbacks;
 - (c) On corner lots in all zoning districts, no fence or planting in excess of 30 inches above the street center line grade shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected curbing lines of two intersecting streets, thence 40 feet along one back of curb line, thence diagonally to a point 40 feet from the point of beginning on the other curb lines, then to the point of beginning, and at the intersection of each driveway or alley with a street, a clear site triangle as defined by the City Engineer where corners are defined by two points on the right-of-way line, 15 feet on each side of the centerline of the driveway or alley and a point on the centerline ten feet outside right-of-way;
 - (d) In those instances where a fence is erected as an enclosure which restricts access from the front to the rear yard, a gate, identifiable collapsible section of fence, or other such means of recognizable ingress shall be installed, shall remain unobstructed and shall be a minimum of three feet in width. The location of the ingress points shall be positioned at any point paralleling the front lot line between the side lot property line and the principal structure;
 - (e) On a corner lot contiguous to a key lot, fences and walls cannot exceed three feet (3') in height on the rear lot line extending ten feet (10') from the back of curb or paved street edge. They also cannot exceed three feet (3') in height on the lot line along the street, extending ten feet (10') from the rear lot line; and
 - (f) Notwithstanding the provisions set forth above, architectural embellishments such as figurines, capstones, or light fixtures may project up to two feet above the maximum height of any residential fence.
- (E) *Business and industrial fences and walls.* Fences and walls for all uses in Public/Quasi-Public, Commercial/Business, and Industrial Use Categories shall not exceed ten feet in height.
- (F) *Special purpose fences.* Fences or walls for special purposes and fences or walls differing in construction, height, or length may be permitted in any district by issuance of conditional use permit approved by the Planning and Zoning Commission. Findings shall be made that the fence or wall is necessary to protect, buffer, or improve the premises for which the fence or wall is intended and will not detrimentally effect adjacent property.
- (G) *Finished side toward adjacent property.* Any wall constructed so as to have only one elevation "finished," which shall be defined as not having its supporting members

significantly visible, shall be erected such that the finished elevation of the wall is exposed to the adjacent property or right of way.

(H) *Outdoor storage area.*

- (1) All utility substations, wells, storage facilities, or other utilities shall be screened from view by a wall or landscape screen.
- (2) All outdoor storage for commercial operations shall be conducted within an area completely enclosed and screened from view, except for access points, by a wall at least six feet in height.

(Prior Code, § 21-6-7) (Ord. O11-09-17, passed 9-22-2011; Ord. O14-06-04, passed 6-3-2014)

§ 154.101 REQUIRED SCREENINGS.

(A) *Purpose.* The purpose of this section is to establish general development standards for screening between uses of differing character, density, or intensity. The screening standards are intended to assure compatibility of uses, minimize deterioration of properties and property values, and to enhance to health and safety of the residents of the city.

(B) *Use of screening.* Unless otherwise determined by the Planning and Zoning Commission, a masonry screen wall of six feet in height above grade shall be constructed and maintained between uses of differing intensity or character. This may include between existing and/or future:

- (1) Large lot and small lot single-family developments;
- (2) Single-family and multi-family developments;
- (3) Multi-family and multi-family developments;
- (4) Residential and non-residential uses;
- (5) Differing non-residential uses;
- (6) Parking areas subject to general public view; and/or
- (7) Rear and/or side lot areas and public rights-of-way.

(C) *Outdoor Storage.*

- (1) All outdoor storage areas for materials, refuse containers, mechanical equipment, or vehicles, and all loading/unloading areas or service bays shall be screened from street view by a screening wall constructed to a minimum height of six feet and designed in accordance with the provisions of this section.

(D) *Responsible party.* The Commission shall determine the party responsible for construction and maintenance of screening. Generally, it will be either by the most intense use or the initial use.

(E) *Location of screen walls.* Screening shall be located adjacent to perimeter property lines, but on the constructing party's property, unless otherwise approved by the Planning and Zoning Commission, which may include public rights-of-way.

(F) *Design of Screen Walls.*

- (1) All screening walls located along streets in accordance with this chapter shall be designed and constructed in accordance with the provisions of this section.
- (2) All screening walls required by the provisions of this subchapter shall be designed and constructed using the following information:
- (3) Use brick, slump block, or masonry with a stucco finish of a suitable color and design as approved by the Zoning Administrator or his or her designee;
- (4) Break up the lineal expanse of the walls with a centerline, pilasters, three-wall enclosures, varying heights, the installation of extra plant materials, or varying the landscaped area contours to improve the visual impact of the wall; and
- (5) Adhere to the height, location, and sight visibility triangle at street intersection requirements set forth in this chapter.

(G) *Exceptions.*

- (1) In lieu of screen walls of six feet in height, the Planning and Zoning Commission may require alternative methods for screening uses of differing character, density, or intensity. Alternative methods may include:
 - (a) Open space with landscaping;
 - (b) Arterial or collector streets with landscaping;
 - (c) Landscaped earth berms (particularly with parking lots);
 - (d) Lower screen walls with landscaping (particularly with parking lots); and/or
 - (e) Other screening approved by the Commission.
- (2) Alternative methods of screening shall be implemented when it is in the best interest of the affected properties and deemed by the Commission to provide more acceptable screening than provided by a screen wall.

(Prior Code, § 21-6-8)

§ 154.102 LANDSCAPING REQUIREMENTS.

(A) *Purpose and intent.* Landscape requirements as set forth in this chapter have been established to:

- (1) Encourage quality development within the city;
- (2) Provide compatibility and harmony between adjoining properties and land use;
- (3) Screen service yards, parking lots, equipment, and limited access areas;
- (4) Reduce heat transfer from pavements;
- (5) Provide open space and recreational area to serve the needs of city residents;
- (6) Soften development impact;

- (7) Reduce erosion and storm-water runoff control;
 - (8) Reduce the particulate matter in the air;
 - (9) Aid in the enhancement of property values;
 - (10) Create an attractive appearance along city streets and assist as traffic calming device;
 - (11) Aid in the conservation of water by encouraging the use of varieties of plants, trees, and shrubs indigenous to this arid region;
 - (12) Promote protection or control of intense activities; and
 - (13) Promote community aesthetics as well as provide for the health, safety, and general welfare of city residents.
- (B) *Extended regulation authorized.* The standards and regulations of this chapter shall be held to be the minimum requirements necessary for the promotion of the foregoing objectives of this chapter in those instances where the minimum standards and requirements are not sufficient to achieve the purpose and objectives of this chapter, the Zoning Administrator or his or her designee may impose such other reasonable requirements as may be deemed appropriate. Examples might be: where, in the opinion of the Zoning Administrator or his or her designee, there exists extraordinary conditions of topography, land ownership, site boundaries and dimensions, adjacent development characteristics, or other circumstances not provided for in this chapter, the Zoning Administrator or his or her designee may modify or vary an extent as is deemed appropriate to the public interest, provided that the purpose and intent of this chapter is maintained with the modification or variance.
- (C) *Scope.* The provisions of this chapter shall apply to all development or construction, all building remodeling, alternations, additions, or expansions, and to all changes of occupancy in the use or development of land which requires the approval of a development site plan or subdivision plat by the city. Agricultural uses and single-family and two-family residences and their accessories shall be exempt from the requirements of this chapter.
- (D) *Enforcement and notice of violations.* This chapter shall be enforced by the Zoning Administrator or his or her designee. The Zoning Administrator or his or her designee shall have the authority to enter upon the premises, or any part thereof, at any and all reasonable times for the purposes of performing his or her official duties. When any condition which could constitute a violation of the provisions of this chapter comes to the attention of the Zoning Administrator, he or she shall cause a notice thereof to be served upon the owner, lessee, or other person in control of the premises. The notice shall specify the nature of the violation and shall order the responsible party to correct the violation within 30 days.
- (E) *Landscape inspections.*
- (1) All projects required by this chapter to be landscaped shall pass a landscape inspection prior to a certificate of occupancy being issued by the city.

- (2) The city shall have the right to refuse to pass any project not meeting the provisions of this chapter. The city shall also have the right to reject landscape materials as being substandard as to size, condition, or appearance including a pre-inspection of materials at the supplier if deemed necessary.
- (F) Required landscape maintenance.
- (1) With respect to every lot, parcel, or tract of land within the city containing a use for which the provisions of this chapter apply, every owner, lessee, or any other person having the lawful right to possession and control of this premise shall:
 - (a) Maintain all landscape materials and landscaped areas in accordance with the approved landscape plan, including the frontage street right-of-way landscaping required in this chapter. The landscaped areas shall be kept free of trash, debris, weeds, dead plant material, and shall in all respects be maintained in a neat and clean fashion; and
 - (b) Replace all dead or removed landscape material with landscape material of the same variety, and in the size and quantity as those originally required. All dead or removed landscape material shall be replaced within 60 days.
 - (2) The city shall accept responsibility for the maintenance and operation of all landscaping and appurtenances installed in accordance with the provisions of this section for reverse street frontage landscaping or any landscaping and appurtenances installed within other street rights-of-way. Rights-of-way is described by one of the following categories:
 - (a) Arterial and/or secondary street rights-of-way adjacent to single-family residential areas that back onto the arterial and/or secondary street and have a screening wall constructed on the rear property line;
 - (b) Arterial street rights-of-way adjacent to single-family residential areas that side onto the arterial street, and which have a screening wall constructed on the side property line;
 - (c) Bridle trails, bicycle paths, and multi-use recreational facilities within city limits;
 - (d) Median islands on arterial and secondary public streets within the city;
 - (e) All alleys within city limits;
 - (f) Street rights-of-way abutting municipal public facilities;
 - (g) Street landscaping within districts specially approved or created by City Council; and
 - (h) Flood control facilities which have been accepted for operation and maintenance by the city.
 - (3) Prior to the city accepting for maintenance any reverse street frontage landscaping or other street rights-of-way landscaping described in the division

(F)(2) above, the following conditions shall have to be satisfied:

- (a) The landscaping shall be inspected and approved by the city for compliance with the approved landscape plan.
- (b) The subsequent completion of a 60-day maintenance period wherein the developer shall be responsible for all watering, weeding, and replacement of all dead or dying plant materials.
- (c) A final inspection called by the developer or his or her representative at the completion of a 120-day maintenance period resulting in final approval and acceptance by the city, except for the subdivision which shall be determined when final plans are approved.
- (d) As-built drawings of the landscape and irrigation system are required prior to acceptance by the city and for projects within the city right-of-way or city-owned property. The as-built drawings shall be four mil., non-wash off photo mylar or digitized record in accordance with city CAD guidelines showing the locations of all plantings and irrigation equipment.

(G) Landscape plan description.

- (1) A landscape plan consisting of a preliminary plan and a final plan shall be prepared, submitted, and approved for all applicable development projects in accordance with the procedures and requirements set forth in this subchapter.
- (2) All changes in landscape plans before, during, or after preliminary or final landscape plan approval shall be approved by the Zoning Administrator or his or her designee prior to the installation of any such landscape change.
- (3) All changes in the landscaping of a site before, during, or after final landscape plan approval and landscape installation shall be approved by the Zoning Administrator or his or her designee as set forth in this subchapter.

(H) Preliminary landscape plan.

- (1) Two copies of a preliminary landscape plan shall be submitted along with the required development site plan for review by the Zoning Administrator or designee. The preliminary landscape plan may be shown on the development site plan drawings. The preliminary landscape plan shall be a conceptual plan and shall include information as specified on the formal application form, such information may include, but is not limited to:
 - (a) The location and identification of all proposed landscape areas (on-site, street rights-of-way, parking area, landscape buffers, and others);
 - (b) Preliminary data pertaining to the amount of net site area, the ground floor areas of all proposed commercial and industrial buildings, the number of required and proposed parking spaces, and the amount of all landscaped areas required and provided;
 - (c) The approximate location of all proposed trees, and generally other landscape materials and improvements;

- (d) The location of all sight visibility triangles;
 - (e) Notes or graphical representations adequately showing intent of the proposed plans and materials and indicating how those plans will comply with this chapter;
 - (f) The location, height, type, and general design and finish of all proposed screening walls;
 - (g) The location of all proposed stormwater retention areas; and
 - (h) A plant list indicating the botanical name, common name, and size of plant materials proposed.
- (2) The preliminary landscape plan shall be reviewed and approved by the Zoning Administrator or designee as part of the development site plan review and may be approved with stipulated changes or additions.
- (I) Final landscape plan.
- (1) Two copies of a final landscape plan shall be submitted along with all other required site improvement and building plans prior to or concurrent with the application for a building permit. The final landscape plan shall contain information as specified on the formal application form, such information may include, but is not limited to:
 - (a) the final calculations, data, and specific details and information all proposed landscape areas, landscape materials, screening walls, irrigation system, and other items that were required and identified in conceptual form on the preliminary landscape plan. The final landscape plan shall contain a specific schedule of all trees and shrubs identified by common and botanical name and shall clearly indicate quantity and size of each tree, shrub, and ground cover to be installed.
 - (2) The final landscape plan shall be in conformance with the approved preliminary plan and any stipulated changes or additions and shall be approved by the Zoning Administrator or designee prior to the issuance of a building permit.
 - (3) All changes in landscape plans before, during, or after preliminary or final landscape plan approval and/or landscape installation shall be approved by the Zoning Administrator or his or her designee.
- (J) Installation of landscape improvements
- (1) All landscape improvements (landscape materials, irrigation system, screening walls, and the like) shall be installed by the developer on the site in accordance with the approved final landscape plan prior to the issuance of a certificate of occupancy for the building or use. When considered advisable, upon presentation of a cash bond, cash deposit, or assured letter of credit in the amount sufficient to guarantee installation of the landscaping and irrigation system, the Zoning Administrator or his or her designee may approve a delay in the immediate installation of the required landscape improvements for a

period of time not to exceed 12 months. In those instances where the Zoning Administrator or his or her designee approves a delay in the installation of the required landscape improvements, a temporary certificate of occupancy shall be issued for the building or use conditioned upon the satisfactory installation of the required landscape improvements within the time period approved by the Zoning Administrator or his or her designee.

- (2) All plant material shall be selected from the Arizona Department of Water Resources current plant list for low water use plants in the Phoenix Active Management Area (AMA). Plant materials that are not acceptable: *Cercidium aculeate*, *Cercidium* x 'Desert Museum,' *Dalbergia sissoo*, *Acacia salicina*, *Acacia saligna*.
 - (3) (3) All plant material and specifications shall conform to the Arizona Nursery Association (ANA) standards.
- (K) Minimum size of trees, shrubs and the like, and substitution of ground cover for shrubs.
- (1) Unless otherwise specified herein, all required trees shall be a minimum of 15 gallons in size and at least 50% of those trees must be 24-inch box or larger size. All shrubs shall be a minimum of five gallons in size. All 15 gallon trees must be a minimum of eight feet in height, four feet in spread, and one and one-quarter inches trunk caliper at the ground level. All 24-inch box and larger trees shall be a minimum of ten feet in height, four feet in spread and two and a half inches trunk caliper at the ground level. For individual specifications see AMA standards upon approval of the Zoning Administrator or his or her designee, the installation of 20 square feet of vegetative ground cover in any landscaped area shall substitute for one required shrub up to a maximum of 20% of the required shrubs in any particular landscaped area.
 - (2) All Mexican Fan Palms (*Washington Robusta*), California Fan Palms (*Washingtonia Filifera*), and Queen Palms (*Syagrus remonzoffianum*) shall have a minimum five foot trunk height measured from the base of the trunk to the base of the fronds when located within the public right-of-way or within 20 feet of the street property line.
- (L) *Natural topping of landscaped areas.* All landscaped areas shall be finished with natural topping material which may include, but not limited to the following: turf, groundcover, planting, decomposed granite (two inches minimum depth), river run rock, expanded shale, or bark. A pre-emergent herbicide shall be applied to the ground prior to the placement of natural surface materials (decomposed granite, river run rock, and the like) in any landscaped area to prevent weed growth and again after the rock has been installed. Turf shall not be planted in a dedicated right-of-way. All turf is to be limited to 50% of the landscape areas unless defined as a turf facility.
- (M) *General Standards for Landscaped areas along street/frontage.*
- (1) Landscaped areas along street frontages shall be contoured or bermed, where feasible, to provide variations in grade, visual relief, parking lot screening, and a more pleasing aesthetic value.

- (2) All on-site parking areas shall be screened from street view by a landscaped berm or decorative wall not less than three feet in height. The required height of berm or wall shall be measured from the highest finished grade of the adjacent on-site parking area or adjacent finished grade of the street, whichever is greater.
 - (3) Trees along R.O.W. shall maintain seven-foot canopy height.
- (N) Sight visibility triangle. All landscaping and landscaped materials established in close proximity to a driveway or street intersection shall be installed and maintained in strict compliance with the sight visibility triangle requirements set forth as follows:
- (1) Maximum plant material height of 24 inches; ten feet by 20 feet at drives onto streets, 15 feet by 33 feet at minor and major streets, and 33 feet by 33 feet at major intersections. Measurement is from behind the property line.
 - (2) Berming or boulders are not to be located in the sight visibility triangle.
- (O) *Power lines.* All overhead power lines are to be shown if they exist or note that there are none. All trees under power lines or within 15 feet of power lines shall have a maximum height of 20 feet at maturity.
- (P) *Retention basins.* Slopes are to be no steeper than a four to one ratio and minimum of 50% live plant material and groundcover shall be planted within the retention area.
- (Q) *Irrigation standards.* All landscaped areas shall be supported by an automatic irrigation system. A pressure type vacuum breaker shall be required for any new, improved, or renovated irrigation system and enclosed with a two-inch steel pipe and screen and lock enclosure screened with a three foot wall or plant material four foot on center. All irrigation systems and landscaped areas shall be designed, constructed, and maintained so as to promote water conservation and prevent water overflow or seepage into the street, sidewalk, or parking areas.
- (R) *Screening walls.* See Section 154.101
- (S) *Use of landscape areas for other purposes.* No part of any landscape area shall be used for any other use such as parking, signs, or display; except for required on-site retention areas or when the use is shown on the approved final landscape plan.
- (T) *Single-family residential subdivisions.* Landscaping shall be required along the rear of reverse-frontage, single-family lots along collector or arterial streets and required open space areas in accordance with the standards specified below.
- (1) Trees with a minimum size of 15 gallons shall be planted at the rate of one tree per 30 feet of linear street frontage. At least 50% of the trees shall be 24-inch box size.
 - (2) Shrubs with a minimum size of five gallons shall be planted at the rate of five shrubs per tree and in no case shall be less than three shrubs per 20 feet of linear street frontage.
 - (3) Clustering of trees and shrubs shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape. Contouring of the ground and placement of mounds and earth berms along streets shall be required.

- (4) A minimum of 35% of all frontage landscaped areas shall be covered with vegetative or organic groundcover consisting of grass (except in right-of-way) or other living plant materials characterized by horizontal growth which generally does not exceed two feet in height.
 - (5) Within common open space areas, minimum 15-gallon sized trees and five-gallon shrubs shall be planted at a ratio of one tree per 200 square feet and 1 shrub per 100 hundred square feet of landscape area.
 - (6) Inorganic groundcover shall be applied to all non-planted landscape areas consisting of decomposed granite (minimum one-half minus) crushed rock, gravel, river run rock, and/or boulders, utilizing sufficient variety in terms of color, texture, and materials to provide a pleasant and diverse appearance of streetscape. Mounding and contouring of landscaped areas is required.
 - (7) Vegetative groundcover shall be located to accentuate landmarks or focal points on a site and to create a "lush" appearance to the landscaped area from public streets and areas.
- (U) *Multi-family residential developments.* The following landscape standards shall apply to multi-family development.
- (1) A minimum 20-foot wide landscaped area shall be required along all interior property lines when adjacent to single-family residential development. Trees with a minimum size of 15 gallons shall be planted every 20 feet on center within the area.
 - (2) Along public street frontages, minimum 15-gallon sized trees shall be planted at a ratio of one tree per 30 feet of frontage. A minimum of 50% of the required trees shall be 24-inch box size.
 - (3) Within required yards and common open space areas, minimum 15-gallon sized trees and five-gallon shrubs shall be planted at a ratio of one tree per 200 square feet and 1 shrub per 100 hundred square feet of landscape area.
 - (4) Open space areas along public street frontages shall receive special landscaping treatment to provide a lush setting for both the residents of the project and the general public. The following standards shall apply to landscaping of public street frontages.
 - (a) Special entry features shall be provided at major entrances into a project to provide a sense of identification and uniqueness.
 - (b) Walls, planters, and earth berms shall be provided in the front yard to add variety to the landscape and to increase privacy for residents.
 - (c) No more than 50% of the required front yard landscaped area may be used for stormwater retention purposes.
 - (d) Foundation plantings should be utilized to complement building elevations, provide shade, and increase privacy. A minimum of 50% of the building frontage facing public streets shall have foundation plantings.

(V) *Non-Residential development.* General requirements:

- (1) A minimum of 10% of new land area of any site used for non-residential development shall be landscaped.
- (2) All portions of the development site not occupied by buildings, structures, vehicle access and parking areas, loading/unloading areas, and approved storage areas shall be landscaped in accordance with the following standards. Future building pads within a phased development shall be improved with temporary landscaping, or otherwise maintained weed-free in such a manner as may be approved by the city.
- (3) Within required yards and open space areas, minimum 15-gallon sized trees and five-gallon shrubs shall be planted at a ratio of one tree per 200 square feet and one shrub per 100 hundred square feet of landscape area, except within the E/I Zoning District where trees may be planted at one tree per 400 square feet and shrubs may be planted at a rate of one shrub per 200 hundred square feet of landscape area.
- (4) The intersection of arterial streets are a dominant feature of the urban landscape, serving as major focal points of activity in the community. Because of the importance of these intersections, additional landscaped setbacks and design features beyond the required minimum standards may be imposed on property at these intersections by the city at the time of rezoning and/or site plan approval. The additional features may include wider setbacks, unique building orientation and design, and special landscaped features such as wall and screening devices.
- (5) Where existing buildings or nearby parcels are built to the street property line, landscaping may be modified or located elsewhere on approval of the Zoning Administrator or his or her designee.
- (6) All landscaped areas adjacent to vehicular parking and access areas shall be protected by a six-inch vertical concrete curbing in order to control stormwater flows and minimize damage by vehicular traffic.

(W) *Streetscape standards.* The following landscaping shall be required along all streets unless otherwise stated herein.

- (1) Trees with a minimum size of 15 gallons shall be planted at the rate of one tree per 30 feet of linear street frontage. A minimum of 50% of the required trees shall be 24-inch box trees, except within the E/I Zoning District trees may be planted at the rate of one tree per 60 feet of linear frontage.
- (2) Shrubs with a minimum size of five gallons shall be planted in appropriate numbers to complement the placement of trees, but in no case shall be less than three shrubs per 20 feet of linear street frontage, except within the E/I Zoning District shrubs may be planted at a rate of three shrubs per 40 feet of linear street frontage.
- (3) Clustering of trees and shrubs shall be encouraged to accent focal points or landmarks and to provide variety to the streetscape. Contouring of the ground and placement of mounds and earth berms along the street shall be required.

(X) Parking lot landscaping.

- (1) A minimum of 10% of the parking lot area shall be landscaped, exclusive of front yard or perimeter landscaping and street trees. The landscaping shall consist of parking islands located within the parking lot area.
- (2) A minimum of one tree shall be provided for every five parking spaces, exclusive of perimeter landscaping and street trees, except within the E1 Zoning District trees may be planted at the rate of one tree for every 10 parking spaces. Trees must be planted within the parking lot.
- (3) Parking islands or landscaped areas shall be installed at least every ten consecutive parking spaces. The islands shall be a minimum of ten feet wide and contain a minimum of 180 square feet in area.
- (4) All parking lots shall be separated from adjacent residential uses or districts by a ten-foot landscaped strip planted with a minimum of one tree every 25 linear feet and a minimum six-foot high masonry wall.
- (5) Pedestrian walking lanes and related landscaping may be required at the discretion of the Zoning Administrator or his or her designee to control traffic and provide safety of pedestrians.
- (6) All parking lots shall be screened from public streets by walls or earth berms or combination thereof constructed at least three feet above the grade of the parking lot or adjacent street, whichever is higher in elevation. Variety to the alignment and style of the walls is required. The walls shall be decoratively designed to match the facade of any buildings and shall be constructed of slump block, brick, or masonry with a mortar wash or stucco finish.
- (7) Any landscaped area used for vehicular overhang shall not be counted towards the required landscaping.

(Y) Substitution of Landscape Requirements.

The Zoning Administrator or his or her designee may modify the minimum planting area requirements specified herein in lieu of the application and placement of approved alternative landscaping elements such as, but not limited to, low impact development (LID) practices, art installations, or hardscape features that are found to further the landscape purpose and intent specified in Section A above.

(Prior Code, § 21-6-9) (Ord. O11-09-17, passed 9-22-2011; Ord. O18-10-12, passed 10-16-2018)

§ 154.103 PROPERTY ACCESS STANDARDS.

(A) Shared drive access.

- (1) The city encourages sharing access drives between separate parcels. Some of the following standards may be relaxed if shown during the site design review process that more efficient design can be accomplished without jeopardizing the public's health, safety, and welfare. All changes are subject to approval by the Planning and Zoning Commission. All drive accesses shall

be approved by the City Engineer for width and location.

- (2) Any developments which may not be able to meet the requirements of divisions (B) through (E) below, and are requesting deviations from the standards, shall submit to the Engineering Division, a design exception form and reference the deviations in the traffic impact statement or analysis
 - (3) Based upon the above data, the City Engineer shall determine whether a deviation from the requirement standards is justified and, if so, what alternative requirements will be necessary.
- (B) *Drive access required.* All non-residential off-street parking spaces shall have access from a drive access and not directly from the public street. Access drives shall not be less than 24 feet in width for two-way traffic nor less than 16 feet in width for one-way traffic. Residential drive accesses shall be not less than 12 feet in width.
- (C) *Minimum Corner Clearance.* Driveway access distances from street intersections shall be subject to the following minimum dimensions unless otherwise approved by the City Engineer based upon submittal of an approved design exception and traffic statement or analysis as described in division (A) above.

Street Classification	Minimum Required Corner Clearance ¹	
	Approving Intersection	Departing Intersection
Parkway	550 feet	350 feet ²
Arterial	450 feet	260 feet ²
Collector	350 feet	150 feet ²

1. Minimum distance from nearest curb face of intersecting street to nearest curb face of driveway. Use edge of pavement if no curb exists.

2. When right-turn deceleration lanes are required, the minimum corner clearance departing an intersection on a Parkway, Arterial, or Collector street is at least 260 feet to accommodate the right-turn lane. Additional distance may be required depending on right turn lane storage length.

- (D) *Drive access spacing.* Drive accesses to a public street except for single, two-family, and townhouse dwellings shall be located as measured from inside of drive to inside of drive according to the following specified distances, unless granted approval by the Planning and Zoning Commission.

Street Classification	Required Minimum Spacing
Parkway	350 feet ¹
Arterial	250 feet ¹
Collector	150 feet ¹

1. Spacing shall be increased from the minimum required to accommodate a required right-turn deceleration lane or to provide sufficient spacing for back-to-back left-turn lanes.

- (E) *Number of drive accesses.* Single-family uses shall be limited to one drive access per property. All other uses shall adhere to City Detail EM-259. These conditions shall apply unless otherwise granted approval by the Planning and Zoning Commission.

(Prior Code, § 21-6-11)

§ 154.104 OFF-STREET PARKING REQUIREMENTS.

(A) General provisions.

- (1) *Floor area.* The term “floor area,” for the purpose of calculating the number of off-street parking spaces required, shall be determined on the basis of the exterior-area dimensions of the building, structure, or use multiplied by the number of floors, minus 10%, except as may hereinafter be provided or modified.
- (2) *Change of use or occupancy of buildings.* Any change of use or occupancy of any building or buildings, including additions thereto requiring more parking, shall not be permitted until such additional parking spaces as required by this chapter are furnished.

(B) Parking for Residential Uses, excluding the Rural Area (RA) Zone.

- (1) Off-street parking facilities accessory to residential use shall be utilized solely for the parking of licensed and operable passenger vehicles and up to one (1) commercial vehicle not to exceed a gross vehicle weight capacity of 14,000 pounds; and recreational vehicles and equipment. Under no circumstances shall parking facilities accessory to a residential use be used for storage of commercial vehicles or equipment or for the parking of vehicles belonging to the employees, owners, tenants, or customers of business or manufacturing establishments.
- (2) Motor homes, recreational vehicles, or utility trailers and equipment shall be located in a garage, carport, side yard, rear yard, or behind the front plane of the home, provided:
 - (a) No living quarters shall be maintained, or any business practiced in the motor home or recreational vehicle while the motor home or recreational vehicle is so parked or stored; and except granted for occupying the recreational vehicle, under procedures established in § 154.159.
 - (b) Such apparatuses shall not be parked or stored between the front plane of the home and the front property line (i.e. right-of-way).
 - (c) Such apparatuses shall be parked or stored on a dust free surface.
 - (d) Such apparatuses greater than twelve (12) feet in height, such as a typical ‘Class A’ RV, parked or stored outside on a property for more than 14 calendar days shall adhere to all principal building setbacks.
- (3) All parking located on the street side of any approved screen wall, fence, or gate shall be on a dust-free surface. Parking surfaces shall be maintained and kept free from weeds, grass, or other vegetative growth.
- (4) Parking in landscaped areas shall be prohibited.
- (5) Parked vehicles shall not overhang into or obstruct any portion of a public right-of-way.
- (6) Except where otherwise permitted by the Zoning Code, any vehicle undergoing repair must be titled to the owner or occupant of the property.

- (7) Parking on corner lots shall be provided in a manner that does not obstruct the site visibility triangle, where such a triangle exists or is required.

(C) Vehicle Parking and Storage in the Rural Area (RA) Zone

- (1) For residential lots, off-street vehicle parking and storage shall adhere to the following:
 - (a) All vehicles shall be parked or stored on a designated surface that minimizes dust and has a defined border. Designated surfaces shall be maintained and kept free from weeds, grass, or other vegetative growth.
 - (b) Vehicle parking or storage in landscaped areas shall be prohibited.
- (2) Stored vehicles shall not overhang into or obstruct any portion of a public right-of-way.
- (3) Except where otherwise permitted by the Zoning Code, any vehicle undergoing repair must be titled to the owner or permanent occupant of the property.
- (4) Inoperable vehicles shall not be parked or stored in a front yard.
- (5) Vehicle parking or storage on corner lots shall be provided in a manner that does not obstruct the site visibility triangle, where such a triangle exists or is required.
- (6) The parking of commercial vehicles having a gross vehicle weight rating (GVWR) of fourteen thousand (14,000) pounds or more is limited to two (2) commercial vehicles.
- (7) Outside storage of commercial vehicles shall be prohibited.
- (8) No person shall park any vehicle with a gross vehicle weight rating in excess of 25,000 pounds, or a tractor, semi-trailer, trailer, or bus on any real property within the RA district, except during the process of loading or unloading the vehicle or if in association with a principal agriculture use.
- (9) Except where otherwise permitted by the Zoning Code, all personal vehicles, recreational vehicles, trailers, or equipment shall be owned by a permanent occupant of the property or if not owned by a permanent occupant of the property, shall be currently registered or licensed.
- (10) Recreational vehicles, utility and/or horse trailers, equipment, or commercial vehicles shall be located in a garage, carport, side yard, rear yard, or behind the front plane of the home.
 - (a) Such apparatuses shall not be parked or stored between the front plane of the home and the front property line (i.e. right-of-way).
 - (b) Such apparatuses greater than twelve (12) feet in height, such as a typical 'Class A' RV, parked or stored outside on a property for more than 14 calendar days shall adhere to all principal building setbacks.

- (11) Guests of the permanent occupant of the primary residence may use their recreational vehicle or travel trailer as a dwelling for no longer than 21 total calendar days per year provided the following conditions are met:
 - (a) Such condition shall require an approved Temporary Use Permit.
 - (b) Property owner is not renting, leasing, or accepting payment of any kind in exchange for allowing a recreational vehicle or travel trailer to be parked and/or occupied on the property.
 - (c) Recreational vehicle or travel trailer is connected to the home's electricity supply. Use of generators shall be prohibited.
 - (d) Recreational vehicle or travel trailer shall not connect to the City's sanitary sewer system on a residential property.
 - (12) Recreational vehicles and travel trailers shall not serve as a primary dwelling unless used for living quarters during construction. Such condition shall require an approved Temporary Use Permit and an associated active building permit.
- (D) Stall, aisle, and driveway design.
- (1) *Parking dimensions.* See City Detail EM-157 for minimum parking space dimensions
 - (2) *Within structures.* The off-street parking requirements may be furnished by providing spaces so designed within the principal building or structure attached thereto; however, unless provisions are made, no building permit shall be used to convert the parking structures into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this chapter.
 - (3) *Circulation between bays.* Except in the case of single, two-family, townhouse, three-family, and four-family dwellings, parking areas shall be designed so that circulation between parking bays occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single, two-family, townhouse, three-family, and four-family dwellings, parking area design which requires backing into the public street is prohibited.
 - (4) *Preserving off-site parking.* When required, accessory off-street parking facilities are provided elsewhere than on the lot with the same ownership or control, either by deed or long-term lease, than the property occupied by the principal use, the owner of the principal use shall file a recordable document with the city and County Clerk requiring the owner and his or her heirs and assigns to maintain the required number of off-street spaces during the existence of the principal use.
 - (5) *Parallel parking spaces.* Parallel parking spaces shall be a minimum of 22 feet in length.
 - (6) *Surfacing.* All areas intended to be utilized for parking space and drive aisles shall be paved with dust-free materials suitable to control drainage. Plans for

paving and drainage of driveways and stalls for five or more vehicles shall be submitted to the City Engineer for his or her review, and the final drainage plan shall be subject to his or her written approval.

- (7) *Striping*. Except for townhouses and single-, two-, three- and four-family dwellings, all parking stalls shall be marked with painted lines not less than four inches wide. Striping in areas that are not asphalt or concrete shall be delineated in a manner that is acceptable to the City.
 - (8) *Lighting*. Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses, and public rights-of-way, and be in compliance with this chapter. A photometric plan showing the footcandles to all adjacent property lines and to the centerline of all adjacent streets shall be submitted to the City for review.
 - (9) *Signs*. No sign shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking lot. All signs shall conform to the city sign requirements.
 - (10) *Curbing*. Except for townhouses and single-, two-, three-, and four-family dwellings, all open off-street parking areas and driveways shall have a six-inch by six-inch perimeter MAG type concrete curb around the entire parking lot built according to standards provided by the City Engineer. Furthermore, the curb shall be no closer than three feet to property lines. Any curb designed to carry stormwater shall include a gutter. However, the city encourages shared access between parcels which may eliminate the need for curbing around the entire perimeter of a parcel. The Planning Director will determine whether more parcels sharing parking and/or driveway accesses during the design review process, subject to approval by the Planning and Zoning Commission.
 - (11) *Protruding vehicles*. All on-site parking stalls which abut property lines shall be designed and constructed such that parked vehicles shall not protrude over property lines.
 - (12) *Screening*.
 - (a) *Generally*. Every parking facility containing four or more spaces abutting a city street shall be separated from the street by a decorative wall, view obscuring fence, permanently maintained compact hedge, berm, or a combination of the preceding treatments, no less than 30 inches and not more than 42 inches in height.
 - (b) *Screening in residential areas*. Every parking facility abutting property located in a residential district shall be separated from the property by a decorative wall, view obscuring fence, or permanently maintained hedge no less than five nor more than six feet in height.
- (E) *Maintenance*. It shall be the joint and separate responsibility of the lessee and owner of the principal use, uses, or building to maintain in a neat and adequate manner, the parking space, accessways, striping, landscaping, and required fences.

- (F) *Use of required parking areas for parking only.* Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale, or rental of goods, or storage of inoperable vehicles.
- (G) *Number of spaces required.* The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement, and/or lease for and during the life of the respective uses hereinafter set forth.

TABLE P - MINIMUM PARKING SPACES REQUIRED		
Use Category	Specific Use Type	Minimum Vehicle Spaces Required
Residential Use Category	Dwelling: Single-Family Detached / Attached; Live/Work; Duplex; Manufactured Home	2 spaces per dwelling unit (if on-street parking is not available, then 0.25 visitor parking space per unit shall be required)
	Dwelling: Multi-Family	Studio and 1 bedroom units + 1.5 space per unit
		2 bedroom units + 1.5 spaces per unit
		3 or more bedroom units + 2 spaces per unit
	Manufactured Home Park	2 spaces per dwelling unit + 1 space for every 8 dwelling units/lots for guests
	Recreational Vehicle Park	1 space per RV space + 1 space for every 8 RV spaces for guests
	Assisted Living Center	0.5 space per residential room/unit + 1 space for every 4 rooms/units for guests and employees
Assisted Living Home; Child Care Home; Group Care Home; Resident Care Home	Same as Single-Family	
Nursing Home	1 space per 4 beds (based on maximum capacity)	
Public and Semi-Public Use Category	Airport/Heliport	1 space per 500 SF GFA; 2 spaces per helipad
	Assembly Hall / Auditorium; Conference Center; Community Recreation Center; Fraternal or Social Club	1 space per 4 fixed seats or 1 space per 300 SF GFA where fix seating is not provided
	Cemetery	Minimum 5% of the gross area shall be made available for parking
	Child Care Center	1 space per 400 SF GFA
	College or University	1 space per 3 employees plus 1 space per 5 students predicated on the designed capacity of the building(s). Dormitories, Fraternity / Sorority Houses: 1 space per dwelling unit and 1 space for each guest room.
	Community Playfields and Parks	1 space per 2,500 square feet of activity area (Where tournaments or similar contests are expected, additional open areas suitable for parking/loading may be required)
	Cultural Facility	1 space per 200 SF GFA
	Funeral Home or Crematorium	1 space per 4 fixed seats or 1 space per 300 SF GFA where fix seating is not provided
	Government Office and Civic Buildings; Library; Public Safety Facility	1 space per 300 SF GFA
	Health Care / Medical Facility or Clinic	1 space per 350 SF GFA
	Hospital	1 spaces per 2 inpatient beds + 1 per employee on a normal shift

TABLE P - MINIMUM PARKING SPACES REQUIRED

Use Category	Specific Use Type	Minimum Vehicle Spaces Required
	Instructional Services or Trade Schools	1 space per 200 SF GFA
	Public Safety Facility	1 space per employee + 1 space per fleet vehicle + 1 space per 350 SF of usable office per meeting space
	Religious Assembly	1 space per 4 fixed seats or 1 space per 300 SF GFA where fix seating is not provided
	School, Public or Private, K-8	1 space per classroom + 1 space for each 200 SF of indoor assembly area
	School, Public or Private, 9-12	1 space per 200 SF of classroom and office area
	Solar Generation Facility	1 space per employee
	Transportation Terminal	6 spaces per 1,000 SF of waiting area
	Utility Facility and Service Yard	1 space per employee + 1 space per fleet vehicle if present at site
	Wireless Facility (Including Tower and Supporting Facilities)	1 space
Agriculture Use Categories	Agriculture, General	None
	Community Garden	None
	Ranching, Commercial	None
Commercial Use Categories	Adult Entertainment Business	1 space per 200 SF GFA
	Animal Kennel / Shelter, Hospital and Veterinarian Clinic	1 space per 400 SF GFA
	Art Gallery / Studio	1 space per 300 SF GFA
	Commercial Entertainment, Indoor	1 space per 4 fixed seats or 1 space per 300 SF GFA, whichever is greater
	<i>Movie Theater</i>	1 space per 3 seats
	Commercial Entertainment, Outdoor	1 space per 3 persons based on occupancy, plus 1 space per employee on major shift (Where tournaments or similar contests are expected, additional open areas suitable for parking/loading may be required)
	General Recreation, Indoor	1 space per 200 SF GFA
	<i>Fitness & Sports Center</i>	1 space per 200 SF GFA
	<i>Golf course</i>	5 spaces per hole + required spaces for ancillary uses
	<i>Golf driving range</i>	2 spaces per tee + required spaces for ancillary uses
	General Recreation, Outdoor	5 spaces per acre of facility + 1 space per 4 persons of total maximum capacity of facility
	Child Care, Center	1 space per staff member, plus 1 space per 15 clients of licensed capacity
	Personal Services	1 space per 300 SF GFA
	Business Services	1 space per 250 SF GFA
	Financial Institution	1 space per 250 SF GFA
	Office, Business or Professional	1 space per 300 SF GFA
	Non-Chartered Financial Institution (Check Cashing)	1 space per 250 SF GFA
	Bar, Lounge, or Tavern	1 space per 75 SF patron space + 1 space per 200 SF of outdoor seating area
	Coffee Shop / Café	1 space per 75 SF patron space + 1 space per 400 SF of outdoor seating area
	Microbrewery, Craft Distillery or Tasting Room	One space per 150 SF patron space
Nightclub	1 space per 75 SF patron space + 1 space per 200 SF of outdoor area	
Restaurant, Full Service	1 space per 50 SF patron space + 1 space per 400 SF of outdoor seating area	

TABLE P - MINIMUM PARKING SPACES REQUIRED

Use Category	Specific Use Type	Minimum Vehicle Spaces Required
	Restaurant, Limited Service	1 space per 75 SF patron space + 1 space per 400 SF of outdoor seating area
	Medical-Marijuana Cultivation	1 space per 1,000 SF of warehouse area + 1 space per 350 SF of office area
	Medical-Marijuana Dispensary	1 space per 300 SF GFA
	Medical-Marijuana Manufacturing Facility	1 space per 500 SF of warehouse area + 1 space per 350 SF of office area
	General Personal Services Tattoo Parlor and Piercing Salon	1 space per 300 SF GFA
	Retail, General <i>Alcoholic Beverages</i> <i>Convenience Store</i> <i>Flex Commercial</i> <i>Smoke / Vape Shop</i> <i>Pawn Shop</i> <i>Flex Commercial</i>	1 space per 300 SF GFA
	Retail, Large	1 space per 300 SF GFA
	<i>Nursery, commercial</i> <i>Feed Store</i>	1 space per 400 SF of sales and display area
	<i>Outdoor Vending</i>	1 space per employee + principal use
	<i>Farmers market</i> <i>Flea Market</i>	1 space per 500 SF of designated vendor area
	Self-Storage, Indoor	1 space per 50 units or 1 space per 5,000 SF of storage area, whichever is greater
	Automobile / Boat / RV Sales and Leasing; Rentals	1 space per 400 SF of sales and service buildings + 1 space per 10,000 SF of outdoor display area
	Automobile / Boat / RV, Repair	3 spaces per service bay + 1 space per 350 SF of additional retail sales and service area (service bay shall not be counted as a parking space)
	Car Wash	1 space per 200 SF of sales, office and lounge area
	Car Wash, Self-Serve	0.5 spaces per bay + Stacking
	Fueling Station	Space at pump + 1 space per fueling position
	<i>Service Station with Convenience Store</i>	Space at pump + 1 space per fueling position + 1 space per 300 SF GFA
	Hotel / Motel (13+ units)	1 space per guest room + 1 space per 4 persons of total maximum capacity of banquet room (if present) + 2 spaces per 3 employees
	Bed and Breakfast	1 space per guest room plus 2 spaces for resident manager
	Inn	1 space per guest room plus 4 spaces for guests and employees
Industrial Use Categories	Building Materials; Wholesale	1 space per 500 SF of sales related area + 1 space per 350 SF of office area
	Distribution Warehouse/Yard	1 space per 2,000 SF of warehouse and/or 5,000 SF of yard related area + 1 space per 350 SF of office area
	Assembly / Manufacturing: <i>Light</i> <i>Heavy</i>	1 space per 500 SF of warehouse area + 1 space per 350 SF of office area 1 space per 1,000 SF of warehouse area + 1 space per 350 SF of office area
	Auto Wrecking & Salvage Yard	See Section 154.105.G.2
	Data Center	1 space per employee on major shift (minimum 1 space if no employee)
	Heavy Equipment Sales and Rental	1 space per 400 SF of rental and sales buildings + 1 space per 10,000 SF of outdoor display area
	Research Laboratory	1 space per 350 SF GFA

TABLE P - MINIMUM PARKING SPACES REQUIRED		
Use Category	Specific Use Type	Minimum Vehicle Spaces Required
	Resource Extraction	See Section 154.105.G.2
	Outdoor Storage	Minimum 4 spaces + 1 space per employee
	Oil and Gas Refinery	See Section 154.105.G.2
	Waste, Salvage and Recycling Facility	See Section 154.105.G.2

- (1) **Multiple Uses.** Unless otherwise specified, lots containing more than one use shall provide parking and loading in an amount equal to the total of the requirements for all activities.
- (2) **Non-specified Parking Requirements.** It is recognized that specifying a single parking requirement for some uses listed in Table P is not reasonably feasible due to the far-reaching variation in use characteristics that can exist within that specific use type. For those uses listed in Table P. that do not have a specific parking requirement identified, the Zoning Administrator shall determine a parking requirement based upon the requirements for the most similar comparable use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand. In order to make this determination, the Zoning Administrator may require the applicant to submit a parking demand study or other information, at the applicant's cost. The parking demand study may include, but is not limited to, estimates of parking demand based on the most current recommendations of the Institute of Transportation Engineers (ITE), or other acceptable sources as approved by the Zoning Administrator, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use.
- (3) **Unspecified Uses.** Where buildings are constructed without uses specified (i.e. shell buildings), the use with the highest parking requirement among all uses specified for the zoning district where the site is located shall be used to calculate off-street parking requirements.
- (4) **Uses not Listed.** Parking for land uses not specifically listed in Table P. shall be determined by the Zoning Administrator based upon the requirements for the most similar comparable use, the particular characteristics of the proposed use, and any other relevant data regarding parking demand. In order to make this determination, the Zoning Administrator may require the applicant to submit a parking demand study or other information, at the applicant's cost. The parking demand study may include, but is not limited to, estimates of parking demand based on the most current recommendations of the Institute of Transportation Engineers (ITE), or other acceptable sources as approved by the Zoning Administrator, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use.

- (5) **Parking Waiver.** A parking demand study may be prepared and submitted, at the applicant's cost, to request a modification to parking requirements if it is believed that a particular use will not require the number of spaces required by Section 154.104.G. The parking demand study may include, but is not limited to, estimates of parking demand based on the most current recommendations of the Institute of Transportation Engineers (ITE), or other acceptable sources as approved by the Zoning Administrator, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. The study should also take into account peak operating hours and both on-street and off-street parking conditions to accurately demonstrate parking demand and supply.
- (6) **TROD.** For any change of use within the TROD Zoning District that may require an increase to available off-street parking that cannot be accommodated on-site, the Zoning Administrator may accept a traffic management plan, prepared by the applicant at their expense, which contains information on the strategies, designated parking areas, peak operating hours, and information indicating the applicant's ability to provide and enforce these elements over time. The Zoning Administrator may impose conditions that are needed to ensure the long-term compliance to the plan, including but not limited to a reserve parking area, phasing, or contributions to other alternative means of transportation or parking accommodations.

(H) Alternative Parking Provisions

Where conditions preclude the provision of the number of off-street parking spaces required by Table P, the following alternative parking provisions may be available, subject to City approval:

- (1) **Compact Spaces.** Up to 30 percent of the total number of required parking spaces for non-residential uses may be designated as compact spaces when clearly labeled.
- (2) **Electric Vehicle Charging Spaces.** Electric vehicle parking spaces may be counted to satisfy the minimum off-street parking requirements. The parking space credit shall be determined at the time of site plan approval based on the type of charging facility provided.
- (3) **Tandem Parking.** Shall mean a space where one (1) vehicle parks behind another, so that one vehicle must be moved before the other can be accessed. Accessible parking spaces shall not be used for tandem parking spaces. Tandem parking shall be limited to a maximum of two cars in depth and no less than 9' wide and 40' long. Tandem parking stalls are only allowed for:
 - (a) **Residential Uses.** Tandem parking spaces shall be allowed for single-family, detached and attached residential with spaces and access paved in accordance with the City of El Mirage Engineering Standards.
 - (b) **Multifamily Residential Uses.** Tandem parking spaces shall be allowed for multifamily residential uses, subject to the following conditions.

- (i) The tandem spaces shall be reserved for and assigned to dwelling units which are required to have two or more parking spaces.
 - (ii) Tandem spaces shall not be used for guest parking.
 - (c) Nonresidential Uses. Tandem parking spaces shall not be allowed for new non-residential construction.
- (4) Joint use
 - (a) Up to 80% of the parking facilities required by this subsection for a religious assembly or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities by the following daytime uses: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing, wholesale, and similar uses.
 - (b) Other joint use of parking by adjacent commercial uses to reduce total parking spaces may be allowed with approved parking study submittal by a registered transportation engineer.
 - (c) Conditions required for joint use.
 - (i) The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of the parking facilities.
 - (ii) The applicant shall show that there is no substantial conflict in the operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.
 - (iii) A properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the City Attorney, shall be filed with the City Clerk and recorded with the County Recorder.
- (5) Off-site parking.
 - (a) Any off-site parking which is used to meet the requirements of this chapter shall be a conditional use as regulated by this chapter and shall be subject to the conditions listed below.
 - (b) Off-site parking shall be developed and maintained in compliance with all requirements and standards of this chapter.
 - (c) Reasonable access from off-site parking facilities to the use being served shall be provided.
 - (d) The site used for meeting the off-site parking requirements of this chapter shall be under the same ownership as the principal use being served, under public ownership, or shall have guaranteed permanent use by virtue of a perpetual lease filed with the City Clerk and County Clerk.
 - (e) Off-site parking for multiple-family dwellings shall not be located more

than 200 feet from any normally used entrance of the principal use served.

- (f) Off-site parking for non-residential uses shall not be located more than 300 feet from the main entrance of the principal use being used.
- (g) Any use which depends upon off-site parking to meet the requirements of this chapter shall maintain ownership or prove a long-term irrevocable lease agreement for parking utilization of the off-site location.

(Prior Code, § 21-6-12)

§ 154.105 OFF-STREET LOADING BERTH REQUIREMENTS.

(A) Affected uses.

- (1) Whenever the operation of any use requires that goods, merchandise, or equipment be delivered to or shipped from that use, such as grocery stores, furniture or appliance stores, plant nurseries, retail uses, hospitals, educational uses, and manufacturing and processing centers, off-street material loading and unloading areas shall be provided in accordance with the following table of minimum requirements. The required material loading spaces shall not be part of the spaces used to satisfy the off-street parking requirements.

SQUARE FEET OF AGGREGATE GROSS FLOOR AREA DEVOTED TO SUCH USE	REQUIRED NO. OF BERTHS
15,000 sq. ft. up to and including 40,000 sq. ft.	1
40,001 sq. ft. up to and including 100,000 sq. ft.	2
100,001 sq. ft. up to and including 160,000 sq. ft.	3
160,001 sq. ft. up to and including 210,000 sq. ft.	4
240,001 sq. ft. up to and including 320,000 sq. ft.	5
320,001 sq. ft. up to and including 400,000 sq. ft.	6
400,001 sq. ft. up to and including 490,000 sq. ft.	7
For each additional 90,000 sq. ft.	1 additional

- (2) Any office building 100,000 sq. ft. or larger shall have at least one off-street loading berth.

(B) *Standards for off-street loading facilities.* All off-street loading facilities shall conform to the following standards.

- (1) Unless otherwise specified in these zoning regulations, the first loading berth shall be at least 70 feet in length and additional berths required shall be at least 45 feet in length and all loading berths shall be at least 12 feet in width and 21 feet in height, exclusive of aisle and maneuvering space.
- (2) The space may occupy all or any part of any required yard space, except front and exterior side yards, and shall not be located closer than 50 feet to any lot in any residential zone unless separated from the zone, except at the accesses, by a masonry wall not less than eight feet in height.
- (3) Sufficient room for turning and maneuvering vehicles shall be provided on the site so that vehicles shall cross a property line only by driving forward.

- (4) Each loading berth shall be accessible from a street or alley or from an aisle or drive connecting with a street or alley.
- (5) The loading area, aisles, and access drives shall be paved so as to provide a durable, dust-free surface and shall be so graded and drained so as to dispose of surface water without damage to private or public properties, streets, or alleys.
- (6) Bumper rails shall be provided at locations where needed for safety or to protect property.
- (7) A photometric plan will be required if the loading area is illuminated, lighting shall be deflected away from abutting residential sites so as to cause no excess glare.
- (8) No regular repair work or servicing of vehicles shall be conducted in a loading area.
- (9) Off-street loading facilities shall be located on the same site with the use for which the berths are required.
- (10) If more than one use is located on a site, the number of loading berths provided shall be equal to the sum of the requirements prescribed in this chapter for each use. If more than one use is located on a site and the gross floor area of each use is less than the minimum for which loading berths are required but the aggregate gross floor area is greater than the minimum for which loading berths are required, off-street loading berths shall be provided as if the aggregate gross floor area were used for the use requiring the greatest number of loading berths.
- (11) Off-street loading facilities for a single use shall not be considered as providing required off-street loading facilities for any other use.
- (12) At the time of initial occupancy, major alterations or enlargement of a site, or of completion of construction of a structure or of a major alteration or enlargement of a structure, there shall be provided off-street loading berth requirements. The number of loading berths provided for a major alteration or enlargement of a site or structure shall be in addition to the number existing prior to the alteration or enlargement.
- (13) Space allocated to any off-street loading berth shall not be used to satisfy the space requirements for any off-street parking facility.

(Prior Code, § 21-6-13)

§ 154.106 MISCELLANEOUS REQUIREMENTS.

- (A) *Glare and lighting.* Any lighting used to illuminate an off-street parking area, sign, or other structure shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Base incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way.

Any light or combination of lights which cause light on a public street, other than lights specifically intended for that purpose, shall not exceed one foot candle (meter reading) as measure from the center line of the street. Any light or combination of lights which cast light on residential property shall not exceed four foot candles (meter reading) as measured from the property. A photometric plan will be required to display this information.

- (B) *Surface-water ponding.* Natural ponding areas shall be retained as much as possible or, if necessary, enlarged or modified as directed by the City Engineer to restrict the off-site runoff subject to city subdivision requirements for stormwater runoff control.
- (C) *Storage; exterior displays.* All materials, supplies, merchandise, or other similar matter not on display for direct sale, rental, or lease to the ultimate consumer or user shall be stored within the confines of a 100% opaque wall or fence not less than six feet tall. Merchandise which is offered for sale as described may be displayed beyond the confines of a building in any general business zone, but the area occupied by the outdoor display shall not constitute a greater number of square feet than 10% of the ground floor area of the building housing the principal use, unless the merchandise is a type customarily displayed outdoors, such as automobiles and garden supplies. No storage of any type shall be permitted within the one-half of the required front or side street setback nearest the street nor within any required interior side or rear setback.
- (D) *Trash and garbage incinerators; storage.* No exterior incineration of trash or garbage is permissible. No exterior storage of trash or garbage is permissible except in an accessory building enclosed by walls and roof or in closed containers within a totally screened area.
- (E) *Refuse containers.* It shall be the duty of the owner or developer of all new single-family residential construction and development within the city, when the development is not subject to the provisions of the city subdivision ordinance with respect to refuse containers, to supply at his or her expense refuse containers. The type of the containers shall be approved by the City Engineer.
- (F) *Smoke, dust, and other particulate matter.* The emission of smoke, dust, and other particulate matter shall be in compliance with the Maricopa County Air Quality Department.
- (G) *Bulk storage (liquid).* All uses associated with bulk storage of all gasoline, liquid fertilizer, chemicals, flammable, and similar liquids shall comply with Uniform Building and Fire Code requirements and City supplements and Maricopa County regulations, and shall be stored underground, except in the EI district when approved by the Fire Chief.
- (H) *Water quality, hazardous wastes, and wastewater.* Discharge of hazardous waste, chemicals, and wastewater will be subject to Arizona Department of Health Services, Division of Environmental Health Standards.
- (I) *Odors.* The emission of odors by any use shall be in compliance with city standards and regulations.
- (J) *Noise.* It shall be prohibited to disturb the peace or quiet of a neighborhood, family

or person by making or emitting unreasonable noise. Noise that exceeds 55 decibels, measured at the property line of the source, between 10:00 p.m. and 6:00 a.m. is presumed unreasonable.

(Prior Code, § 21-6-14) (Ord. O16-03-03, passed 3-1-2016)

§ 154.107 NON-CONFORMING USES AND STRUCTURES.

- (A) Any structure or use lawfully existing upon the effective date of this chapter may be continued at the size and in the manner of operation existing upon that date except as hereinafter specified and except for any uses previously approved as special, conditional, or temporary uses, which shall be lawful only so long as all terms originally approved are met, including time limitations.
- (B) The right to operate and maintain a non-conforming use shall terminate when the structure or structures housing the use are removed, razed, or remodeled to the extent of 50% of the structure's fair market value as determined by the last equalized assessment role of the County of Maricopa, unless the condition was created as described in division (F) or (H) below.
- (C) When any lawful, non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.
- (D) Whenever a lawful non-conforming use of a building or structure has been damaged by fire, flood, explosion, earthquake, war, riot, or act of God, to an extent greater than 50% of its originally appraised value, it shall not be reconstructed, but the property shall revert to a conforming use.
- (E) Whenever a lawful non-conforming use of a building or structure or land is discontinued for a period of 90 days, any future use of the building or structure or land shall be in conformity with the provisions of this chapter.
- (F) Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary structural repairs, provided the structural repairs do not enlarge or intensify the non-conforming use.
- (G) A lawful non-conforming use shall not be changed except in conformance with the use requirements of the zone in which it is located.
- (H) Alterations may be made to a structure or building containing lawful non-conforming residential units when they will improve the livability thereof, providing they will not increase the number of dwelling units.
- (I) Existing lots.
 - (1) At the time of the enactment of this chapter, if any owner of a plot of land consisting of one or more adjacent lots in a subdivision of record does not own sufficient contiguous land to enable him or her to conform to the minimum lot size requirements or does not have sufficient lot width to conform to the minimum lot width requirements, the plot of land may nevertheless be used as a building site. The dimensional requirements of the district in which the piece of land is located may be reduced by the smallest amount that will permit a

structure of acceptable size to be built upon the lot, the reduction to be determined by the Board of Adjustment.

- (2) No lot, even though it may consist of one or more adjacent lots in the same ownership at the time of passage of this chapter, shall be reduced in size so that lot width or size of yards or lot area per family or any other requirement of this chapter is not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

(Prior Code, § 21-6-16) (Ord. O11-09-17, passed 9-22-2011)

SIGN REGULATIONS

§ 154.125 PURPOSE

The purpose of this subchapter is to establish standards for the regulation of signs within the city in order to safeguard the public interest by:

- (A) Balancing public and private objectives by allowing adequate signage for business identification;
- (B) Promoting the free flow of traffic and protect pedestrians and motorists from injury and property damage which may be caused by cluttered, distracting, and illegible signage;
- (C) Preventing property damage and personal injury resulting from signs which are improperly constructed or poorly maintained;
- (D) Promoting the use of signs which are well designed, of appropriate scale, and integrated with surrounding buildings and landscape in order to meet the community's desire for quality development; and
- (E) Protecting property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape which affects the image of the city.

(Prior Code, § 21-6-10.1)

§ 154.126 APPLICABILITY

The requirements of this Code apply to all signs, sign structures, awnings, and other types of sign devices located within the City of El Mirage, except as specified in Subsection 154.127, below.

§ 154.127 EXEMPTIONS

The following are exempt from the regulations of this Code subject to the following, but may be subject to other Codes enacted by the City of El Mirage where applicable:

- (A) Signs which are not visible from a public roadway; however, these signs must comply with any building and construction provisions enacted by the City of El Mirage;

- (B) Signs inside a building.
- (C) Historical plaques or signs carved into a building or raised in integral relief on a building not exceeding four square feet.
- (D) Signs required by federal, state, or City law/authority.
- (E) Noncommercial flags.
- (F) Painted and/or applied wall accents and decorations.
- (G) Illuminated building accents and decorations.
- (H) Public Art – murals defined as works of graphic art hand-painted or applied to building walls, which contain no advertising, commercial messages, or logos; and/or that are not displayed in conjunction with a commercial enterprise which may obtain commercial gain from the display. Murals shall be approved as a conditional use permit by hearings of the Planning and Zoning Commission and City Council.
- (I) Name and Address – For single family residential properties up to two (2) signs indicating address, number and/or name of occupants of the premises that do not exceed two (2) square feet in area and located in an area not otherwise prohibited by this Ordinance. For all non-single family residential properties, every building or group of buildings may provide a street number sign as approved by the Zoning Administrator or designee which shall be clearly visible from the street. This sign shall not be computed as part of the total sign area permitted and shall not require a permit.
- (J) Decals - Decals and/or logos affixed to windows or door glass panels, such as those indicating membership in a business group or identifying credit cards accepted at the establishment.
- (K) Directional or informational signs of a noncommercial public or quasi-public nature, and community signs.
- (L) Sign repainting without changing wording, composition or colors; or minor nonstructural repairs.
- (M) On-premise signs that are relevant to the function of the property that are not visible beyond the boundaries of the lot or parcel upon which they are located, or from any public right of way.
- (N) Public Signs - Signs erected by government agencies or utilities, including traffic, utility, safety, railroad crossing and identification signs for public facilities and any signs erected by the City of El Mirage.
- (O) Security and Warning Signs - On-premise signs regulating the use of the premises, such as “no trespassing”, “no hunting” and “no soliciting” signs that do not exceed one (1) sign two (2) square feet in area in residential areas and one (1) sign five (5) square feet in area in commercial and industrial zones. These limitations shall not apply to the posting of conventional “no trespassing” signs in accordance with state law.

§ 154.128 PROHIBITIONS

The following signs are prohibited:

- (A) Signs containing strobe lights;
- (B) Abandoned sign structures, as defined by this Code;
- (C) Signs placed on or painted on a motor vehicle, boat or trailer parked with the primary purpose of providing signage not otherwise allowed by the Code; Prohibited is any sign displayed on a parked trailer or truck or other vehicle where the primary purpose of the vehicle is to advertise a product, service business, or other activity. This regulation shall permit the use of business logos, identification or advertising on vehicles primarily and actively used for business purposes and/or personal transportation.
- (D) No sign advertising a principal business or use shall be installed on any lot other than that on which the principal business is located unless allowed by subsection 154.132 or 154.133 below, or unless approved by the City as part of a City managed wayfinding program.
- (E) Signs in which a property owner accepts a fee for posting or maintaining a sign allowed under subsection 154.132 or 154.133 unless specifically modified herein.
- (F) Signs that imitate or resemble official traffic lights, signs or signals or signs that interfere with the effectiveness of any official traffic light, sign or signal.
- (G) Mechanically Moving Signs – An environmentally activated sign or other display with actual mechanical motion powered by natural, manual, mechanical, electrical or other means, including but not limited to pennant strings, streamers, spinners, propellers, and search lights.
- (H) Unshielded or Flashing Signs – Sign with flashing, blinking, or rotating lights, laser lights, search lights, or unshielded LED, incandescent, fluorescent, metal halide, or high or low pressure sodium light bulbs. For the purposes of this Code, a sign that has a change rate or dwell time of four (4) seconds or longer does not fit within the prohibition noted herein.
- (I) Posters and Handbills - Any signs affixed to any structures, trees or other natural vegetation, rocks or poles.
- (J) Simulated Traffic Signs and Obstructions - Any sign which may be confused with, or obstruct the view of, any authorized traffic sign or signal, obstruct the sight-distance triangle at any road intersection or extend into the public right-of-way.
- (K) Signs Adversely Affecting Safety - Signs which prevent free ingress or egress from any door, window, fire exit, or that prevent free access from one part of a roof to any other part.
- (L) Pedestrian Access - Signs located in a manner which interferes with pedestrian travel or poses a hazard to pedestrians;
- (M) Sign Emissions - No sign which emits smoke, visible vapors, particles, sound or odor shall be permitted. Open flames used to attract public attention to a place of business or to an advertising sign shall not be permitted.

- (N) Mirrors - No mirror device shall be used as part of a sign.
- (O) Tethered balloons or other hazards to aviation.
- (P) Situations where the code is silent - Where the Code is silent, or where the rules of this Code do not provide a basis for concluding that a sign is allowed, said sign is therefore prohibited.

§ 154.129 CONFLICTING REGULATIONS

- (A) Where there is a conflict between specific sign regulations and the general sign regulations of this Code, the specific sign regulations supersede the base sign regulations.
- (B) Where there is a conflict between a land use regulation and a structural regulation, or other conflicts not otherwise addressed by this section, the most restrictive applies.

§ 154.130 GENERAL PROVISIONS

The general provisions for all signs are listed below:

- (A) Design
 - (1) All signs hereafter constructed or maintained shall conform to the provisions of this Ordinance and the provisions of the City Code, promoting the health and welfare of the general public.
 - (2) Signs shall be designed to be consistent with the architectural treatment and overall character of the principal building and/or the overall site.
 - (3) Signs shall use materials or textures which are complementary to those used in the principal building and/or in the overall project.
 - (4) Signs shall use colors which match or complement the colors used on the building and/or in the overall project.
 - (5) No sign, other than an official traffic sign or similar sign, shall be constructed within the boundary of any street or public right-of-way unless specifically authorized herein, authorized by other City ordinances or regulations; or permitted by special City authorization.
 - (6) No temporary or permanent sign or sign structure, shall be erected or placed in a manner that would obscure vehicular visibility on or at the intersection of roadways; or at any location where its position, shape or color may interfere with or obstruct the view of, or be confused with, any authorized traffic sign, signal or device.
 - (7) All signs shall be designed and constructed to resist all weather conditions of central Arizona.
 - (8) The placement of new signs shall integrate with the established locational pattern of like sign types.
- (B) Materials
 - (1) All sign materials and components shall be of the quality and grade to resist

specified wind and seismic hazard conditions of central Arizona.

- (2) Combustible materials, other than approved plastics, shall not be used in the construction of any electronic signs.
- (3) Sign materials to be used on the building facade shall be compatible with the design of the face of the façade.

(C) Sign Anchors

- (1) All signs shall be securely anchored to resist the identified wind and seismic hazards existing in central Arizona.
- (2) There shall be no visible angle iron supports, guy wire, braces, or supports. All sign supports shall be an integral part of the sign design.

(D) Sign Illumination

Signs may be illuminated as provided by this Ordinance and specified by approved sign criteria, if applicable, in accordance with the following regulations:

- (1) Sign lighting shall be of low intensity with effective provisions made to minimize spillover of light beyond the actual sign face. Examples of permissible illumination methods would include, but not be limited to, the use of appropriate cut-off style light fixtures, the use of down-light fixtures adjusted so as to avoid light spillover and interference with the vision of motorists, and the use of muted internal illumination. Prohibited forms of light spillover include, but are not limited to, spillover into adjoining properties, roadways and airspace. Lighting must not interfere with the vision of oncoming motorists.
- (2) All illuminated signs shall adhere to the provisions provided in Section 154.106 unless specifically modified herein.

(E) Maintenance

- (1) The property owner or tenant on which the sign is located shall be responsible to maintain all signage that has been approved or that has been issued a permit. Periodic maintenance shall be undertaken by the owner or tenant so that the signage continues to conform to the conditions imposed by the sign permit and does not constitute any danger or hazard to public safety, and is free of peeling paint, major cracks, or loose, dangling, or torn materials.
- (2) Any damaged sign base shall be repaired within thirty (30) days after receipt of written presentation/rectification of the issue by the Zoning Administrator to the property owner. Upon request, said period may be extended by the Zoning Administrator to accommodate conditions outside the control of the sign owner.
- (3) All metal pole covers and sign cabinets shall not show any effect of rust and rust stains.
- (4) Any internally illuminated sign cabinets or sign panels which have been damaged shall not be illuminated until repaired.
- (5) If the sign is suspect to collapse, or determined to be unsafe by the City's

Inspector/Code Enforcement, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this Ordinance, the owner thereof, or the person or firm using the sign, shall, upon written notice by the City's Inspector/Code Enforcement, or immediately in the case of imminent danger, and in any case within not more than ten (10) days after notice shall make such sign conform to the provisions of this Ordinance; or remove the sign. If, within ten (10) days, full compliance with the notice has not occurred, the City's Inspector/Code Enforcement may remove, or cause such sign to be removed, at the sole expense of the owner and/or user of the sign. Upon request, said period may be extended by the Zoning Administrator to accommodate conditions outside the control of the sign owner.

- (6) The changeable letter panels of a permitted changeable copy sign shall be subject to the same maintenance requirements as imposed by the sign permit.

(F) Sign Inspections

All signs for which a permit is required shall be subject to the following inspections, unless waived by the Zoning Administrator or designee:

- (1) Footing inspections on all freestanding signs, including situations where square footage or panels are added to existing freestanding signs;
 - (a) Electrical inspections on all illuminated signs prior to clearance; and
 - (b) Final inspection which shall cover the sign location, structural members, and placement of the inspection marker in accordance with this subchapter.
- (2) Any person installing or erecting a permanent sign as regulated by this subchapter shall ensure that the signs are marked with the maker's name and the person or firm erecting the sign, the date of installation, and the permit number as approved by the City Manager or designee.

(G) Sign Height Measurements

Sign height measurements are determined as follows for each sign type:

- (1) Freestanding Signs: The overall height of a freestanding sign or sign structure is measured from the lowest point of the ground directly below the sign to the highest point of the freestanding sign or sign structure.
 - (a) Exception: Where a freestanding sign or sign structure is mounted along a roadway that has a higher grade level as compared to the grade level directly below the freestanding sign or sign structure, then the freestanding sign or structure's height will be measured from the top of curb or the crown of the adjacent roadway (where no curb exists) to the highest point of the freestanding sign or sign structure.
- (2) Wall Signs or Fascia Mounted Signs: Wall, fascia, mansard, and parapet signs. Height shall be the vertical distance to the top of the sign or sign structure from the base of the wall on which the sign is located.

(H) Sign Area Measurements

The "Sign Area" of each permitted sign shall be measured as follows:

- (1) Background Mounted Signs: Sign copy mounted or painted on a background panel or area distinctively painted, textured or constructed as a background for the sign copy shall be measured as that area within the outside dimensions of the background panel or surface. The base of a freestanding monument sign shall not be calculated as sign area unless said base contains signage.
- (2) Individual Mounted Signs: The area of a sign copy mounted or painted, as individual letters or graphics, against a wall or the fascia of a building or other structure that has not been painted, textured or otherwise altered to provide a distinctive background for the sign copy, shall be measured as the area enclosed by the smallest standard geometric shape or combination of geometric shapes capable of encompassing the perimeter of the background area of the sign.
- (3) Two-Part Signage: In instances in which a sign consists of individual elements such as letters, symbols, or other graphic objects or representations that are painted, attached to, or otherwise affixed to a surface such as a wall, window, canopy, awning, architectural projection, or to any surface not specifically designed to serve as a sign background, the sign area shall be based on the sum of the individual areas of the smallest geometric shape or combination of geometric shapes capable of encompassing the perimeters of the individual elements comprising the sign.
- (4) Sign Frames or Cabinets: The area of sign faces enclosed in frames or cabinets is determined based on the outer dimensions of the frame or cabinet
- (5) One Sign with one or more sign faces:
 - (a) One (1) face: Area of the single face only;
 - (b) Two (2) faces: If the interior angle between the two (2) faces is sixty (60) degrees or less, the sign area will be the total of one face only; if the angle between the two (2) sign faces is greater than sixty (60) degrees, the sign area will be the sum of the areas of the two (2) faces.
 - (c) Three (3) or more faces: The sign area will be 50% of the sum of the areas of all faces.
 - (d) Irregular Shaped Signs: To be measured based on the appropriate mathematical formula to obtain the sign area for a circle, an oval or irregularly shaped sign.
 - (e) Spherical, free-form, sculptural or other non-planar signs: The signage area shall be 50% of the sum of the sides of the of the areas using only the four (4) vertical sides of the smallest cube that will encompass a sign.

§ 154.131 TOTAL AGGREGATE SIGN AREA STANDARDS

The "Total Aggregate Sign Area" shall be the sum of all the sign areas of each allowable sign placed on a parcel with the following restrictions:

- (A) For all non-residential uses, the total aggregate sign area allowable to any business having an external business entrance shall not exceed the greater of fifty (50) square feet or one and a half (1.5) square feet per lineal foot of building frontage per business, but in no case more than three hundred (300) square feet per business.
- (B) All non-residential uses having only an external building wall facing a public street, shall be permitted exterior signage with a total aggregate sign area not to exceed fifty (50) square feet.
- (C) Non-residential uses having only an internal business entrance and no external wall facing a public street or public access driveway or public alley shall be limited to business identification signage on a multi-tenant building wall mounted sign as set forth in subsection 154.133(A)(10)
- (D) Businesses having building frontage greater than two hundred (200) feet in length may increase their allowed sign area by 0.5 square feet per one (1) lineal foot of building frontage in excess of two hundred (200) feet. Such additional sign area shall be for the exclusive use of said business and not transferable or reallocable to other businesses on the parcel.
- (E) Building frontage is determined by the measurement of the portion of the business facing the street or public access driveway or public alley. Multi-story building lineal footage is limited to the ground floor lineal footage measurement except as modified by the subsections below.

§ 154.132 STANDARDS BY SIGN TYPE

The criteria listed within this table describes the permitted conditions applicable for each sign type. This table also includes references to additional sign standards that may be applicable to each sign type.

Table S: SIGN REQUIREMENTS BY SIGN TYPE*									
Sign Type	Sign Permit Required	Part of Aggregate Sign Area	P=Permitted N=Not Permitted					Additional Sign Standards	Lighting Permitted
			Zoning Districts						
			NR/RA/SN/MP		MU/UC/TD**	CP/EI	TROD		
			Res. Use**	Non-Res. Use					
Permanent Signs									
Attached or Wall Mounted	Yes	Yes	P	P	P	P	P	154.133(A)	Yes
Awning/Canopy	Yes	Yes	N	P	P	P	P	154.133(B)	No
Billboards/Off-Premise	Yes	No	N	N	N	C	C	154.133(C)	Yes
Directional	Yes	No	N	P	P	P	P	154.133(D)	Yes
Directory	Yes	No	P	P	P	P	P	154.133(E)	Yes
Electronic Message Center	Yes	Yes	N	P	P	P	C	154.133(F)	Yes
Freestanding/Monument	Yes	Yes	P	P	P	P	P	154.133(G)	Yes
Gas Filled	No	No	N	N	P	P	P	154.133(H)	Yes
Projecting	Yes	Yes	N	P	P	P	P	154.133(I)	No
Window	Yes	Yes	N	P	P	P	P	154.133(J)	No
Temporary Signs									
A-Frame Sign	Yes	No	N	N	P	P	P	154.134(A)	No
Banner Sign	Yes	No	P	P	P	P	P	154.134(B)	No

Table S: SIGN REQUIREMENTS BY SIGN TYPE*									
Sign Type	Sign Permit Required	Part of Aggregate Sign Area	P=Permitted N=Not Permitted					Additional Sign Standards	Lighting Permitted
			Zoning Districts						
			NR/RA/SN/MP		MU/UC/TD**	CP/EI	TROD		
			Res. Use**	Non-Res. Use					
Promotional Sign	Yes	No	N	P	P	P	P	154.134(C)	No
Sign Walker	Yes	No	N	N	P	P	P	154.134(D)	No
Weekend Directional	No	No	P	P	P	P		154.134(E)	No
Window	No	No		P	P	P		154.134(F)	No
Yard Sign	Yes	No	P	P	P	P		154.134(G)	No

* All sign criteria listed in this table is subject to and may be further modified by their respective additional sign standards provided in Section 154.133 or as stated elsewhere within this Ordinance.

** Permitted signage for Residential Uses shall be limited to residential subdivisions or multi-family residential developments and is not applicable to individual residential parcels, units or home occupations.

§ 154.133 ADDITIONAL STANDARDS BY PERMANENT SIGN TYPE

This section describes the permitted conditions and applicable standards for each permanent sign type listed within Table S.

(A) Attached or Wall-Mounted Signs

Attached or wall mounted signs are permitted as identified in Table S, subject to the conditions identified below:

- (1) Attached or Wall-Mounted signs shall be counted as a portion of the total aggregate sign area.
- (2) Attached or wall mounted signs shall be supported solely by the façade or exterior building face.
- (3) One (1) attached sign per street frontage is permitted per business in all non-residential zoning districts.
- (4) Attached or wall mounted signs may project no more than twelve (12) inches from the surface of the wall to which it is attached or for halo illuminated signs must not exceed one and three-quarter (1.75) inch separation from the wall.
- (5) Attached or wall mounted signs shall not extend above the wall, parapet, or fascia upon which it is placed.
- (6) Attached or wall mounted signs are permitted on a roof surface if the roof is within twenty-five (25) degrees of vertical.
- (7) Attached or wall mounted signs shall not exceed twenty-five (25) feet in height.
- (8) Residential Subdivisions and Multi-family developments shall be allowed one (1) attached or wall mounted sign not to exceed twenty-four (24) square feet per subdivision/development entrance or six (6) square feet per multi-family building.

- (9) For all non-residential uses, attached or wall mounted signs shall not exceed more than the total aggregate sign area allowed as determined by Section 154.131.
- (10) Multi-tenant building wall mounted identification signs are permitted in the MU, UC, TD, CP and EI zoning districts subject to the conditions identified below:
 - (a) The use of a multi-tenant building wall mounted identification sign shall take the place of single business wall mounted signs and shall be counted as a portion of the total aggregate sign area.
 - (i) The maximum number of multi-tenant signs for each building shall be limited to one (1) sign per street frontage.
 - (ii) The maximum area of the multi-tenant sign shall not exceed the greater of fifty (50) square feet or one and a half (1.5) square feet per lineal foot of combined building frontage for each business, but in no case more than three hundred (300) square feet per multi-tenant sign.

(B) Awning/Canopy Sign

Awning/canopy signs are permitted as identified in Table S, subject to the conditions identified below:

- (1) Awning/Canopy signs shall be counted as a portion of the total aggregate sign area.
- (2) Sign copy, including logos, shall not exceed one and a half (1.5) square feet per lineal foot of building frontage.
- (3) Such a sign shall only be displayed on ground floor awnings.
- (4) If encroaching over an abutting City right-of-way line, a revocable City encroachment permit or other City Council–granted authorization approved by the City Engineer and the City Attorney shall be required.

(C) Billboards & Off-Premise Signs

Billboards are permitted as identified in Table S, subject to the conditions identified below:

- (1) Billboards may be approved by conditional use permit along Olive Avenue or Northern Avenue (Parkway), and along El Mirage Road and Dysart Road, south of Peoria Avenue, but no more than two billboards shall be approved on Olive Avenue, El Mirage Road or Dysart Road and no more than five billboards on Northern Avenue (Parkway) without Council approval of a variance or development agreement.
- (2) Billboards shall not exceed 400 square feet in area or a height of 40 feet above the nearest curb or 60 feet above grade along Olive Avenue.
- (3) New digital or static billboards installed along Northern Avenue (Parkway) shall not exceed 672 square feet per face, per direction in area or a height of

65 feet above the nearest curb or grade.

- (4) Graphics shall not include animated, flashing, scrolling, intermittent, or full motion video elements. There shall be a minimum rotation time of eight seconds between images.
- (5) The signs shall have the City of El Mirage logo integrated within the design. The appropriate application and amount of city identification is subject to city approval via the conditional use permit process.
- (6) Network time of one image for at least eight seconds shall be made available to the city for messaging on four digital sign faces.
- (7) No new billboards shall be permitted within 1,000 feet in any direction from an existing billboard. All permits for billboards must receive prior written approval from Luke Air Force Base and other governmental entities if applicable.
- (8) A one-time fee of \$6,000 per site will be assessed with approval of a digital board and payable to the city.

Off-premise signs are permitted as identified in Table S, subject to the conditions identified below:

- (1) Off-premise signs shall require approval of a Conditional Use Permit.
- (2) Off-premise signs shall only be permitted in the E/I zoning district.
- (3) Off-premise signs shall be limited to placement at arterial to arterial or arterial to collector intersections and shall be located within 60 feet of the intersection right of way line.
- (4) Off-premise signs shall be limited to one sign per each leg of an intersection.
- (5) Off-premise signs shall not exceed 32 square feet in area or eight feet in height. No off-premise sign shall be located in public rights-of-way or block the sight visibility triangle of any intersection or drive.

(D) Directional Sign

Directional signs are permitted as identified in Table S, subject to the conditions identified below:

- (1) Non-residential uses shall be allowed a maximum of one (1) directional sign permitted per drive or parking entry with a maximum area of six (6) square feet and a maximum height of three (3) feet.

(E) Directory Sign

Directory signs to assist the public, law enforcement and emergency personnel locate a particular address or individual unit are permitted as identified in Table S, subject to the conditions identified below:

- (1) Properties occupied by three (3) or more buildings shall have an internally illuminated directory that shows the street address, layout of the complex, the location of the viewer and the unit designations within the complex.

- (2) Shall not exceed a maximum height of six (6) feet or sign area of twenty-four (24) square feet
- (3) Shall not include any advertising signage

(F) Electronic Message Center

Electronic Message Center (EMC) signs with intermittent, scrolling or flashing illumination, are permitted as identified in Table S, subject to the conditions identified below:

- (1) EMC signs shall be counted as a portion of the total aggregate sign area.
- (2) Signs must be entirely located on-site.
- (3) There shall be no moving or flashing green or red features that could be mistaken as traffic control devices.
- (4) Digital message portion of the sign shall not exceed fifty (50) percent of sign area.
- (5) Sign shall be installed at least one hundred and fifty (150) feet from a designated crosswalk.
- (6) Sign shall not be installed within three hundred and fifty (350) feet of a residential structure.
- (7) EMC signs shall be separated from other EMC signs by a minimum of one thousand (1,000) feet.
- (8) All continuous loop image progression occurring on the face or copy of the sign must have a minimum interval time of eight (8) seconds.
- (9) Illumination of EMC signs during daylight operations shall not exceed 3.85-watt wedge base lamps, and shall not exceed 1.925-watt base wedge lamps during nighttime operation.
- (10) All EMC signs shall have automatic dimming controls, either by photocell (hardwired) or via software settings, to reduce the illumination intensity of the sign as ambient lighting conditions change.
- (11) EMC signs shall not be illuminated more than thirty (30) minutes before the operation is open to the public or more than thirty (30) minutes after the time at which the operation is closed to the public or 10:00p.m., whichever is later.

(G) Freestanding/Monument Signs

Freestanding/Monument signs are permitted as identified in Table S, subject to the conditions identified below:

- (1) For single use buildings, freestanding/monument signs shall be counted as a portion of the total aggregate sign area. For single or multi-building developments with multiple tenants, freestanding/monument signs shall not be counted as a portion of the total aggregate sign area.
- (2) Single use buildings, complexes, or centers on a single lot are allowed one (1)

freestanding/monument sign per street frontage, or one (1) freestanding/monument sign for every two hundred (200) feet of street frontage, whichever is greater. The second sign must be at least one hundred feet (100) from the first.

- (3) Single use buildings, complexes, or centers on a single lot, less than five (5) acres in net site area, the maximum height of the sign, including any supporting structures shall be eight (8) feet, maximum area shall be forty-eight (48) square feet.
- (4) Single use buildings, complexes, or centers on a single lot, five (5) acres in net site area or greater, the maximum height of the sign, including any supporting structures shall be eight (8) feet, maximum area shall be sixty (60) square feet.
- (5) A portion of the sign may have changeable copy, which shall not exceed fifty (50) percent of sign area.
- (6) Shall have monument-type base of masonry construction or other architectural grade material with an aggregate width of at least 50% of the width of the sign.
- (7) Freestanding or monument signs located in the TROD district shall either be located on low planter walls or incorporated with distinctive elements of the building's architectural style and scale.
- (8) Address numerals shall be included on all freestanding sign structures. The numerals shall be at least six (6) inches in height.
- (9) No portion of the sign shall be located within three (3) feet of the front property line or six (6) feet of a side or rear property line.
- (10) Freestanding/monument signs for residential uses in RA, SN, MP zoning districts shall be limited to Residential Subdivisions or Multi-Family Developments only, subject to the conditions identified below:
 - (a) The maximum height shall be six (6) feet and the maximum area shall be twenty-four (24) square feet.
 - (b) A maximum of one (1) sign shall be located at each non-local street access to the identified subdivision or multi-family development.
 - (c) The text area of the sign may be back-lit such that the source of illumination is not visible; provided, however, that back-lit, non-opaque panels are not permitted.
 - (d) The text area of the sign may be illuminated by fully shielded ground mounted directional lighting.

(H) Gas Filled Signs

Gas filled signs (neon, argon, krypton, etc.) are permitted as identified in Table S, subject to the conditions identified below:

- (1) Gas filled signs are limited to interior window display only (may not be used on the exterior of a building).

- (2) The total area of gas filled signage for any one (1) business shall be six (6) square feet.
- (3) No more than two (2) gas filled signs shall be allowed for any one (1) business.

(I) Projecting Signs

Projecting signs are permitted as identified in Table S, subject to the conditions identified below:

- (1) Such signs shall be included in the total aggregate sign area.
- (2) One projecting sign is permitted for each business front and shall be adjacent to the business it identifies.
- (3) Such signs shall only be permitted if they are affixed to a building and shall not project into the public right-of-way unless within the TROD.
- (4) The maximum area for each projecting sign for any one (1) business shall be fourteen (14) square feet unless amended through the conditional use permit process.
- (5) The maximum distance between the wall and the outer edge of the sign shall be 4 feet, or if a paved public sidewalk is below, 50% of the width of the sidewalk, whichever is less.
- (6) Such signs shall be located so that the base edge of the sign is not less than seven (7) feet, six (6) inches from the sidewalk or ground.
- (7) Such signs shall require both a City sign permit and, if encroaching over an abutting City right-of-way line, a revocable City encroachment permit or other City Council–granted authorization is approved by the City Engineer and the City Attorney.

(J) Window Signs

Window signs are permitted as identified in Table S, subject to the conditions identified below:

- (1) Window signs that are permanent shall be included in the total aggregate sign area.
- (2) Permanent window signage shall be limited to twenty-five (25) percent of the total window area in which it is placed.
- (3) Permanent window signs shall be prepared by a professional sign company.

§ 154.134 ADDITIONAL STANDARDS BY TEMPORARY SIGN TYPE

Signs that meet the standards of this subsection are exempt from the standards for permanent signs and are not counted in the total aggregate sign area allowed on any particular property or site.

(A) A-Frame Signs

A frame signs are permitted as identified in Table S, subject to the conditions identified below:

- (1) Uses permitted to display A-frame signs may display a maximum of one such sign per street, public access driveway, or public alley frontage. Such signs shall be located as follows:
 - (a) On the same property as the use.
 - (b) Within the right-of-way of the nearest adjacent public street to the use.
 - (2) The location of A-frame signs shall be restricted as follows:
 - (a) Such signs shall not be located on the paved portion of any public street, any sidewalk, or any median.
 - (b) Such signs shall not be located within a designated parking or loading area.
 - (c) Signs shall not be located in a manner that poses a traffic vision hazard.
 - (d) A-Frame signs must be placed at least one (1) foot behind the curb or public sidewalk. If no curb or public sidewalk is present, signs shall be located at least five (5) feet from the edge of the paved portion of the public right-of-way.
 - (e) Businesses within the TROD District may use A-frame signs on public or private sidewalks, provided the portable sign does not obstruct the pedestrian walkways and shall only be placed within the first three (3) feet of the sidewalk located immediately adjacent to the curb, leaving a minimum sidewalk clearance of five (5) feet.
 - (3) No sign may be greater than twelve (12) square feet per side with a maximum height of four (4) feet.
 - (4) Signs shall be weighted down and constructed of wrought iron; sheet metal; 1/8 inch thick plastic; or of wood that is at least 3/8 inch thick. No other materials are acceptable.
 - (5) Signs must be manufactured by a licensed and bonded sign company.
 - (6) Signs shall be clean and in good working order.
 - (7) Attachments to signs are limited to balloons flown no higher than six (6) feet from the ground. If attachments are used, the A-Frame sign must be set back from the curb and/or sidewalk a minimum of three (3) feet.
 - (8) Landscaping cannot be modified or damaged to accommodate an A-frame sign.
 - (9) Signs shall only be displayed during business hours.
- (B) Banner Signs

Banner Signs are permitted as identified in Table S, subject to the conditions identified below:

- (1) In districts that allow residential development, temporary banners are not permitted on sites with individual dwelling units. Banners for holidays and special family events are excepted.
- (2) On permitted multi-family residential or non-residential uses in all zoning districts, one banner no larger than thirty-two (32) square feet in size is permitted per development or business street frontage. Except, banner signs associated with a temporary or non-profit business/organization may request an increase of the maximum banner size subject to sign permit approval.
- (3) Banner signs shall be securely affixed to the wall or fence of a permanent structure or building, where feasible. No banner shall exceed the height of the prevailing roofline, or exceed the building height allowed by this Ordinance, whichever is less.
- (4) Banner signs shall not be located in a manner that poses a traffic vision hazard, shall be maintained in a workmanlike manner and shall not be placed within the public right-of-way.
- (5) Shall be displayed for a maximum of nine (9) days per occurrence, up to a total of six (6) occurrences per calendar year. Except, banner signs associated with a temporary or non-profit business/organization may request an extension of the maximum time limit subject to sign permit approval.

(C) Promotional Signs

- (1) No more than two promotional signs shall be allowed per business per street frontage. Size and placement shall be a maximum of 15 square feet in area, and 15 feet in height with at least 25 feet between each one. Promotional signs shall be prohibited in public right of ways. Promotional signs shall only be displayed during business hours of the associated business. Signs shall be properly maintained and replaced if torn or faded in color.
- (2) 2) Any promotional pennants, balloons, streamers, flags, inflatable structures, character or product likenesses, and other non-merchandise displays must be associated with an active promotional event and shall be displayed for not more than 30 consecutive days in any 3-month period, and not more than 60 days in any calendar year. Such promotional signage shall be erected not more than 5 days prior to the event, and shall be removed not more than 1 day after the event.

(D) Sign Walkers

Sign walkers are permitted as identified in Table S, subject to the conditions identified below:

- (1) If located within the right-of-way, a sign walker shall be positioned behind the curb or, if no curb is present, ten (10) feet behind the edge of pavement.
- (2) Sign walkers shall not erect or place tents, temporary structures, umbrellas, chairs or stools within the public right-of-way or adjacent property.
- (3) Sign walkers shall not be positioned so as to obstruct vehicle sight lines.

- (4) Sign walkers shall not obstruct the free movement of pedestrians on sidewalks.
- (5) Sign walkers are not allowed in the medians of public streets.
- (6) The sign worn, held or balanced by a sign walker shall be a maximum of five (5) square feet in size and may be double sided.

(E) Weekend Directional Signs

Weekend Directional Signs are permitted as identified in Table S, subject to the conditions identified below:

- (1) Weekend signs may be placed Friday through Sunday.
- (2) Must be placed at least one (1) foot behind the curb. If no curb is present, signs shall be located at least one (1) foot from the edge of the paved portion of the public right-of-way. Weekend directional signs shall not be placed on sidewalks or within the center medians that divide portions of paved or unpaved roadways.
- (3) The maximum size shall not exceed four (4) square feet.
- (4) The maximum height shall not exceed three (3) feet.
- (5) Signs shall be constructed of heavy duty, weather-resistant material, such as laminated paper, plastic foam core, or similar material. Placement stakes shall be wood or heavy gauge wire.
- (6) Weekend directional signs shall not be attached to any utility pole or box, light pole, street sign, tree or any structure within the public right-of-way.

(F) Window Decorations/Painting

- (1) Temporary window decorations/painting signs are permitted in all zoning districts and shall not require a sign permit or be considered part of the total aggregate sign area.
- (2) Holiday decorations may be displayed on a temporary basis for civic, patriotic or religious holidays.
- (3) The coverage of window decoration/painting and signage must not exceed seventy-five (75) percent of the total window area.
- (4) Window decoration shall not contain any form of advertising copy, including but not limited to, name of business, logo or sale language.

(G) Yard Signs

Yard Signs are permitted as identified in Table S, subject to the conditions identified below:

- (1) For single family residential uses in permitted zoning districts, yard signs shall be limited to one sign per property with a maximum size not to exceed six (6) square feet and maximum height of six (6) feet.

- (2) For multi-family residential uses in permitted zoning districts, yard signs shall be limited to one sign per property with a maximum size not to exceed eight (8) square feet and maximum height of six (6) feet.
- (3) On non-residential uses in all zoning districts, yard signs shall be limited to one sign per property with a maximum size not to exceed thirty-two (32) square feet and a maximum height of 8 feet.
- (4) Temporary yard signs with a sign area six (6) square feet or less shall not require a sign permit, provided the sign complies with the requirements of this subsection.
- (5) Shall not be located within any right-of-way whether dedicated or owned in fee simple or as an easement.
- (6) Shall only be located on property that is owned or leased by the person whose sign it is and must not be placed on any utility pole, street light, similar object, or on public property.
- (7) Shall not be illuminated.
- (8) Shall be displayed for a maximum of six (6) months per occurrence, with up to one extension subject to approval per calendar year.

(H) Political Signs

For regulations related to political signs please refer to Arizona Revised Statutes §16-1019. During the period established under Arizona Revised Statutes 16-1019(H), the State's Political Sign requirements apply. Outside of the period established under Arizona Revised Statutes 16-1019(H), the El Mirage Sign Ordinance applies.

§ 154.135 MASTER SIGN PROGRAM

(A) Purpose

To provide a mechanism by which the sign regulations established in this Section can be modified to ensure that signs for a uniquely planned or designed development or area are most appropriate for that particular development or area, a Master Sign Program may be requested per the guidelines identified below.

(B) Master Sign Program Criteria

- (1) A master sign program may be:
 - (a) Requested by the developer or owner of a planned area development; or
 - (b) Requested by the developer, owner or master lessor of a multi-tenant development or parcel that is a minimum of ten (10) gross acres; or
 - (c) Initiated by the City for a particular area in furtherance of a specific plan, revitalization program, overlay zone, or other area wide planning tool.
- (2) A master sign program may include provisions that are more and/or less

restrictive than the regulations established in this Section as related to issues of size, location, color, construction materials and design of the sign but without consideration as to the message to be displayed on the sign based on the particular unique features of the development.

- (3) Each master sign program applicant shall show why the modifications requested are warranted and how the total sign proposal for the development meets, or balances, the general purpose and intent of this Section.
- (4) A master sign program application shall be approved, conditionally approved, or disapproved through the conditional use permit process.
- (5) A new master sign program approval shall be obtained for substantial revisions to the original approval, as determined by the Zoning Administrator.

(C) Master Sign Program Evaluation Criteria

Any master sign program shall be evaluated based upon the following criteria:

(1) Placement

- (a) On-premises. All signs shall be placed where they are sufficiently visible and readable for their function. Factors to be considered shall include the purpose of the sign, its location relative to traffic movement and access points, site features, structures, and sign orientation relative to viewing distances and viewing angles.
- (b) Off-premises. Off-premises signs are permitted only on vacant property with the written permission of the property owner.

(2) Quantity

- (a) On-premises. The number of signs that may be approved within any planned area development or multiple tenant complex shall be no greater than that required to provide project identification and entry signs, internal circulation and directional information to destinations and development sub-areas, and business identification. Factors to be considered shall include the size of the development, the number of development sub-areas, and the division or integration of sign function.
- (b) Off-premises. A maximum of one off-premises advertising sign is permitted for a planned area development or multiple tenant complex which is equal to or less than 160 acres. A maximum of two off-premises advertising signs are permitted for a planned area development.

(3) Size

- (a) On-premises. All signs shall be no larger than necessary for visibility and readability. Factors to be considered in determining appropriate size shall include topography, volume of traffic, speed of traffic, visibility range, proximity of adjacent uses, amount of sign copy, placement of display (location and height), lettering style, and presence of distractive influences. In no event shall a plan contain a freestanding or wall sign

which exceed by more than 50% any maximum height standard.

- (b) Off-premises. Signs shall have a maximum area of 160 square feet and a maximum height of 15 feet. Permitted time is not to exceed 90% of home sales.
- (4) Materials
 - (a) Sign materials shall be compatible with architectural and/or natural features of the project.
 - (b) This may be accomplished through similarity of materials for sign structures and faces, the use of complementary colors, similarity of architectural style, and/or the use of a consistent lettering style or copy.
- (5) Illumination
 - (a) Illumination shall be in accordance with § 154.130(D).

§ 154.136 PERMITS AND ENFORCEMENT

(A) Sign permit applications.

- (1) Application for a permit shall be on the official form provided by the city.
- (2) The Zoning Administrator or designee shall not issue permits for the use, construction, reconstruction, or alteration of any sign structure until adequate information is submitted to determine the proposed action is in conformance with the provisions of these sign regulations.
- (3) The Zoning Administrator or designee may, in writing, suspend or revoke a permit issued under provisions of this section whenever the permit is issued on the basis of a material omission or misstatement of fact, or in violation of this subchapter.
- (4) No permit for a sign issued by the city shall be deemed to constitute permission or authorization to maintain a public or private nuisance, nor shall any permit issued hereunder constitute a defense in any action to abate a nuisance.
- (5) Whenever any sign for which a permit is required by this subchapter has been placed, erected, or displayed without first obtaining a permit, a special investigation shall be made before a permit may be issued. An investigation fee equal to, and in addition to, the permit fee shall be collected.
- (6) Whenever any sign requires an electrical permit, both the sign permit and the electrical permit must be issued and obtained simultaneously or may be included under one sign permit.

(B) Permit fees and refunds.

- (1) Before the city issues any sign permit required by this subchapter, the applicant shall pay all fees in accordance with the schedule as set by City Council resolution.

- (2) For refunds, the applicant must submit a letter of request along with a copy of the sign permit to the Zoning Administrator or designee. Refunds shall be permitted in accordance with the provisions of the adopted building codes and city policies.
- (C) Variances, site plan procedures, and administrative appeals.
- (1) An application request for a variance from the provisions of this subchapter shall be submitted to the Zoning Administrator or designee and acted upon by the Board of Adjustment in accordance with this chapter, as it exists, or as it may be amended.
 - (2) An application for conditional use permits required by this subchapter shall be submitted to the Zoning Administrator or designee and acted upon by the Planning and Zoning Commission in accordance with this chapter, as it exists, or as it may be amended.
 - (3) An application for administrative appeal shall be submitted to the Zoning Administrator or designee and acted upon by the Board of Adjustment in accordance with this chapter as it exists or as it may be amended.
- (D) *Violations and revocations of permits.* The Zoning Administrator or designee may revoke any permit authorizing the erection of any sign which is in violation of the permit of this subchapter. The following is the revocation process.
- (1) Notice of the Zoning Administrator or designee's decision to revoke a sign permit shall be served upon the applicant of the permit:
 - (a) By delivering in person a copy of the notice to the applicant of the permit or to one of its officers;
 - (b) By leaving a copy of the notice with any person in charge of the premises;
 - (c) In the event no such person can be found on the premises, by affixing a copy of the notice in a conspicuous position at an entrance to the premises and by the certified mailing of another copy of the notice to the last known post office address of the applicant of the permit; or
 - (d) By posting a copy of the notice on the sign in violation and by the certified mailing of another copy of the notice to the last know post office address of the applicant of the permit.
 - (i) The applicant of the permit may appeal the decision of the Zoning Administrator or designee to revoke the permit to the Board of Adjustment, in writing, within 15 days from the date when the notice was served.
 - (ii) If no appeal has been taken at the end of 15 days, the permit is revoked. The Zoning Administrator or designee shall then initiate the process for the removal of the illegal sign in accordance with division (E) below.
- (E) Removal of signs.

- (1) The Zoning Administrator or designee is authorized to require removal of any illegal sign under the following provisions.
 - (2) Before bringing an action to require removal of any illegal sign, the Zoning Administrator or designee shall give written notice to the owner of the sign or the owner of the premises on which the sign is located. The notice shall state the violation charged and the reasons and grounds for removal, specifying the deficiencies or defects and what repairs, if any, will make the sign conform to the requirements of this subchapter, and specify that the sign must be removed or made to conform with the provisions of this subchapter with the notice period provided below.
 - (a) The notice period for permanent signs shall be ten days.
 - (b) The notice period for temporary signs shall be 48 hours.
 - (c) Re-erection of any sign or substantially similar sign on the same premises after a compliance notice has been issued shall be deemed a continuation of the original violation.
 - (3) Service of notice shall be made personally on the owner or lessee, or by certified mail addressed to the owner or lessee at the address specified in the permit or the last known address.
 - (4) If the owner or lessee of the premises upon which the sign is located has not demonstrated to the satisfaction of the Zoning Administrator or designee that the sign has been removed or brought into compliance with the provisions of this subchapter by the end of the notice period, then the Zoning Administrator or designee shall certify the violations to the City Attorney for prosecution.
 - (5) The Zoning Administrator or designee may remove any illegal sign which exists or has been re-erected after the expiration date of the notice period, if the owner or lessee of the premises has been issued a compliance notice at least once before for the same violation involving the same or similar sign.
 - (6) Notwithstanding the above, the Zoning Administrator or designee may cause the immediate removal or repair (without notice to the owner of the sign, or of the property on which it is located) of any unsafe or defective sign or signs that creates an immediate hazard to persons or property, or of any sign which is placed in any right-of-way in violation of § 151.002
 - (7) If the city removes all illegal sign pursuant to this section, the city may petition the court to recover the costs, expenses, and attorney fees which the city incurred in removing the illegal sign and in bringing the petition for recovery. If the court finds by a preponderance of the evidence that the city is entitled to recover, the court may order the defendant to pay to the city the amount of the costs, expenses, and attorney fees reasonably incurred by the city, and may enter judgment in favor of the city and against the defendant in that amount.
- (F) *Prosecution of violations.* Every action to prosecute a violation of this subchapter shall be prosecuted in the manner provided in city code.
- (G) *Liability for damages.* The provisions of this subchapter shall not be construed to

relieve or to limit in any way, the responsibility or liability of any person, firm, or corporation which erects or owns any sign, for personal injury or property damage caused by the sign; nor shall the provision of this subchapter be construed to impose upon the city's officers, City Manager, or the city employees, any responsibility or liability by reasons of the approval of any sign under the provisions of this subchapter.

(Prior Code, § 21-6-10.11)

§ 154.137 FLAGS AND FLAGPOLES.

- (A) It is unlawful for any person to place or install a flag in any zone except as permitted within this subchapter.
- (B) Any person placing or installing a flag shall comply with the following provisions.
- (1) A maximum of three flags on any one lot or parcel shall be allowed in any non-residential use.
 - (2) All residential uses shall not have more than one flagpole per parcel.
 - (3) No flagpole shall exceed the following heights per specified zone:
 - (a) Parcels zoned NR, RA, SN, MP shall not exceed 30 feet.
 - (b) Parcels zoned MU, UC, TD, CP, EI shall not exceed 35 feet.
 - (4) Flagpoles shall not be placed except within a landscaped setting of not less than 200 square feet.
 - (5) Illumination of any flag or flagpole shall be in accordance with § 154.130(D).
 - (6) Nothing in this section shall apply to any flag or flagpole located on any parcel owned or operated by any federal, state, or local government for a governmental purpose.
 - (7) *Flagpoles of height in excess of 35 feet.*
 - (a) A flagpole shall not exceed 35 feet in height, except for those displaying the flags of the United States of America or the State of Arizona which may be erected to a height not to exceed 100 feet.
 - (b) Any lawful flag may be flown in conjunction with the United States and/or the State of Arizona flag(s), shall be flown beneath them and shall not exceed either in size.
 - (c) No more than one flagpole in excess of 35 feet shall be placed in a mobile home park, a golf course, or on a commercial site.
 - (d) No flagpole in excess of 35 feet shall be placed on a residential lot.

(Prior Code, § 21-6-10.7) (Ord. O13-07-11, passed 7-9-2013) Penalty, see § 154.999

§ 154.138 NON-CONFORMING SIGNS.

- (A) *Maintenance.* Any person owning or maintaining a legal non-conforming sign shall maintain the sign in good condition pursuant to § 154.130(E).
- (B) *Alterations.* It is unlawful for any person owning or maintaining a legal, non-conforming sign or sign structure to alter, reconstruct, replace, or relocate the sign other than to comply with this subchapter, except reasonable repair and maintenance limited to a maximum total of 50% of the sign's or structure's reproduction cost as determined from an appraisal by a competent appraiser.
- (C) *Removal.*
- (1) Any person owning or maintaining a legal, non-conforming sign shall remove or bring the sign into conformance with this subchapter when:
 - (a) More than 50% of the reproduction cost of the sign or sign structure has been damaged or destroyed or by any means taken down;
 - (b) The condition of the sign has deteriorated to such an extent that the cost of repairs exceed 50% of the reproduction cost of the sign or sign structure as determined from an appraisal by a competent appraiser; and/or
 - (c) The use of the sign or the property on which it is located has ceased, become vacant, or been unoccupied for a period of six months or more.
 - (2) In the event any of these should occur, the sign shall be presumed to be abandoned and shall be removed by the owner of the property, his or her agent, or person having the beneficial use of the building or structure upon which the sign or sign structure is erected within 30 days after written notification from the Zoning Administrator or a designee.

(Prior Code, § 21-6-10.10) Penalty, see § 154.999

§ 154.139 CONFLICT.

If any portion of this subchapter is found to be in conflict with any other provision of any zoning, building, fire, safety, or health ordinances of this code, the provision which establishes the higher standard shall prevail.

ADMINISTRATIVE PROCEDURES

§ 154.150 PRE-APPLICATION MEETING.

(A) Pre-Application Meeting Requirement

- (1) A pre-application meeting to discuss the nature of the proposed application, application submittal requirements, the procedure for action, and the standards for evaluation of the application shall be required for all proposed:
 - (a) General plan amendments;
 - (b) Zoning text amendments;
 - (c) Zoning map amendments (rezone);
 - (d) Planned area developments;
 - (e) Subdivisions;
 - (f) Conditional use permits;
 - (g) Site plan review; and
 - (h) Variances.
- (2) An applicant for a project not requiring pre-application review may request, in writing to the Zoning Administrator, such review.

(B) Pre-application filing. Before filing any applications described by this section, the applicant shall submit a preliminary description of the proposal, accompanied by a fee specified by the adopted fee schedule, for review and comment by the Zoning Administrator and any other persons the Zoning Administrator deems appropriate. This preliminary description shall include, at minimum, a site plan and project narrative; both of sufficient scope and detail so as to allow a basic review of location, land area, land use, land use intensity, traffic generation and adjacent streets, stormwater drainage, utility service, and previous case history.

(C) Pre-Application Meeting Process.

- (1) After receipt of a proper preliminary description of the proposal, the Zoning Administrator shall schedule a pre-application meeting. At the meeting, the applicant, the Zoning Administrator or designee, and any other persons the Zoning Administrator deems appropriate to attend shall discuss the proposed development.
- (2) Based upon the information provided by the applicant and the provisions of this code, the parties should discuss in general the proposed development, the applicable submittal requirements and standards of this code, and conditions that may be appropriate to meet the purposes and requirements of this code.

(D) Pre-application waivers. The Zoning Administrator may waive the requirement for a pre-application review based on a determination that no purpose will be served by the review. In such cases, the Zoning Administrator shall prepare a written statement setting forth the reasons for approving the waiver.

§ 154.151 APPLICATION SUBMITTAL (ADMINISTRATIVE COMPLETENESS REVIEW).

- (A) Applications. Completed applications shall be submitted to the Community Development Department on a form and in such a manner as established by the Zoning Administrator.
- (B) Application schedule. In accordance with A.R.S. § 9-835, the Community Development Department shall publish an application schedule, which prescribes the necessary deadline for submitting specified application types in advance of being reviewed by the appropriate decision-making body pursuant to this chapter or the A.R.S.
- (C) Authority to file applications. Any of the following persons or entities may submit an application:
 - (1) The owner of the property;
 - (2) An agent representing the owner, duly authorized to do so in writing by the owner.
- (D) Payment, waiver and refund of application fees.
 - (1) Schedule of fees. The city shall establish fees for all application and permit types. The fee schedule shall be adopted by resolution of the Council. Payment of the fee is required in order for an application to be complete. No application or permit shall be processed without payment of the applicable fee.
 - (2) Fee waiver or deferral. No fee shall be required when the applicant is the city.
 - (3) Refund of fees. Recognizing that filing fees are utilized to cover city costs of public hearings, mailing, posting, transcripts, and staff time involved in processing applications, no refunds shall be issued due to a disapproval of an application.
- (E) Application completeness review. Each application filed with the Community Development Department shall be initially processed as follows:
 - (1) Completeness review. The Zoning Administrator shall review an application for completeness and accuracy before it is accepted as being complete and officially filed. The Zoning Administrator will consider an application complete when:
 - (a) All necessary application forms, documentation, exhibits, materials, maps, plans, reports and other information specified in the application form, and any additional information required by the Zoning Administrator have been provided and accepted as adequate.
 - (b) All necessary fees have been paid and accepted.
 - (2) Notification of applicant. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this chapter. If an application is determined to be incomplete, the Zoning Administrator shall provide written or electronic notice to the applicant along

with an explanation of the application's deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a resubmittal.

- (3) Expiration of application. If a pending application is not deemed complete within six months after the first filing with the Community Development Department, the application shall expire and be deemed withdrawn. Thirty days prior to that date the planning staff shall notify the applicant in writing that the application will become inactive.
- (4) Extension of application. The Zoning Administrator may grant one six month extension upon written request of the applicant. After expiration of the application, and extension, if granted, a new application, including applicable fees, plans, exhibits and other materials will be required to commence processing of a new project application on the same property.
- (F) Additional information. After the application has been accepted as complete, the Zoning Administrator and/or any decision-making body may require the applicant to submit additional information in order to evaluate fully whether an application complies with the requirements of this chapter, state, or federal law.
- (G) Concurrent applications. When a project requires approvals under more than one section of the zoning code, the individual applications may be processed concurrently at the option of the Zoning Administrator and with the approval of the applicant; provided, however, rezoning applications may not be approved simultaneously with major general plan amendments. Rezone applications can only be approved sequentially after major GPA adoption; the rezone application will be cancelled if the major GPA is not adopted. Minor GPAs may be processed concurrently with other applications. The concurrent processing of applications shall be in all cases at the applicant's risk.
- (H) Referral of application. At the discretion of the Zoning Administrator, or where otherwise required by this chapter, A.R.S., or federal law, an application filed in compliance with this chapter may be referred to any public agency that may be affected by or have an interest in the proposed land use activity.

§ 154.152 PROCEDURE FOR AMENDMENTS TO THIS CHAPTER.

- (A) *Generally.* In accordance with the provisions of Arizona State Statutes, the City Council may from time to time adopt amendments to the zoning ordinance. An amendment to this chapter may involve changes in its text and wording, including but not limited to changes in the regulations regarding uses, setbacks, heights, lot areas, definitions, administration, and/or procedures. Ordinance amendments do not, however, include the rezoning of property. Amendments may be initiated by the Council, the Planning and Zoning Commission, or by petition of a person whose property would be affected by the amendment.
- (B) *Application of amendment.* If an individual or other party initiates a request for an amendment to this chapter, the request must be made on a form provided by the Zoning Administrator. The request must state the exact section of the chapter proposed for amendment, the proposed substitute wording, and the reasons for requesting the amendment. Graphic material should also be submitted if it will assist

in understanding the benefits of the amendment. The submittal must be made to the Zoning Administrator and the processing fee paid at least 30 days prior to the date of the public hearing by the Planning and Zoning Commission.

(C) *Notice of hearing.*

- (1) No rezoning may be adopted until a public hearing has been held on the matter by the Planning and Zoning Commission, and if required under § 154.152(E) below by the City Council.
- (2) A notice of the time, date, place, and purpose of the hearings shall be given at least 15 and not more than 30 calendar days before the hearing by:
 - (a) Publication in a newspaper of general circulation published or circulated within the city; and
 - (b) Posting of the property in a manner that is legible from the public right-of-way. The posting shall comply with the City of El Mirage Planning Department Site Posting Requirements.
- (3) Notice shall also be sent by first class mail at least 15 days before the day of the first hearing to each owner of property situated wholly or partly within 300 feet of the property to which the rezoning relates. The Zoning Administrator shall be responsible for placing and mailing the notices. For the purpose of giving mailed notice, the Zoning Administrator may require the applicant to furnish the names and addresses of all owners of property within 300 feet of the property to be rezoned. The Zoning Administrator shall make a copy of the notice and a list of the owners and addresses to which the notice was sent as a part of the record of the proceedings. The failure to receive notice by individual property owners if notices were published and mailed 15 days prior to the hearing shall not necessarily invalidate the proceedings.
- (4) In proceedings involving rezoning of land which abuts other municipalities or unincorporated areas of Maricopa County, or a combination thereof, copies of the notice of the public hearing shall be transmitted to the planning agency of such governmental unit abutting the land. In proceedings involving rezoning of land that is located within the territory in the vicinity of a military airport or ancillary military facilities as defined in A.R.S. § 28-8461, copies of notice of public hearing shall be sent by first class mail to the military airport.
- (5) In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by state law.
 - (a) A 10% or more increase or decrease in the number of square feet or units that may be developed.
 - (b) A 10% or more increase or reduction in the allowable height of buildings.
 - (c) An increase or reduction in the allowable number of stories of buildings.
 - (d) A 10% or more increase or decrease in setback or open space requirements.

- (e) An increase or reduction in permitted uses.
- (D) *Hearing and recommendation by the Planning and Zoning Commission.* An amendment not initiated by the Planning and Zoning Commission shall be referred to the Commission for study and public hearing. In its deliberations on the matter, the Commission shall consider oral or written statements from the applicant, the public, city staff, and its own members. The Commission may recommend approval or disapproval, or it may table the proposed amendment. The proposed amendment may not be tabled more than two meetings in succession. The Planning and Zoning Commission shall notify the City Council, in writing, of its recommendation. The recommendation shall include the reasons for the recommendation and be transmitted to the Council not more than 15 days after the public hearing in which the recommendation was made.
- (E) *Hearing and decision by the City Council.* The City Council, after receipt of the report and recommendation of the Planning and Zoning Commission, shall set a date within 30 days for a public hearing on the amendment request. An amendment which has been recommended for denial by the Commission shall not be reviewed by the Council except upon written request by the applicant. In its deliberations on the matter, the Council shall consider oral or written statements from the petitioner, the public, city staff members, and its own members. The Council may approve the request by ordinance, deny the request, or table the request for not more than 60 days.

(Prior Code, § 21-7-1)

Editor's Note:

The City of El Mirage Planning Department Site Posting Requirements, (adopted March 24, 2005), is available from the city upon request.

§ 154.153 PROCEDURE FOR REZONINGS.

- (A) *Generally.* In accordance with the provisions of Arizona Revised Statutes, the City Council may from time to time change the zoning of parcels of and within the municipality. These changes in zoning classification are for the purpose of meeting the land use needs of the residents of the city in conformance with the city's general plan. Rezoning may be initiated by the City Council, the Planning and Zoning Commission, the owner of property proposed for rezoning, the lessee having a leasehold interest of not less than five years exclusive of an option to renew, or the agent of any of the foregoing, duly authorized in writing, or by petition of the person whose property would be affected by the rezoning.
- (B) *Application for rezoning.* An application for a rezoning shall be made on a form provided by the Zoning Administrator. On the application form shall be indicated the legal description of the property, the present zoning classification, and the recommended use of this property by the city's general plan. With the application, the applicant shall submit a one-inch equals 100 foot scale diagram of the rezoning illustrated on a standard section line map. The applicant shall present evidence to the Zoning Administrator of ownership or type of controlling interest in the property (e.g., option to purchase). This application shall be completed, verified by a notary public, and submitted along with the established fee to the Zoning Administrator at

least 21 days prior to the public hearing by the Planning and Zoning Commission.

(C) *Notice of hearing.*

- (1) No rezoning may be adopted until a public hearing has been held on the matter by the Planning and Zoning Commission, and if required under division (E) below, by the City Council.
- (2) A notice of the time, date, place, and purpose of the hearings shall be published in a newspaper of general circulation, published or circulated with the city at least 15 days prior to the date of the first hearing and at least 15 days prior to the date of any subsequent hearing.
- (3) A similar notice shall be mailed at least 15 days before the day of the first hearing to each owner of property situated wholly or partially within 200 feet of the property to which the rezoning relates. The Zoning Administrator shall be responsible for placing and mailing such notices. For the purpose of giving mailed notice, the Planning Director shall require the applicant to furnish the names and addresses of all owners or property within 200 feet of the property to be rezoned. The Zoning Administrator shall make a copy of the notice and a list of the owners and addresses to which the notice was sent as a part of the record of the proceedings. The failure to receive notice by individual property owners if notices were published and mailed 15 days prior to the hearing shall not necessarily invalidate the proceedings.
- (4) In proceedings involving rezoning of land which abuts other municipalities or unincorporated areas of Maricopa County, or a combination thereof, copies of the notice of the public hearing shall be transmitted to the planning agency of the governmental unit abutting the land.

(D) *Hearing and recommendation by the Planning and Zoning Commission.* A rezoning not initiated by the Planning and Zoning Commission shall be referred to the Commission for study and public hearing. In its deliberations on the matter, the Commission shall consider oral or written statements from the applicant, the public, city staff, and its own members. The Commission may recommend approval or disapproval, or it may table the rezoning application. The application may not be tabled more than two meetings in succession. The Planning and Zoning Commission shall notify the City Council, in writing, of its recommendation. The recommendation shall include the reasons for the recommendation and be transmitted to the Council not more than 15 days after the public hearing in which the recommendation was made.

(E) *Hearing and decision by the City Council.*

- (1) The City Council may, after receipt of the report and recommendation of the Planning and zoning Commission, consider the rezoning request. If requested in writing by any member of the public or of the City Council, the Council shall hold a public hearing on the request. A rezoning which has been recommended for denial by the Commission shall not be reviewed by the Council except upon written request by the applicant, and shall then require a public hearing. Notice of the time and place of the hearing shall be given in the time and manner provided for giving of notice of the hearing by the

Commission as specified in division (C) above. During any public hearing on the matter, the Council shall consider oral or written statements from the applicant, city staff, the public, and its own members. The Council may approve any request for rezoning by ordinance, deny the request, or table the request. The application may not be tabled more than two meetings. If approved, the zoning Administrator or designee shall revise the official zoning map accordingly.

- (F) Duration of zoning approval (conditional rezoning).
 - (1) Approval of a rezoning request shall be conditioned upon the start of construction beginning within one year of the date of approval action taken by the City Council. If, at the expiration of this period, the start of construction has not begun for the use based upon the Commission's approved site plan for which the zoning was conditionally approved, the property shall revert to its former zoning classification without Council or Commission action.
 - (2) The city may authorize extensions when deemed necessary.
- (G) *Public protest against amendment.* If there is a written protest against a change in the zoning classification of a parcel of land, signed by the owners of 20% or more of the area of lots included in the proposed change, or of those within a distance of 150 feet, not including street rights-of-way, the change shall not be approved except upon the affirmative vote of three-fourths of all of the members of the City Council. 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 of the remaining membership of the Council, provided that the required number of votes shall in no event be less than a majority of the full membership of the Council.
- (H) *Right-of-way dedication.* The Planning and Zoning Commission may require as a condition to the change of zone, the dedication of right-of-way necessary for roadways as prescribed by the circulation plan contained in the city's general plan. The Commission may also require dedication of land for future roadway construction that is greater than that called for in the circulation plan of the general plan if it is deemed to be in the best interest of the city.

(Prior Code, § 21-7-2)

§ 154.154 CITIZEN REVIEW PROCESS.

- (A) *Purpose.* The purpose of the citizen review process is to provide citizens and adjacent landowners with notice of proposed rezoning map amendments and zoning text amendments, and the opportunity to express any issues or concerns that they may have with the proposed rezoning map amendment or zoning text amendment before the public hearing.
- (B) *Requirements.* Every application for zoning map amendment and zoning text amendment that requires a public hearing shall include a citizen review process which must be implemented prior to the first public hearing.
- (C) *Notice area.* The level of citizen interest and the number of potentially affected parties will vary depending on the nature of the application and, for zoning map

amendments, the location of the site. The target area for early notification will be determined by the applicant after consultation with the Planning Department. At a minimum, the target area shall include the following:

- (1) Property owners within the public hearing notice area required by other sections of this chapter; and
 - (2) The head of any homeowners association or registered neighborhood within the public notice area required by other sections of this chapter.
- (D) *Submittals.* Applicants for zoning map amendments and zoning text amendments that require a public hearing shall submit to the Planning Department at the time of application for the zoning map amendment or zoning text amendment a citizen review plan which includes the following:
- (1) A list of those residents, property owners, interested parties, political jurisdictions, and public agencies that may be affected by the application;
 - (2) How those adjacent to and potentially affected by an application will be notified that an application has been made;
 - (3) How those adjacent to and potentially affected parties will be informed of the substance of the change, amendment, or development proposed by the application;
 - (4) How those affected or otherwise interested will be provided an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues, or problems they may have with the proposal in advance of the public hearing;
 - (5) The applicant's schedule for completion of the citizen review process;
 - (6) How the applicant will keep the Planning Department informed of the status of the citizen review plan; and
 - (7) Applicants will be responsible for notice and other costs associated with the citizen review process.
- (E) *Citizen review report.* Following completion of the citizen review plan, the applicant shall provide to the Planning Department prior to notice of the first public hearing for the zoning map amendment or text amendment, a written report of their efforts. The report shall include a description of the notification process, and a summary of the issues and concerns expressed during the citizen review process. The report shall be included with the Planning Department report provided to the City Council and/or Planning and Zoning Commission.
- (F) *Requirements are cumulative.* These requirements apply in addition to any notice provisions required elsewhere in the Zoning Ordinance.
- (G) *Early implementation.* The applicant may submit a citizen review plan and begin implementation prior to formal application for the zoning map amendment or text amendment. This shall not occur until after the required pre-application meeting and consultation with the Planning Department staff, and requires the prior written approval of the Planning Department.

- (H) *Incomplete citizen review plan and report.* If the citizen review plan and/or report does not meet the requirements of this subchapter, the application for the zoning map amendment or zoning text amendment shall be considered incomplete and shall not be scheduled for public hearing.

(Prior Code, § 21-7-2.2)

§ 154.155 PROCEDURE FOR VARIANCES FROM THIS CHAPTER.

- (A) *Generally.* The Board of Adjustment may allow a departure from the terms of these zoning regulations pertaining to height or width of structures or the size of yard and open spaces where the departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape, or topography, and not as a result of the action of the applicant, the literal enforcement of this chapter would deprive the owner of the reasonable use of the land and/or building involved.
- (B) *Application for variance.* A request for variance shall be made by filing at least 21 days prior to the Board meeting an application with appropriate fees with the Zoning Administrator; the application shall be accompanied by a development plan showing such information as the Zoning Administrator may reasonably require for purposes of this chapter. The plans shall contain sufficient information for the Board to make a proper decision on the matter. The request shall state the exceptional conditions and the peculiar and practical difficulties claimed as a basis for a variance. In all cases, the application shall include:
- (1) Name and address of the applicant;
 - (2) The legal description of the property involved in the request for variance, including the street address, if any, of the property;
 - (3) The names and addresses of the owners of the property and any other persons having a legal interest therein;
 - (4) A site plan drawn to scale showing the property dimensions, grading, landscaping, and location of utilities, as applicable;
 - (5) Location of all existing and proposed buildings;
 - (6) Drive accesses, driveways, access roads, parking spaces, off-street loading areas, and sidewalks as applicable;
 - (7) The variance requested and the reasons for the request;
 - (8) Justification, in writing, that the following exist:
 - (a) Special circumstances or conditions exist that are peculiar to the land or building for which the adjustment is sought and do not apply generally to land or buildings in the neighborhood and have not resulted from any act of the applicant subsequent to the adoption of this chapter;
 - (b) The circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the land or building, the granting of the adjustment is

necessary for the reasonable use thereof and the adjustment requested is the minimum adjustment that will accomplish this purpose; and

- (c) The granting of the adjustment is in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- (9) Evidence satisfactory to the Board of Adjustment of the ability and intention of the applicant to proceed with actual construction work in accordance with the plans within six months after issuance of permit.
- (C) *Notice of hearing.* Notice of the time, date, place, and purpose of the variance hearing shall be published once in a newspaper of general circulation, published or circulated within the city and posted in a conspicuous place close to the property affected at least 15 days before the hearings, and shall be mailed at least 15 days prior to the Board meeting to each owner of property situated wholly or partially within 200 feet of the property to which the variance relates. The Zoning Administrator shall be responsible for mailing the notices. For the purpose of giving mailed notice, the Zoning Administrator shall require the applicant to furnish the names and addresses of all property owners within 200 feet of the property.
- (D) *Evidence required for variance.* At the public hearing on a variance application, the applicant shall present a statement and adequate evidence in such form as the Board may require for the purpose of showing:
 - (1) There are special circumstances or conditions applicable to the property referred to in the application which do not prevail on other property in that zone;
 - (2) The strict application of the regulations would work an unnecessary hardship and that the granting of the application is necessary for the preservation and enjoyment of substantial existing property rights; and/or
 - (3) The granting of the application will not materially affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements of the neighborhood.
- (E) *Board of Adjustment action.* In the event the Board of Adjustment can determine that substantial conformity to the standards previously established in the zone may be secured and that detriment or injury to the neighborhood will not result from the granting of a variance as applied for, it may approve or conditionally approve the issuance of the permit and transmit notice of its action to the Zoning Administrator. Approval may be granted only upon the affirmative vote of three-fourths of all members of the Board. A report of its findings and recommendations and any conditions imposed or required shall also be submitted promptly to the Planning and Zoning Commission and the City Council.
- (F) *Disapproved application.* In the event the Board of Adjustment disapproves an application for a variance, no permit shall be issued pending further action thereon by an appeal to the superior court within 30 days from the date the disapproval is officially entered on the minutes of the Board, if the court shall overrule the action of

the Board, then the Zoning Administrator shall issue the requested permit without further action by the Board unless the court orders the Board to hold a further hearing to permit the Board to fix conditions or require guarantees as set forth in divisions (G) and (H) below.

- (G) *Conditional approval.* In approving any variance the Board of Adjustment may designate the conditions in connection therewith as will in its opinion secure substantially the objectives of the regulation or provision to which the variance is granted, to provide adequately for the maintenance of the integrity and character of the zone in which the permit is granted, and shall provide the Zoning Administrator with a copy of the same.
- (H) *Guarantees.* Where necessary, the Board of Adjustment may require guarantees, in such form as it may deem proper under the circumstances, to ensure that the conditions designated in connection therewith are being or will be complied with. Where any condition under which a variance has been granted is violated, the variance shall cease to exist and the permit shall become null and void.

(Prior Code, § 21-7-3)

§ 154.156 PROCEDURE FOR SITE PLAN APPROVAL.

- (A) *Generally.* For purposes of this chapter, site plans may be classified as major or minor site plans. All developments within the city except individual single-family detached units and city-owned facilities shall be subject to this chapter.
 - (1) A major site plan involves one or more of the following:
 - (a) Forty or more dwelling units in a multiple-family structure or structures.
 - (b) Fifteen thousand or more square feet of:
 - (i) Office space;
 - (ii) Retail commercial space;
 - (iii) service commercial space; and/or
 - (iv) Industrial space.
 - (c) One or more buildings on one site for:
 - (i) Office use;
 - (ii) Retail commercial use;
 - (iii) Service commercial use; and/or
 - (iv) Industrial use.
 - (d) Twenty thousand or more square feet of exterior storage of materials or goods; and
 - (e) Parking for more than 80 vehicles.
 - (2) Any other site plan (except for a Planned Area Development) is considered a minor site plan. Any Planned Area Development shall be reviewed according

to the regulations of § 154.160.

- (3) The City Council has the right to review, and require revisions to, any proposed site plans, major or minor. The purpose of this review is to relieve demonstrable adverse impacts of the development upon public safety, health, or welfare; to protect public investments in roads, drainage facilities, sewage facilities, and the like; and to ensure that the regulations of the city are upheld.
 - (4) Additionally, the City Council may authorize the Zoning Administrator to conduct review of minor site plans. Any needed variances for major or minor site plans must be submitted to the Board of Adjustment.
- (B) Application of these procedures.
- (1) For those rezoning requests that may not comply with the city general plan, the site plan shall be submitted in conjunction with the rezoning application.
 - (2) For those rezoning requests that may comply with the general plan, the site plan shall be submitted prior to any construction or development and may be submitted with the rezoning application.
 - (3) For those areas with desired zoning, the site plan shall be submitted prior to any construction or development.
- (C) *Application for major or minor site plan approval.* Applications for major or minor site plan approval shall be on a form provided by the Zoning Administrator. The application shall be accompanied by the appropriate fee and development plans showing sufficient information for the Planning and Zoning Commission, City Council or city staff to determine whether the proposed development will meet the development requirements of the city. In all cases the application shall contain the following:
- (1) General:
 - (a) Name of project/development;
 - (b) Location of project/development by street address;
 - (c) Location map, including area within one-half mile of site;
 - (d) Name and mailing address of developer/owner;
 - (e) Name and mailing address of engineer/architect;
 - (f) Date of plan preparation;
 - (g) North point indicator;
 - (h) Scale of not less than one inch to 100 feet; and
 - (i) Names and addresses of property owners within 200 feet of site.
 - (2) Site plan, including:
 - (a) Boundary line of property with dimensions;
 - (b) Location, identification, and dimension of existing and proposed data, to

a distance of 100 feet unless otherwise stated:

- (i) Topographic contours at a minimum interval of two feet;
 - (ii) Adjacent streets and street rights-of-way to a distance of 150 feet, except for sites adjacent to major arterial streets where the distances shall be 200 feet;
 - (iii) On-site streets and rights-of-way;
 - (iv) Ingress and egress points;
 - (v) Traffic flow on-site;
 - (vi) Traffic flow off-site;
 - (vii) Utilities and utility rights-of-way or easements:
 - Electric;
 - Natural gas;
 - Telephone, cable TV;
 - Water; and
 - Sewer (sanitary treated effluent and storm)
 - (viii) Buildings and structures;
 - (ix) Parking facilities;
 - (x) Water bodies;
 - (xi) Surface water holding ponds and drainage ditches surface water drainage arrows;
 - (xii) Significant rock outcroppings;
 - (xiii) Sidewalks, walkways, driveways, loading areas and docks, bikeways;
 - (xiv) Fences and walls;
 - (xv) Exterior signs;
 - (xvi) Exterior refuse collection areas;
 - (xvii) Exterior lighting; and
 - (xviii) Landscaping (detailed plan showing plantings, equipment, and the like):
 - Botanical and common names of vegetation to be used;
 - Size of plantings at time of planting and at maturity; and
 - Areas to be irrigated.
- (c) Number of employee and non-employee parking spaces, existing and

proposed, and total square footage of each;

- (d) Site statistics including site square footage, percent of site coverage (building and parking), dwelling unit density, percent park or open space; and
- (e) Reproducible copy of the site plan with appropriate signatures shall be submitted upon approval.

(3) Building information (on-site), including:

- (a) Height above mean sea level of the lowest floor when the structure is proposed to be located in a floodway or floodplain area;
- (b) Gross square footage of existing and proposed structures; and
- (c) Front, rear, and side elevations, with a description of exterior materials to be used.

(D) Notification of site plan review.

- (1) *Major site plan.* A notice of major site plan review shall be mailed at least ten days prior to the Planning and Zoning Commission meeting to each owner of property situated wholly or partially within 200 feet of the property to which the site plan relates. The Zoning Administrator shall be responsible for mailing the notices. For the purpose of giving mailed notice, the Zoning Administrator shall require the owner of the property affected to furnish the names and addresses of all property owners within 200 feet of the property.
- (2) *Minor site plan review.* A notice of minor site plan review shall be mailed within two working days of the date of the site plan application to each owner of property situated wholly or partially within 200 feet of the property to which the site plan relates. The Zoning Administrator shall be responsible for mailing the notices. For purpose of giving mailed notice, the Zoning Administrator shall require the owner of the property affected to furnish the names and addresses of all property owners within 200 feet of the property.
 - (a) If written protest to any minor site plan is received from any notified property owner within ten days of the mailing date of notification, the minor site plan shall become reclassified a major site plan.
 - (b) No additional application shall be required, however, all requirements and procedures governing major site plan shall then apply.

(E) Minor site plan review.

- (1) In considering applications for minor site plan approval under this chapter, the city staff, if authorized by the City Council, shall consider the following: relationship of the plan elements to conditions both on and off the property; conformance to the city's zoning ordinance; conformance to the city's general plan; the impact of the plan on the existing and anticipated traffic and parking conditions; the adequacy of the plan with respect to land use; pedestrian and vehicular ingress and egress; building location and height; landscaping; lighting; provisions for utilities; site drainage; open space; loading and

unloading areas; grading; signage; screening; setbacks; and other related matters.

- (2) The city staff shall meet with the applicant upon request. The city staff shall also consider oral or written statements from the public or other city staff members. A decision shall be made on a minor site plan within 15 days of the date of application.
 - (3) If the city staff shall determine that the proposed site plan will not be detrimental to the health, safety, or welfare of the community nor will cause traffic congestion or seriously depreciate surrounding property values and at the same time is in harmony with the purposes and intent of this chapter, the plan for the area, and the general plan, the staff will recommend to the City Council, to grant the site plan approval, and the conditions and safeguards be imposed as they deem necessary. Staff shall notify the Planning and Zoning Commission at its next regular meeting of any site plan approvals.
 - (4) Minor site plan approval applications may be denied by city staff upon finding and determination by the staff that the conditions required for approval do not exist.
 - (5) When a minor site plan approval application is denied by city staff, an appeal may be taken to the Planning and Zoning Commission. If unusual or significantly difficult conditions exist which affect the site plan, the Zoning Administrator may determine and require that the site plan be reviewed and acted upon by the Planning and Zoning Commission.
- (F) Major site plan review.
- (1) Hearing and recommendation by the Planning and Zoning Commission.
 - (a) A Major Site Plan shall be referred to the Commission for study and public hearing. In its deliberations on the matter, the Commission shall consider oral or written statements from the applicant, the public, city staff, and its own members. The Commission may recommend approval or disapproval, or it may table the application. The application may not be tabled more than two meetings in succession. Planning staff shall notify the City Council, in writing, of the Planning & Zoning Commission recommendation. The recommendation shall include the reasons for the recommendation and be transmitted to the Council not more than 15 days after the public hearing in which the recommendation was made.
 - (2) Decision by the City Council.
 - (a) The City Council after receipt of the report and recommendation of the Planning and Zoning Commission, shall consider the Major Site Plan request. During the public hearing on the matter, the Council shall consider oral or written statements from the applicant, city staff, the public, and its own members. The Council may approve any request for Conditional Use Permit, deny the request, or table the request. The application may not be tabled more than two meetings.
 - (3) In considering applications for major site plan approval under this chapter, the

Planning and Zoning Commission and City Council shall consider the following: relationship of the plan elements to conditions both on and off the property; conformance to the city's zoning ordinance; conformance to the city's general plan; the impact of the plan on the existing and anticipated traffic and parking conditions; the adequacy of the plan with respect to land use; pedestrian and vehicular ingress and egress; building location and height; landscaping; lighting; provisions for utilities; site drainage; open space; loading and unloading areas; grading; signage; screening; setbacks; and other related matters.

- (G) *Duration of site plan approval.* An approved site plan shall be valid for one year from its date of approval, or until the zoning on a particular site lapses, whichever occurs first.
- (H) *Amendments to approved site plans.*
 - (1) Any amendment or modification to an approved site plan shall be submitted for approval. All amendments shall be shown on a revised site plan drawing.
 - (2) Amendments to minor site plans shall be submitted to city staff who may, if authorized by the City Council, approve the amendment(s) if they determine that the amendment(s) are acceptable to the city.
 - (3) Amendments to major site plans shall be resubmitted and shall be subject to divisions (C), (D), and (F) above.
- (I) *Appeals*
 - (1) A person aggrieved by a decision of the City Council, may file a complaint for special action in the superior court to review the City Council decision.

(Prior Code, § 12-7-4) (Ord. O11-09-17, passed 9-22-2011)

§ 154.157 PROCEDURE FOR CONDITIONAL USE PERMIT.

- (A) *Generally.* Certain uses, while generally not suitable in a particular zoning district, may, under certain circumstances, be acceptable. When these circumstances exist, a conditional use permit may be granted. Conditions may be applied to the issuance of the permit and periodic review may be required. The permit shall be granted for a particular use and not for a particular person or firm. No conditional use permit shall be granted for a use which is not specifically designed as such in this chapter.
- (B) *Application for conditional use permit.* The person applying for a conditional use permit shall fill out and submit to the Zoning Administrator the appropriate form together with the required fee.
- (C) Notification of Conditional Use Permit review.
 - (1) A notice of Conditional Use Permit review shall be mailed at least ten days prior to the Planning and Zoning Commission meeting to each owner of property situated wholly or partially within 200 feet of the property to which the Conditional Use Permit relates. The Zoning Administrator shall be responsible for mailing the notices. For the purpose of giving mailed notice, the Zoning Administrator shall require the owner of the property affected to furnish the

names and addresses of all property owners within 200 feet of the property.

- (D) Hearing and recommendation by the Planning and Zoning Commission. A Conditional Use Permit shall be referred to the Commission for study and public hearing. In its deliberations on the matter, the Commission shall consider oral or written statements from the applicant, the public, city staff, and its own members. The Commission may recommend approval or disapproval, or it may table the application. The application may not be tabled more than two meetings in succession. Planning staff shall notify the City Council, in writing, of the Planning & Zoning Commission recommendation. The recommendation shall include the reasons for the recommendation and be transmitted to the Council not more than 30 days after the public hearing in which the recommendation was made.
- (E) Decision by the City Council.
 - (1) The City Council after receipt of the report and recommendation of the Planning and Zoning Commission, shall consider the Conditional Use Permit request. During the public hearing on the matter, the Council shall consider oral or written statements from the applicant, city staff, the public, and its own members. The Council may approve any request for Conditional Use Permit, deny the request, or table the request. The application may not be tabled more than two meetings.
 - (2) The Council, in approving a conditional use permit, shall, find as follows.
 - (a) The site for the proposed use is adequate in size and topography to accommodate the use, and all yards, spaces, walls and fences, parking, loading, and landscaping are adequate to properly relate the use with the land and uses in the vicinity.
 - (b) The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
 - (c) The proposed use will have no adverse effect upon the abutting property.
 - (d) The proposed use shall be in conformance with the general plan.
 - (e) The conditions stated in the approval are deemed necessary to protect the public health, safety, and general welfare. The conditions may include but are not limited to:
 - (i) Regulation of use;
 - (ii) Special yards, spaces, and buffers;
 - (iii) Special fences, solid fences, and walls;
 - (iv) Surfacing of parking areas;
 - (v) Requiring street, service road, or alley dedications and improvements or appropriate bonds;
 - (vi) Regulations of points of vehicular ingress and egress;

- (vii) Regulation of signs;
 - (viii) Requiring maintenance of the grounds;
 - (ix) Regulation of noise, vibrations, odors;
 - (x) Regulation of hours for certain activities;
 - (xi) Time period within which the proposed use shall be developed;
 - (xii) Duration of use;
 - (xiii) Requiring the dedication of access rights; and/or
 - (xiv) Other such conditions as will make possible the development of the city in an orderly and efficient manner.
- (f) The Council shall, in addition to any other conditions, impose the following general conditions upon every conditional use permit granted.
- (i) The right to a use and occupancy permit shall be contingent upon the fulfillment of all general and special conditions imposed by the conditional use permit procedure.
 - (ii) All of the special conditions shall constitute restrictions running with the land and shall be binding upon the owner of the land, his or her successors or assigns.
 - (iii) All conditions specifically stated under any conditional use listed in this chapter shall apply and be adhered to by the owner of the land, his or her successors or assigns.
 - (iv) All of the special conditions shall be consented to in writing by the applicant.
- (3) Applications for conditional use permits may be approved or denied by motion of the Council. If an application is denied, the denial shall constitute a finding that the applicant has not shown that the conditions required for approval do exist. No application for a conditional use permit which has been denied wholly or in part shall be resubmitted for a period of six months from the date of the order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Council.
- (F) *Notification of Council action.* The applicant shall be notified of the action taken by the Council. If the application has been granted, the permit shall be issued upon the signature of the Mayor and the Zoning Administrator, and any conditions, automatic termination date, or period of review shall be stated on the permit.
- (G) *Appeals*
- (1) A person aggrieved by a decision of the City Council, may file a complaint for special action in the superior court to review the City Council decision.
- (H) *Modification or enlargement of structures authorized under a conditional use permit.* Any proposed additions, enlargements, or modifications of the structures approved in any conditional use permit or any proposed extension of the use into areas not

approved in any such permit shall be subject to § 154.156(C), (D) and (F) and 154.157 of this chapter.

(Prior Code, § 21-7-5) Penalty, see § 154.999

§ 154.158 PROCEDURE FOR OPERATING A HOME OCCUPATION.

- (A) *Notice of intent to operate a home occupation.* Any individual wishing to apply for a business license with the intent of operating the business from his or her home shall acknowledge by signature his or her understanding of the requirements and conditions of § 154.088 of this chapter, and shall agree to abide by those requirements and conditions.
- (B) *Complaints by citizens or residents.* Complaints by citizens or residents may be cause for termination of the home occupation. Upon receipt of a complaint, a home occupation may be ordered terminated by the Zoning Administrator upon a finding that the home occupation is incompatible or disruptive to the neighborhood in which it is located.
- (C) *Appeal to City Council.* Any person may appeal the Zoning Administrator's action to the City Council within 15 days as per § 154.161 of this chapter.

(Prior Code, § 21-7-6)

§ 154.159 PROCEDURE FOR TEMPORARY USE PERMIT.

- (A) *Generally.* Uses permitted subject to temporary use permits are those temporary uses which are required for the proper function of the community or are temporarily required in the process of establishing a permitted use, or constructing a public facility. The uses shall be so conducted that they will not be detrimental in any way to the surrounding properties or to the community.
- (B) *Application and filing fees.* Application for a temporary use permit may be made by the property owner or his or her authorized agent. The application shall be filed with the Zoning Administrator who shall charge and collect a filing fee for each such application, as provided in this chapter. The Zoning Administrator may also require any information deemed necessary to support the approval of a temporary use permit including site plans as per § 154.156(C) of this chapter.
- (C) *Decision.* Application for temporary use permit shall be reviewed by the Zoning Administrator who shall approve, conditionally approve, or disapprove the application. Approval or conditional approval shall be given only when in the judgment of the Zoning Administrator the approval is within the intent and purposes of this section. Approval for a Temporary Use shall be for a period of up to four (4) months or at the discretion of the Zoning Administrator, unless otherwise stated within this Code. Any person aggrieved by the decision of the Zoning Administrator may file an appeal with the Board of Adjustment.
- (D) *Conditions.* In approving such a permit, the approval shall be made subject to a time limit and other conditions deemed necessary to assure that there will be no adverse effect upon adjacent properties or public health and safety. The conditions may include the following:
 - (1) Limits on concentration of temporary uses

- (2) Regulation of dates/hours;
- (3) Regulation of lights;
- (4) Requirement of bonds or other guarantees for cleanup or removal of structure or equipment;
- (5) Parking requirements; and/or
- (6) Such other conditions deemed necessary to carry out the intent and purpose of this section.

(Prior Code, § 21-7-7)

§ 154.160 PROCEDURE FOR PLANNED AREA DEVELOPMENT (P.A.D.) APPROVAL.

- (A) *Generally.* Any development proposal which meets the requirements of § 154.065 shall be reviewed according to the provisions of this section. All P.A.D. applications shall be reviewed and approved by the Planning and Zoning Commission and City Council prior to any physical development on the subject property.
- (B) *Application.*
 - (1) The applicant is encouraged to meet with appropriate city staff prior to making application for P.A.D. approval to discuss the development concept, the review and approval process, and the submittal requirements.
 - (2) The applicant shall obtain the necessary application forms from the Zoning Administrator. Application forms shall be properly completed and submitted to the Zoning Administrator. Concept plan exhibits shall accompany the application. The concept plan shall be submitted at least seven days prior to meeting with city staff.
- (C) *Concept plan submittal requirements.* The concept plan shall indicate proposed land uses, general circulation patterns, property boundaries, existing land uses on adjacent properties, special site conditions or problems. A computation table showing proposed land use allocations in acres and percent of total site area shall be included on the concept plan.
- (D) *Preliminary development plan.*
 - (1) *Submittal requirements.* Based upon comments received regarding the concept plan, the applicant shall prepare a preliminary development plan. The following information shall be submitted to the Zoning Administrator:
 - (a) Legal description of property and indication of gross area;
 - (b) Nature of the applicant's interest in the land to be developed;
 - (c) A generalized location map showing surrounding land use and traffic circulation patterns;
 - (d) Site conditions: an analysis of the existing site conditions which indicates at a minimum:

- (i) Topographic contours with intervals of no more than two feet, to a distance of 1,900 feet beyond the property boundary;
 - (ii) Location and extent of major vegetative cover (if any);
 - (iii) Location and extent of perennial or intermittent streams and water ponding areas;
 - (iv) Existing drainage patterns; and
 - (v) Other information considered relevant by the applicant or city staff.
- (e) Proposed allocations of land use expressed as a percentage of the total area, as well as in acres. Uses to be indicated include:
- (i) Arterial streets;
 - (ii) Open space (public);
 - (iii) Open space (private);
 - (iv) Residential (if appropriate);
 - (v) A stratification of residential uses in terms of single-family detached units, patio homes, townhouses, garden apartments, and the like;
 - (vi) Commercial (if appropriate); and
 - (vii) Industrial (if appropriate).
- (f) A land use plan at a scale not smaller than one inch equals 100 feet, indicating land uses, acres, and development densities of each land use and the most nearly equivalent zoning categories; all arterial and collector street circulation elements, pedestrian and/or bicycle circulation elements, exact perimeter locations of any/all arterial streets and major collector streets; open spaces; and recreational areas;
- (g) Plans indicating the approximate alignment and sizing of water lines, sanitary sewers, and storm sewers (if any), as well as easements for all utilities, if necessary. Also indicated should be proposed surface drainage patterns;
- (h) A preliminary plat of the proposed development if land subdivision is proposed;
- (i) Conceptual architectural renderings indicating the elevations and exterior wall finishes of proposed building types;
- (j) Conceptual landscaping plans, indicating landscaping theme character of the development;
- (k) A traffic analysis report, if deemed necessary by the city; and
- (l) Phasing plan, if development is to take more than one year.
- (E) Planning and Zoning Commission review and hearing.

- (1) Notice of hearing.
 - (a) The Commission shall hold a public hearing on the preliminary development plan. A notice of the time, date, place, and purpose of the hearing shall be published in a newspaper of general circulation, published or circulated within the city at least 15 days prior to the date of the hearing.
 - (b) A similar notice shall be mailed at least 15 days before the day of the hearing to each owner of the property situated wholly or partially within 200 feet of the property to which the P.A.D. relates. The Zoning Administrator shall be responsible for placing and mailing the notices. For purposes of giving mailed notice, the Zoning Administrator shall require the applicant to furnish the names and addresses of all property owners within 200 feet of the property.
- (2) *Review.*
 - (a) In considering applications for P.A.D. approval, the Commission shall consider the following:
 - (i) Interrelationship with the plan elements to conditions both on and off the property;
 - (ii) Conformance to the general plan guide;
 - (iii) The impact of the plan on the existing and anticipated traffic and parking conditions;
 - (iv) The adequacy of the plan with respect to land use;
 - (v) Pedestrian and vehicular ingress and egress;
 - (vi) Architectural design;
 - (vii) Landscaping;
 - (viii) Provisions for utilities;
 - (ix) Site drainage;
 - (x) Open space and/or public land dedications;
 - (xi) Grading; and
 - (xii) Other related matters.
 - (b) The Commission shall consider oral or written statements from the applicant, the public, city staff, or its own members. It may question the applicant and approve, disapprove, or table the preliminary development plan. The application may not be tabled for more than two regular meetings of the Commission.
 - (c) If the Commission shall determine by motion that the proposed preliminary development plan will not be detrimental to the health, safety, or welfare of the community, will not cause traffic congestion or

depreciate surrounding property values and, at the same time, is in harmony with the purposes and intent of this chapter, the plan for the area, and the general plan, the Commission may recommend granting preliminary development plan approval, along with necessary conditions and safeguards, including provisions, as applicable, for public land dedications.

- (d) The Commission shall notify the City Council, in writing, of its recommendation.

(F) City Council consideration and hearing.

(1) Consideration and hearing.

- (a) The City Council, after receipt of the report and recommendation of the Planning and Zoning Commission, may consider the P.A.D. request. If requested in writing by any member of the public or the City Council, the Council shall hold a public hearing on the request. A notice of the time, date, place, and purpose of the hearing shall be published in the official newspaper of the city at least 15 days prior to the date of the hearing.
- (b) A preliminary development plan which has been recommended for denial by the Commission shall not be reviewed by the Council except upon written request by the applicant and shall require a public hearing.

(2) Review and approval.

- (a) In its deliberations on the preliminary development plan, the Council shall consider oral or written statements from the applicant, city staff, the public, and its own members. The Council's review shall encompass the same spectrum of considerations as did the Commission's. The City Council may approve the preliminary development plan, deny the request, or table the request. The application may not be tabled for more than two meetings in succession.
- (b) Conditions may be applied to the approval and/or periodic review of the approval may be required. Approvals, if granted, shall be for a particular development, not for a particular applicant.

- (G) *Public protests against P.A.D.* If there is written protest against the preliminary development plan signed by the owners of 20% or more of the property within 150 feet of the proposed P.A.D., the preliminary development plan shall not be approved except upon the affirmative vote of three-fourths of all members of the City Council. If the above protest requirements are not met, approval may be by majority vote of the membership of the City Council.

(H) *Duration of P.A.D. zoning.*

- (1) Approval of a P.A.D. rezoning request shall be conditioned upon the start of construction beginning within one year of the date of approval action taken by the City Council. If, at the expiration of this period, the start of construction has not begun, the property shall revert to its former zoning classification without Council or Commission action.

- (2) In the case of a proposed phased development, start of construction for the first phase must commence within one year, with the remaining phases commencing according to the approved phasing plan.
 - (3) The city may authorize extensions when deemed necessary.
- (I) Final development plan.
- (1) *Approval.* Final P.A.D. development plan approval and the issuance of a development permit for any portion of a P.A.D. shall occur only when:
 - (a) A reproducible copy of the approved preliminary development plan with appropriate signatures has been supplied to the Community Development Department;
 - (b) The design and construction specifications for all utilities, property, and street improvements have been approved by the City Engineer;
 - (c) A site plan, subject to the requirements of § 154.156, for the specific portion of the P.A.D. in question has been submitted and has been approved by the Planning and Zoning Commission, as in conformance with the preliminary development plan. (Upon approval of the site plan, a reproducible copy shall be submitted);
 - (d) Architectural elevations of the buildings, with materials lists, are submitted and approved by the Planning and Zoning Commission;
 - (e) A landscaping plan is submitted and approved by the Planning and Zoning Commission;
 - (f) A performance bond, cash escrow agreement, or other acceptable instrument has been deposited with the city in an amount as set by the City Council based upon the City Engineer's recommendation. This financial guarantee shall be used to ensure the full completion, as specified, of:
 - (i) Public and private streets and utilities;
 - (ii) Landscaping; and
 - (iii) Publicly- and privately-owned and maintained recreational facilities;
 - (g) Any land dedication agreements made as part of the preliminary development plan approval are fulfilled.
 - (2) *Platting requirements.* All applicants for a Planned Area Development permit shall be required to file with Maricopa County a final plat of the Planned Area Development complying with all of the requirements of the subdivision ordinance of the city except to the extent that the Council may give specific permission to the effect that specific portions of the subdivision ordinance need not be complied with. The required plats shall contain on their face a cross-reference to the P.A.D. development plan.
- (J) *Method of withdrawing an application for P.A.D. approval.* Any application for a

planned area development permit may be withdrawn by the applicant at any time prior to filing the final plat upon written notification to the Zoning Administrator and/or City Clerk. The P.A.D. shall be null and void upon receipt of the notice by the city.

(K) *Amendments to P.A.D. approval.*

(1) *Minor changes.* Minor changes in the location and placement of buildings may be authorized by the Zoning Administrator and City Engineer where unforeseen circumstances such as engineering requirements, dictate the change. When in question, the Zoning Administrator and the City Engineer may determine whether the changes shall be classified as a minor or major, or may refer the question to the Planning and Zoning Commission, if they deem it necessary.

(2) *Major changes.* Major changes, such as alterations in structural types, in the shapes and arrangements of lots and blocks, in the allocation of open space or other land uses which increase density and/or intensity of the project, and all other changes which significantly affect the overall design or intent of the project shall be referred to the Planning and Zoning Commission, after which the Council shall consider and shall either approve or deny the changes in the final development plan. If the changes are authorized, the developer shall submit a revised plan showing the authorized changes. Requirements of divisions (D) and (E) above shall apply to requests for major changes.

(L) *Denial of P.A.D. approval.* If an application for planned area development approval is denied at either the preliminary development plan or final development plan stage, a new application for a P.A.D. approval by the same applicant on the same site or portion of the site cannot be filed prior to 90 days after the date of denial.

(Prior Code, § 21-7-8)

§ 154.161 PROCEDURE FOR APPEALS TO CITY COUNCIL.

(A) *Application for appeal.* Any aggrieved person or any officer or department of the city affected by a decision of an administrative officer, pertaining to this chapter, may appeal to the City Council, unless otherwise stated within this Code, by filing an application with the Zoning Administrator. The application shall state the name and address (or city office) of the applicant and the reasons for filing the appeal. The application shall be made within 21 days of the date of the decision which is being appealed. The Zoning Administrator shall then transmit to the Council the complete record of the action for which the appeal is made. Appeals to the Council may be made only in conjunction with an action.

(B) *Stay of proceedings.* An appeal to the Council stays all proceedings in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the Council that by reason of facts stated in the certificate of stay, the stay would, in his or her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order granted by the Superior Court on notice to the Zoning Administrator, with due cause shown.

(C) *Notice of hearing.*

(1) No appeal may be granted by the Council until a public hearing has been held

on the application. A notice of time, date, place, and purpose of the hearing shall be published in a newspaper of general circulation, published or circulated within the city at least 15 days prior to the date of the hearing.

- (2) If the appeal relates to a decision on a specific site, a similar notice shall be posted in conspicuous places close to the site affected and shall be mailed at least 15 days prior to the date of the hearing to each owner of the property situated within 200 feet of the property to which the appeal relates. The Zoning Administrator shall be responsible for mailing the notice. For the purpose of giving mailed notice, the Board may require the applicant to furnish the names and addresses of all property owners within 200 feet of the property. The failure to receive notice by individual property owners will not necessarily invalidate the proceedings.
- (D) *Review and decision by the Council.* Within 45 days of the date of application, but no sooner than 15 days from the date of public notice, the Council shall hear and decide arguments for appeal to the decision in question. The Council shall consider oral or written statements from the appellant, his or her agent or attorney, the public, and city staff members. The Council shall also study the record of the action from which the appeal is taken. The Council may, by three-fourths majority of the entire Council, approve an appeal or by simple majority, table the appeal. If tabled, the Council shall make a decision on the appeal at its next regularly scheduled meeting. The Council may impose such conditions and safeguards on its decision as it deems necessary to satisfactorily correct the situation in question, but it shall not attempt to infringe upon matters not specifically contained in the appeal.
 - (E) *Notice of Council decision.* The Board shall issue a written notice of its decision to all concerned parties and to the Zoning Administrator and the City Clerk, who shall make official record of the decision. The notice shall state the facts of the matter as determined by the Board, the reasons for its decision, and any conditions applied to the decision.

(Prior Code, § 21-7-9)

§ 154.162 FEES.

- (A) *Purpose.* It is the intent of this section to require petitioners to pay a portion of the public services that are necessary for processing their request. While the city is not expecting 100% recovery of all costs, it does feel that all required publication and mailing costs, plus a portion of administrative costs, should be borne by the petitioner.
- (B) *Application fees.*
 - (1) Fees, for matters pertinent to the administration of this chapter, will be set from time to time by resolution of the City Council of the city, see the Adopted Comprehensive Fee Schedule.
 - (2) For purposes of this chapter, the first site plan filed for a site developed prior to the effective date of this chapter or for a site developed prior to annexation shall be considered an amendment to a previously approved site plan.
 - (3) No filing fee shall be required for any application filed by any agency or

department of the city of any government organized under the laws of the State of Arizona or of the United States. This exception shall not apply to non-governmental leases of government land.

- (4) The City Council may waive fees to avoid duplication of charges or undue hardship.

(Prior Code, § 21-8-2)

§ 154.999 PENALTY.

- (A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.
- (B) No person shall locate, erect, construct, reconstruct, enlarge, change, maintain, or use any building or structure, or use any land in violation of this chapter.
- (C) The Zoning Administrator shall order, in writing, the correction of any violation. The order shall state the nature of the violation, the code provision violated, and the time by which the violation must be corrected. After the order has been served, no work shall proceed on any structure or tract of land covered by such an order except to correct the violation or to comply with the order.
- (D) Decisions of the Zoning Administrator may be appealed to the City Council in accordance with § 154.161.
- (E) In addition to or in lieu of the procedures outlined above, this chapter shall be enforceable in a court of proper jurisdiction, and any or all appropriate remedies at law or in equity shall be available for the enforcement thereof.
- (F) Any and all persons who shall violate any of the provisions of this chapter or fail to comply therewith, or who shall fail to comply with any lawful order or regulation made thereunder, shall severally for each and every such violation and non-compliance respectively, forfeit and pay a fine of not less than \$50, not more than \$750, and/or be imprisoned not to exceed the time of four months for each offense, the violation constituting a Class 2 misdemeanor under the Criminal Code of the laws of the State of Arizona. In addition, the costs of any such action may be imposed at the discretion of the court. The imposition of one penalty for any violation of this chapter shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy the violations and defects within a reasonable time; and each day that the prohibited condition is not corrected or remedied shall constitute a separate offense; and the court shall impose a fine on a per diem basis for each day that the violation is maintained. Application of the above penalty shall not be held to preclude the forced removal of prohibited conditions.
- (G) This chapter shall not be construed to hold the city, its Zoning Administrator, City Engineer, or any other city official responsible for any damage to persons or property by reason of any inspection or reinspection authorized herein or the failure to so inspect or reinspect or by reason of the issuance to a building permit as herein required. (Prior Code, § 21-8-1)
- (H) Any person in control of any premises who fails to correct a violation of this chapter within 30 days after notice thereof by the Zoning Administrator or his or her designee

shall be liable to the city for a civil fine in the amount of \$1,000 for each and every day beyond such 30-day period for which the violation remains uncorrected. The City Attorney shall collect the fines by complaint filed in the City Court pursuant to the procedures prescribed in the city code. (Prior Code, § 21-6-9)

- (l) *Violation of conditional use permits.* Violations to the conditions of a conditional use permit shall constitute a violation of this chapter and shall be subject to the regulations of divisions (B) through (G) above. (Prior Code, § 21-7-5)

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