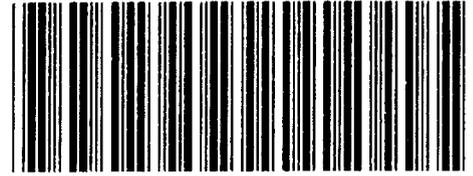


WHEN RECORDED RETURN TO:

City of Tempe
31 E. Fifth Street
Tempe, AZ 85281
Attn: City Clerk



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
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**AMENDED AND RESTATED
INTERGOVERNMENTAL AGREEMENT**

Between

ARIZONA BOARD OF REGENTS

acting for and on behalf of Arizona State University

and

CITY OF TEMPE

C2004-156A

THIS AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT (“**Agreement**”) is made and entered into effective 9/30/04, (“**Effective Date**”) by and between the ARIZONA BOARD OF REGENTS, a body corporate, acting for and on behalf of Arizona State University (“**ASU**”) and the CITY OF TEMPE, a municipal corporation of the State of Arizona, acting by and through its City Council (“**City**”).

- A. WHEREAS, ASU desires to commercially develop portions of its property that are located within the geographical bounds of the City; and
- B. WHEREAS, ASU and the City desire to create a process that allows community input, subject to the rights and powers of ASU and the City; and
- C. WHEREAS, ASU and the City desire to implement a process that allows ASU and the City the opportunity to exercise their respective powers in a way that promotes the development of such property; and
- D. WHEREAS, the City is empowered by A.R.S. §§ 11-951, et seq., and City Charter Section 1.03 to enter into this Agreement, and the City Council has by resolution resolved to enter into this Intergovernmental Agreement and authorized the undersigned to execute this Agreement on behalf of the City; and
- E. WHEREAS, ASU is empowered by A.R.S. §§ 11-951, 15-1625 and 15-1626 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of ASU.

- F. WHEREAS, the City Council approved an Intergovernmental Agreement (No. C2004-156 between the City and ASU regarding the subject matter of this Agreement, and the parties now desire to amend the provisions of the previously approved Intergovernmental Agreement.

NOW, THEREFORE, ASU and the City agree as follows:

1. Definitions.

1.1. **“ASU Use.”** The term “ASU Use” means, in the MU-Ed Zoning District, the use of a project or facility for education, academic research, ASU community service or student life. This type of use is not open to the general public and use, participation or access is limited to persons enrolled in classes, working for ASU or participating in an ASU program, project, or event. Without limiting the generality of the preceding sentence, residential halls operated by or for ASU shall be an ASU Use.

1.2. **“ASU-Related Use.”** The term “ASU-Related Use” means, in the MU-Ed Zoning District, a use that supports the ASU Uses and is not intended to attract the general public.

1.3. **“Building Official.”** The term “Building Official” means the person designated by the City of Tempe’s Development Services Manager who is charged with the administration and enforcement of the building codes, as adopted and amended by the City of Tempe, or the building official’s authorized representative.

1.4. **“City Zoning Code.”** The term “City Zoning Code” means the City of Tempe zoning regulations.

1.5. **“Commercial Use.”** The term “Commercial Use means, in the MU-Ed Zoning District, uses that include, but are not limited to, the sale, exchange, or transfer, of a product or service; accessory entertainment; recreational or amusement businesses; hotels, motels or clubs; commercial parking lots; production or manufacturing and a gross floor area greater than two hundred and fifty (250) square feet. To be considered a Commercial Use in the MU-Ed Zoning District, the building or use must attract the general public. ASU sports venues and ASU-operated auditoriums are examples of uses that are not considered a Commercial Use.

1.6. **“Mixed Use.”** The term “Mixed Use” means, in the MU-Ed Zoning District, uses that are a combination of either an ASU Use or ASU-Related Use and a Commercial Use and/or Residential Use within the same building or project.

1.7. **“Residential Use.”** The term “Residential Use” means, in the MU-Ed Zoning District, a use open to the general public for rent or ownership. Residential halls operated by or for ASU shall not be considered a Residential Use.

2. Zoning.

2.1. Text Amendment. Promptly following the execution of this Agreement, the City shall promptly process a text amendment to the Tempe zoning regulations (hereinafter, "City Zoning Code") as set forth on amended *Exhibit A* (the "MU-Ed District Text Amendment"), subject to further City Council approval.

2.2. Rezoning. Following initiation by the City of the process to approve the MU-Ed District Text Amendment, ASU shall submit an application to rezone property owned by the Arizona Board of Regents (the "Campus Periphery Property") described generally on *Exhibit B* to be designated as MU-Ed District zoning as permitted by the MU-Ed District Text Amendment. The City shall promptly initiate the process to rezone such property. To the extent required, the City shall initiate a General Plan Amendment in connection with such rezoning.

2.3. Termination. If the Campus Periphery Property is not rezoned to be included within a MU-Ed District as permitted by the MU-Ed District Text Amendment on or before December 31, 2004, this Agreement shall, unless extended upon request by ASU and with consent of the City Manager, automatically terminate on January 1, 2005.

3. Zoning Regulations and Building Codes. Any use other than an ASU Use or ASU-Related Use on the Campus Periphery Property that is zoned MU-Ed shall be subject to the City Zoning Code and the Tempe building codes (collectively, the "City Building Code") then in effect. In the event MU-Ed zoned land ownership is transferred by ASU to another entity, either ASU or the new entity shall apply to the City for the appropriate zoning classification.

3.1. Modifications. Requests by ASU or their representatives for modifications to the Building Code, including requests for alternate materials, design or methods of construction shall be reviewed by the City Building Official.

4. Permits and Inspections. Any use other than an ASU Use or ASU-Related Use on the Campus Periphery Property will be subject to the permitting and inspection process identified in this section.

4.1. ASU shall accomplish plan review for shell buildings to determine that the proposed development satisfies the requirements of the City Building Code.

4.2. The City shall issue permits and inspect all off-site utilities and rights-of-way construction in connection with the proposed development.

4.3. ASU shall issue permits for shell buildings in connection with the proposed development.

4.4. ASU shall inspect the shell buildings in connection with the proposed development.

4.5. Upon completion of the shell phase of the proposed development and the completion of satisfactory inspections, ASU will cause its architect/engineers to sign a certificate of performance acknowledging that all construction has been built in accordance with the City Building Code.

4.6. ASU shall review, permit, and inspect tenant improvements for the build out of space within the proposed development to be used for ASU Uses or ASU-Related Uses.

4.7. The City shall review, permit, and inspect tenant improvements for the build out of space within the proposed development to be used for non-ASU Uses or non-ASU-Related Uses.

5. Taxes/Incentives. For any use other than ASU Use or ASU-Related Use on the Campus Periphery Property, ASU and the City will jointly evaluate appropriate application of tax revenues and incentives. This would include the need (if any) for development incentives that could include favorable property tax treatment in the form of payments in lieu of property taxes and city development incentives that could include sales tax rebates. In some cases, the need may exist for in-lieu tax payments that are applied independent of an incentive package, and in some cases an incentive package may be applied independent of in-lieu tax payments. The appropriate development incentive package for each proposed development shall be subject to such approvals of the City and ASU as required by law, but the parties expressly acknowledge that taxes/incentives will be determined on a case-by-case basis based on demonstrated need of the proposed project.

6. Community Input. ASU will permit input from stakeholders prior to the selection of a developer for any proposed use other than ASU Use or ASU-Related Use on the Campus Periphery Property of a size greater than five thousand (5,000) square feet. These stakeholders may include neighborhood representation, ASU representation, downtown property owner and tenant representation, and business representation. This group shall provide input and advice only and shall not be an approving body. The City shall be responsible for scheduling and noticing any meetings of this group as requested by ASU.

7. Exclusions. Any proposed development within the Campus Periphery Property that includes only ASU Uses or ASU-Related Uses will not be subject to the MU-Ed District permitted under the MU-Ed District Text Amendment. ASU may, in its sole and absolute discretion, submit such development to the MU-Ed District requirements permitted under the MU-Ed District Text Amendment.

8. Intergovernmental Agreement. This Agreement shall be deemed an Intergovernmental Agreement pursuant to A.R.S. § 11-951, et seq. All rights of ASU hereunder for each proposed development shall be vested thirty (30) days following the date that the plan for the subject development is approved by the City Council.

9. Term. The term of this Agreement shall commence on the Effective Date and shall terminate twenty-five (25) years thereafter, but may be extended by mutual agreement of the parties for an additional twenty-five (25) year term.

10. Notices. Any notice permitted or required under this Agreement shall be delivered to the following or their successors in the indicated positions and shall be effective upon delivery of the notice and the copies:

For ASU: Director of Real Estate Services
Arizona State University
P. O. Box 875212
Tempe, Arizona 85287-5212

With a copy to: Office of General Counsel
Arizona State University
P. O. Box 872003
Tempe, Arizona 85287-2003
Attention: General Counsel

For the City: City of Tempe
P.O. Box 5002
Tempe, Arizona 85280
Attention: Development Services Manager

City of Tempe
P. O. Box 5002
21 E. Sixth Street, Suite 201
Tempe, Arizona 85280
Attention: City Attorney

11. Non-Discrimination and Affirmative Action. ASU and the City agree to comply with all applicable state and federal laws, rules, regulations, and executive orders (including without limitation, Arizona Executive Order No. 75-5, entitled "Prohibition of Discrimination in State Contracts-Non-Discrimination in Employment by Government Contractors and Subcontractors" which by this reference is incorporated herein and made a part hereof) governing equal employment opportunity, immigration, nondiscrimination, and affirmative action.

12. Termination for Conflict of Interest. This Agreement is subject to cancellation pursuant to A.R.S. § 38-511.

13. Dispute Resolution. To the extent required by A.R.S. § 12-133 and any successor statutes, ASU and the City agree to use arbitration, after exhausting all applicable administrative remedies, to resolve any dispute or claim arising out of this Agreement.

14. Books and Records. Pursuant to A.R.S. §§ 35-214, 35-215, and 41-1279.04, as amended, all books, accounts, reports, files, and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the State of Arizona for five years after termination of this Agreement. Such records shall be produced at ASU or other place designated by ASU. By this Agreement, the City is entitled to the equivalent audit rights as ASU under A.R.S. § 35-214 to the extent that all books, accounts, reports, files and other records relating to this Agreement shall be subject at all reasonable times to inspection and audit by the City for five years after termination of this Agreement.

15. Non-Appropriation. ASU and the City agree that notwithstanding any other provision of this Agreement to the contrary, if performance under this Agreement by any party shall ever be dependent upon the appropriation of funds by the State Legislature of Arizona (“**Legislature**”) or the City Council of City (“**Council**”) and if the Legislature or Council should fail to appropriate the necessary funds for such performance, then, by written notice to the other, the affected party may terminate the portion of this Agreement dependent upon the appropriation of funds and have no further duty or obligation to the other party to the extent of such failure of appropriation, provided that the remainder of this Agreement shall remain in effect.

16. Recordation. This Agreement shall be recorded with the Maricopa County, Arizona, Recorder.

17. Governing Law. This Agreement shall be governed by, and construed and interpreted in accordance with, the law of the State of Arizona as in effect from time to time, without giving effect to conflicts of law principles.

18. Binding Agreement. This Agreement shall be binding upon the successors and assigns of ASU and the City.

19. Entire Agreement. This Agreement (and the exhibits attached hereto) constitutes the entire agreement and understanding of ASU and the City with respect to the subject matter hereof and thereof. This Agreement may not be amended, modified, extended, or renewed except in writing executed by ASU and the City.

20. Unenforceable Provision. If any provision of this Agreement is unenforceable, the remainder of the Agreement shall remain in effect, provided that the intent and purpose of the parties in entering this Agreement is not materially vitiated by such unenforceability, provided further the parties will, in good faith, negotiate and enter into an amendment to this agreement, in light of such occurrence.

21. Obligations and Rights Cumulative. The rights and obligations of ASU and the City under this Agreement (and the exhibits attached hereto) are cumulative.

22. No Inconsistent Grants or Agreements. Neither ASU nor the City shall grant to any other person or entity any rights that are inconsistent with, contrary to or infringe upon any right of the other under this Agreement.

23. No Partnership. It is understood and agreed between the parties hereto that nothing herein contained shall be deemed, held or construed as the creation of a partnership or joint venture as between the parties hereto.

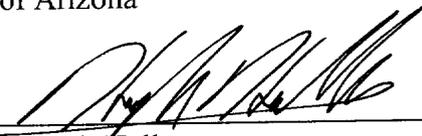
24. Captions. The captions and headings of the various sections of this Agreement are for convenience and identification only, and shall not be deemed to limit or define the contents of the respective sections.

25. Time Periods. All time periods contained herein shall refer to calendar days, except where express reference is made to business days. Business days shall be defined to mean all days except Saturdays, Sundays and legal holidays. If any time period specified in this Agreement expires on a non-business day, such time period shall be extended to the first preceding business day.

26. Legal Determination. Attached hereto and incorporated herein is a written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this Agreement and that this Agreement is in proper form.

IN WITNESS WHEREOF, ASU and the City have caused their respective duly authorized representatives to execute this Agreement on their behalf as of the date first above stated.

CITY OF TEMPE, a municipal corporation of the State of Arizona

By: 
Hugh Hallman
Its: Mayor

ATTEST:



City Clerk

Date: 10/1/04

The above Agreement has been reviewed pursuant to A.R.S. § 11-952, by the undersigned attorney for City of Tempe, Arizona, who has determined that it is in the proper form and is within the powers and authority granted to the City of Tempe, Arizona.

By: Marlene Pontrelli

Name: Marlene Pontrelli

Title: City Attorney

ARIZONA BOARD OF REGENTS, a body
corporate, acting for and on behalf of **ARIZONA
STATE UNIVERSITY**

By: Michael Crow

Name: Michael M. Crow

Title: President

Arizona State University

The above Agreement has been reviewed pursuant to A.R.S. § 11-952, by the undersigned attorney for the Arizona Board of Regents, who has determined that it is in the proper form and is within the powers and authority granted to the Arizona Board of Regents.

Paul J. Ward
Attorney for Arizona State University

Paul J. Ward
Vice President for University Administration
and General Counsel

Exhibit A

SUBJECT TO FURTHER CITY COUNCIL APPROVAL

ORDINANCE NO. 808.2004.09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING ZONING ORDINANCE NO. 808 RELATING TO ESTABLISHMENT OF THE JOINT REVIEW COMMITTEE AND THE MU-ED ZONING DISTRICT.

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

Section 1. That Section 1-203 of Zoning Ordinance No. 808 is hereby amended to add the following definition:

Sec. 1-203. “B” definitions.

Building official means the person designated by the City of Tempe’s development services manager who is charged with the administration and enforcement of the building codes, as adopted and amended by the City of Tempe, or the building official’s authorized representative.

Section 2. That Section 1-204 of Zoning Ordinance No. 808 is hereby amended to add the following definition:

Sec. 1-204. “C” definitions.

Commercial use means, in the MU-Ed zoning district, uses that include, but are not limited to, the sale, exchange, or transfer, of a product or service; accessory entertainment; recreational or amusement businesses; hotels, motels or clubs; commercial parking lots; production or manufacturing and a gross floor area greater than two hundred and fifty (250) square feet. To be considered a commercial use in the MU-Ed zoning district, the building or use must attract the general public. Public University sports venues and Public University operated auditoriums are examples of uses that are not considered a commercial use.

Section 3. That Section 1-214 of Zoning Ordinance No. 808 is hereby amended to add the following definition:

Sec. 1-214. “M” definitions.

Mixed use means, in the MU-Ed zoning district, uses that are a combination of either a Public University use or Public University related use and a commercial and/or residential use within the same building or project.

Section 4. That Section 1-217 of Zoning Ordinance No. 808 is hereby amended to add the following definitions:

Sec. 1-217. “P” definitions.

Public University means a public funded educational institution maintained by the Arizona Board of Regents.

Public University use means, in the MU-Ed zoning district, the use of a project or facility for education, academic research, Public University community service or student life. This type of use is not open to the general public and use, participation or access is limited to persons enrolled in classes, working for a Public University or participating in a Public University program, project, or event. Without limiting the generality of the preceding sentence, residential halls operated by or for a Public University shall be a Public University use.

Public University related use means, in the MU-Ed zoning district, a use that supports the Public University uses and is not intended to attract the general public.

Section 5. That Section 1-219 of Zoning Ordinance No. 808 is hereby amended to add the following definition:

Sec. 1-219. “R” definitions.

Residential use means, in the MU-Ed zoning district, use open to the general public for rent or ownership. Residential halls operated by or for a Public University shall not be considered a residential use.

Section 6. That Part 1, Chapter 3, entitled “*Zoning Officers, Boards and Commissions*” is hereby amended to read “*Zoning Officers, Boards, Committees and Commissions*” and is hereby amended to add new Sections 1-310, 1-311 and 1-312 as follows:

Sec. 1-310. Joint review committee - created.

The joint review committee is created for the purpose of reviewing and making decisions and recommendations on development actions in lieu of the board of adjustment, planning and zoning commission, and design review board for projects within the MU-Ed zoning district.

Sec. 1-311. Joint review committee – duties and powers.

A. The joint review committee shall exercise the powers granted to the planning and zoning commission, the board of adjustment, the redevelopment review commission, and the

design review board, consistent with applicable law for those boards and commissions for any development action in the MU-Ed zoning district.

B. The joint review committee may, in connection with any development action in the MU-ED zoning district, impose conditions, as it deems necessary to fully carry out the provisions and intent of Part 2, Chapter 21. Violation of any approved condition shall be a violation of this Ordinance pursuant to Section 1-104. The City of Tempe has zoning enforcement authority within the MU-Ed zoning district.

Sec. 1-312. Joint review committee – organization.

A. The joint review committee shall consist of seven (7) members and five (5) alternates. The alternates shall serve at the committee hearings whenever a regular committee member is unable to attend or must decline due to conflict of interest. Three (3) members and two (2) alternates of the committee shall be appointed by the President of Arizona State University (ASU), three (3) members and two (2) alternates shall be appointed by the Mayor of Tempe with the approval of the City Council. One (1) member and one (1) alternate of the committee shall be jointly appointed by the Mayor of Tempe, with City Council approval, and the President of ASU.

B. The term of office for all joint review committee members shall be three (3) years beginning on the date of appointment except terms for the initial members shall be staggered. Members may serve consecutive terms with concurrence of the mayor and/or president for their respective appointees. No committee member shall serve more than two (2) complete consecutive three (3) year terms. Vacancies shall be filled for the unexpired term of a member whose office is vacant in the same manner as such member received original appointment.

C. The members of the joint review committee shall serve without compensation.

D. The joint review committee shall elect a chairperson and vice-chairperson from among its own members who shall have power to administer oaths, take evidence, and set consent agendas. The chairperson shall appoint the chair and membership of all subcommittees of this committee.

E. Meetings and hearings of the joint review committee shall be open to the public. The chair will ask if there are public comments on each agenda item, and the public shall be given an opportunity to testify orally or in writing. The minutes of its proceedings, showing the vote of each member, records of the committees' examinations and other official actions, shall be kept and filed in the office of the City Clerk as a public record.

F. The joint review committee shall adopt rules of procedure consistent with the provisions of this ordinance for the conduct of its business and procedure.

G. A quorum consists of four (4) members of the joint review committee. The concurring vote of four (4) members of the joint review committee shall be necessary to approve, deny, approve with conditions, or make a recommendation on any application, or to affect any

variation from the terms and conditions of this ordinance. Robert's Rules of Order shall govern any other motion.

H. The development services manager, or designated representative, shall serve ex officio as secretary of the joint review committee.

I. Whenever a member is either unable to attend or must decline due to conflict of interest, that member shall give timely notice to the appropriate staff person of the development services department or ASU. The staff shall then notify the alternate joint review committee member(s) to fill the vacancy represented by the respective appointee(s) (i.e., Tempe appointed alternate fills a Tempe appointed vacancy, ASU appointed alternate fills an ASU appointed vacancy, and a jointly appointed alternate fills a jointly appointed vacancy). In the event that such members are not sufficiently available to make a quorum, the appropriate staff person is authorized to act on behalf of the member not able to attend or participate on consent agenda items only, and only to the extent that their presence makes a quorum.

J. The rules and procedures for advertising, notification and scheduling of hearings before the joint review committee shall be consistent with the legal standards required for action before the planning and zoning commission, board of adjustment or the design review board depending upon the individual case subject. If any conflict exists between the provisions of this chapter regarding advertising, notification or scheduling then the stricter standard applies.

Section 7. That Part 1, Chapter 5, of Zoning Ordinance No. 808, entitled "*Applications and Procedures for Zoning Changes, Uses and Appeals*" is hereby amended to add new Section 1-517 as follows:

Sec. 1-517. Appeal to council from the joint review committee.

On matters other than recommendations, a person aggrieved, or the development services manager with the consent of the city manager, or any member of the city council, or a recognized representative of ASU, may file an appeal with the city clerk within fifteen (15) calendar days after a decision by the joint review committee or president of ASU or designated representative. An appeal will first be heard by the president of ASU or a designated representative. The president of ASU, or a designated representative, may affirm or reverse, in whole or in part, or modify the decision of the joint review committee and shall render a written decision within twenty (20) working days of receipt of request for review. The decision by the president of ASU, or a designated representative, may be appealed to the Tempe city council. The appeal shall be in accordance with procedures adopted by the council and may affirm or reverse, in whole or in part, or modify the president of ASU's or designated representative's decision. Compliance with applicable open meeting laws is required for all actions in this district by the joint review committee, president of ASU or designated representative and the Tempe city council.

Section 8. That Part 2, Chapter 1, of Zoning Ordinance No. 808 entitled "*General Provisions*" is hereby amended by adding new Section 2-103a entitled "*Mixed Uses Districts*" as follows:

Sec. 2-103a. Mixed uses districts.

Mixed use districts include the following:

1. MU-1 Mixed use
2. MU-2 Mixed use
3. MU-Ed Mixed use educational

Section 9. That Part 2 of Zoning Ordinance No. 808 entitled “*District Regulations*” is hereby amended by adding new Chapter 21 entitled “*Mixed Use Educational District*” as follows:

**CHAPTER 21
MIXED USE EDUCATIONAL DISTRICT**

Sec. 2-2101. Purpose.

The purpose of the Tempe mixed-use educational district is to encourage appropriate land development by integrating commercial uses that support a Public University use and the surrounding neighborhoods and implement the objectives of the General Plan.

The specific objectives are to:

- Promote comprehensive campus and municipal planning;
- Integrate campus and community land uses that promote campus and community interaction;
- Encourage a mix of uses and balance of densities and intensities;
- Develop mutually beneficial economic development;
- Provide efficient circulation that limits conflicts between vehicles and pedestrians;
- Provide personal and professional services, institutional and civic uses, retail, and multi-family residential amenities;
- Achieve a compact form of development more conducive to walking, bicycling, and transit use; and
- Provide facilities that create a safe, accessible, comfortable and pleasant environment for students, faculty, staff and residents.

Sec. 2-2102. General regulations.

A. *Applicability.* Only properties owned by a Public University may utilize the MU-Ed zoning district and the joint review committee processing. In the event MU-Ed zoned land ownership is transferred by the Public University to another entity that is not a Public University, either the Public University or the new entity shall apply to the City for the appropriate zoning classification. In no event shall the MU-Ed criteria, standards, or process be available to an entity other than a Public University.

B. *Criteria.* Commercial, residential and mixed-use development within the MU-Ed district shall conform to the standards in this zoning district; design review criteria established in city code; and design review criteria as adopted by ASU. In the event of a conflict in design review criteria, the joint review committee will determine the criteria to be applied.

Sec. 2-2103. Use regulations.

Combinations of any of the following uses are permitted in the MU-Ed district as follows:

1. Accessory use
2. Bakery
3. Bed and breakfast
4. Childcare center
5. Clinic
6. Conference/convention canters
7. Educational
8. Entertainment:
 - Amusement (arcade)
 - Outdoor/permanent use
 - Theater
9. Financial institutions
10. Fine arts class instruction
11. Hotels and motels
12. Live-work
13. Offices
14. Parking, commercial:
 - Surface
 - Structure
15. Photograph studio, except adult-oriented businesses
16. Places of worship
17. Public uses
 - Civic facilities
 - Municipal facilities
 - Academic facilities
 - Open space, parks
18. Recreation
19. Residential – multifamily, group housing, student housing
20. Residential caretaker residence
21. Restaurants
 - Entertainment as an accessory use
 - Outdoor seating
22. Retail Sales – indoor and outdoor
23. Schools, public, private and charter
24. Services - personal or business

25. Travel bureaus
26. Tutoring/after school learning center

Any use similar to, and not more detrimental than the uses permitted herein, as determined by the zoning administrator, may per permitted.

Sec. 2-2104. Uses permitted subject to a use permit in the MU-Ed district.

The following uses are permitted in the MU-Ed district, subject to a use permit approved by the joint review committee.

1. Bars, breweries or other establishments with alcohol as the primary item for sale;
2. Club - lodges & similar organizations;
3. Financial institutions with drive-through;
4. Freight transportation and distribution for Public University programs or operations;
5. General manufacturing for Public University use;
6. Kennels and veterinary clinics unless for a Public University program;
7. Mini warehouse for Public University programs or operations;
8. Nurseries or greenhouses unless for a Public University program;
9. Rental repair or service of boats or other recreational vehicles;
10. Restaurants with a drive-through;
11. Retail sales with a drive-through;
12. Service with a drive-through;
13. Shipping or distribution unless for Public University use;
14. Warehouse or other indoor storage unless for Public University use;
15. Wireless telecommunication facilities for Public University programs or operations;
16. Amateur radio antennas for Public University programs or operations.

Sec. 2-105. Prohibited uses in MU-Ed district.

The following uses are prohibited in the MU-Ed district:

1. Adult-oriented business;
2. Bulk retail and wholesale uses including building materials, food and beverage sales, restaurant supplies, etc.
3. Funeral homes, mortuaries and cemeteries,
4. Manufactured home sales;
5. Mini-warehouse;
6. Mobile home parks;
7. Outdoor storage;
8. Pawn shops;
9. Recreational vehicle parks;
10. Sales of boats or other recreational vehicles;

11. Sales, rental, repair, wash, fueling or service of motorized vehicles;
12. Sales, service, or rental of commercial equipment or construction materials;
13. Salvage and recycling;
14. Towing services;
15. Wholesale showroom.

Sec. 2-2106. Yard, height, area and density requirements.

Standards for development and uses, other than Public University uses or Public University related uses, within this district shall be determined at the time a project is processed through the joint review committee.

Standard	MU-ED
Residential Density (dwellings/acre)	---
Building Height Maximum (feet):	--- ^(b)
Max. Lot Coverage (% of lot area)	---
Minimum Landscape Area (% of lot area)	---
Setbacks	
Front – Minimum	---
Front – Maximum	---
Side – Minimum	---
Street Side – Minimum, subject to vision requirement on streets	---
Rear – Minimum	---

^(b) Development and uses other than Public University uses or Public University related uses in this district that are adjacent to or separated by an alley from a residential use shall not exceed thirty (30) feet in height

Section 10. That Part 3, Chapter 1, of Zoning Ordinance No. 808, entitled “*Purpose and General Regulations*” is hereby amended to add new Section 3-105 as follows:

Sec. 3-105. Exemptions.

Public University uses and Public University-related uses in the MU-Ed district shall be exempt from the provisions of this part of the Zoning Ordinance.

Section 11. That Part 4, Chapter 1, of Zoning Ordinance No. 808, entitled "*Purpose, Procedure and Administration*" is hereby amended to add new Section 4-104 as follows:

Sec. 4-104. Exemptions.

Public University uses and Public University related uses in the MU-Ed district shall be exempt from the provisions of this part of the Zoning Ordinance.

Section 12. That Part 5, Chapter 1, of Zoning Ordinance No. 808, entitled "*Purpose and General Regulations*" is hereby amended to add new Section 5-107 as follows:

Sec. 5-107. Exemptions.

Public University uses and Public University-related uses in the MU-Ed district shall be exempt from the provisions of this part of the Zoning Ordinance.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this _____ day of _____, 2004.

MAYOR

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney