PART 3 - LAND USE

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CHAPTER 1 – PERMITTED USES IN RESIDENTIAL DISTRICTS

Section 3-101 Purpose and Applicability.

- **A. Purpose.** The residential districts are designed to provide neighborhoods with a range of housing densities. The differences in these housing densities and regulations are intended to support the varying lifestyles of the city's residents. The districts provide for a range of residential habitation including rural-agricultural, single-family, multi-family, mobile home, and combinations thereof, together with home occupations, schools, parks, and public services necessary for neighborhood living.
- **B. Applicability.** Residential zoning districts fall under three categories:
 - 1. Single-Family Residential (AG, R1-15, R1-10, R1-8, R1-7, R1-6, R1-5, R1-4 and R1-PAD);
 - 2. Multi-Family Residential (R-2, R-3R, R-3, R-4, R-5); and
 - 3. Mobile Home (RMH, MHS and TP).
- **C.** Applicability of Other Code Chapters. Uses permitted under this chapter shall conform to the *development* standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any *overlay district* requirements that are applicable. Uses permitted with special standards or limitations ("S" type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. See also, Zoning Administrator Opinions in Appendix H.

City code reference—See TCC §14A, Historic Preservation Ordinance.

Section 3-102 Permitted Uses in Residential Districts.

Table 3-102 identifies land uses according to permit status. See key below the table:

Table 3-102 – Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)						
Uses	Status of Use in District					
	AG	SFR	MF	MH/RMH/TP		
Accessory Buildings [Section 3-401]	S	S	S	S		
Accessory Uses and Structures – except accessory dwelling [Section 3-401]	S	S	S	S		
Accessory Dwelling [Section 3-402]	N	N	N	N		
Amateur Radio Antennas [Section 3-422]						
35 feet in height or less	S	S	S	S		
Over 35 feet in height	U(S)	U(S)	U(S)	U(S)		
Animals						
Horses [Section 3-404]						
Keeping of, residential use	S	U(S)	N	N		
Stables, commercial use	U(S)	N	N	N		
Livestock: Cattle, Sheep, or similar [Section 3-404]	S	N	N	N		
Animals on single-family dwelling lots [Section 3-404]						
Small animals and pot-bellied pigs	S	S	S	N		
Livestock and additional small animals	U(S)	U(S)	U(S)	N		
Apiaries [Section 3-404]	U(S)	N	N	N		
Bed and Breakfast [Section 3-405]	U(S)	U(S)	U(S)	N		
Boarding Room [Section 3-410]	S	S	Р	Р		
Boutique [Section 3-406]	S	S	S	N		
Cemeteries, Mausoleums, Crematoriums	U	N	U	N		
Community gardens [Section 3-427]	S	U(S)	U(S)	U(S)		
Construction Offices and Sheds, Appurtenant Signs and Storage; Temporary - incidental to a construction project only for the duration of such project: not to exceed 24 months	Р	Р	Р	Р		
Child Care, In-Home						
Not to exceed 6 children [Section 3-407]	S	S	S	N		
7 to 10 children [Section 3-407]	U(S)	U(S)	U(S)	N		

Key:P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

AG = Agriculture districts

SFR = Single-family districts
MF = Multi-family districts

MH = Mobile home district

RMH = Mobile Home Residence

TP = Trailer Park

Table 3-102 – Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)						
Uses	Status of Use in District					
	AG	SFR	MF	MH/RMH/TP		
Childcare Centers: Nursery Schools, Day Care Centers, similar (R-3R, R-3, and R-4 districts only)	N	N	U	N		
Country Clubs, Private Clubs, Golf Courses	U	U	U	N		
Farming [Section 3-404]	S	N	N	N		
Fraternity and Sorority Houses (R-3 and R-4 Districts Only)	N	N	U	N		
Group Homes for Adult Care, Persons with Disabilities, and Child Shelter [Section 3-409]	S	S	S	N		
Guest Quarters [Section 3-411]	S	S	N	N		
Home Occupations [Section 3-412] [See Appendix N.]	S	S	S	S		
Hospitals, Sanitariums, Nursing Homes: e.g. Orphanages, Institutions (AG, R-3R, R-3, R-4 only) [Section 3-413]	U(S)	N	U(S)	N		
Live-Work [Section 3-414]	N	N	U(S)	N		
Mobile Homes [Section 3-416]	N	N	N	S		
Multi-Family Dwelling (2 or more dwellings)	N	N	Р	N		
Parking Facilities for Commercial Uses (off-street and not enclosed in a building)	N	N	U	N		
Places of Worship (except tents and other temporary structures or buildings not permitted) including childcare, Sunday school use which are ancillary to main use	Р	Р	Р	Р		
Childcare center, private or charter school not ancillary to main use	U	U	U	U		
Processing of Farm Products [Section 3-404]	U(S)	N	N	N		
Public Uses						
Civic facilities (e.g., post office, library, city office, customer serving)	U	U	U	N		
Municipal facilities (maintenance, repair and storage)	U	U	U	N		
Open space, parks, similar uses (See also, Schools)	Р	Р	Р	Р		
Residential Sales Office, Temporary [Section 3-419]	S	S	S	S		
Retailing of Farm Products Produced on Premises	U	N	N	N		
School						
Charter (use permit required in a single-family residential district on a lot of less than 1 acre, pursuant to Section 6-308)	S	S	Р	Р		
Instructional	U	U	U	U		
Private	U	U	U	U		
Public	Р	Р	Р	Р		
Vocational	N	N	N	N		

P = Permitted

S = Permitted with special standards or limitations
U = Use permit required
N = Not permitted

AG = Agriculture districts
SFR = Single-family districts
MF = Multi-family districts
MH = Mobile home district

RMH = Mobile Home Residence

TP = Trailer Park

Table 3-102 – Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)						
Uses Status of Use in District						
	AG SFR MF MH/RM					
Similar Uses [Section 6-301]	S	S	S	S		
Single-Family Dwelling (See Section 7-107, definition of family)	S	S	Р	Р		
Second Story Addition or Replace Single Story with 2 or More Stories [Section 3-420]	U(S)	U(S)	U(S)	N		
Wireless Telecommunication Facilities [Section 3-421]	U(S)	U(S)	U(S)	U(S)		

P = Permitted AG = Agriculture districts RMH = Mobile Home Residence

S = Permitted with special standards or limitations
U = Use permit required
N = Not permitted

SFR = Single-family districts
MF = Multi-family districts
MH = Mobile home district

CHAPTER 2 – PERMITTED USES IN COMMERCIAL AND MIXED-USE DISTRICTS

Section 3-201 Purpose and Applicability.

- **A. Purpose.** The commercial and *mixed-use* districts are established to provide a mixture of complimentary land uses including *retail*, *offices*, commercial *services*, *Public Universities*, *Public University related uses*, *civic uses*, and housing. These districts are intended to create economic and social vitality and to encourage trip reduction; and encourage pedestrian circulation as an alternative to driving and provide employment and housing options.
- **B. Applicability.** Commercial and *mixed-use* districts fall under the following categories:
 - 1. Residential/Office (R/O). The R/O district allows professional and administrative services, live-work, and limited retail uses on small parcels located between higher intensity commercial and multi-use zones and residential zones;
 - 2. Commercial Shopping and Services (CSS) (previously designated as CCR, C-1 and C-2 districts). The CSS district is intended to meet the daily shopping and service needs of Tempe's neighborhoods;
 - 3. City Center (CC) (previously designated as CCD). The CC district fosters employment and livability in Tempe's city center by providing *retail*, *offices*, moderate- and high-*density* residential uses, *entertainment*, *civic uses*, and cultural exchange in a *mixed-use* environment that supports the public investment in transit and other public facilities and *services*. This district may also be considered mixed-use when the design provides a mix of uses for the purposes of implementing the General Plan Land Use;
 - 4. Planned Commercial Center (PCC-1, PCC-2). The PCC districts are for neighborhood (PCC-1) or general (PCC-2) retailing, services and entertainment uses oriented to serve the needs of the neighborhood, community or the metropolitan region. Residential uses may be allowed subject to a use permit for the purpose of revitalizing an existing commercial center;
 - 5. Regional Commercial Center (RCC). The RCC district provides regional shopping facilities in locations deemed appropriate to serve large demographic areas; and
 - 6. Mixed-Use Commercial and Residential [MU-1, MU-2, MU-3, MU-4 (MU-4 previously designated as MG)]. All MU zone districts require the integration of commercial and residential uses to support pedestrian circulation and transit as alternates to driving, and to provide employment and housing options. MU districts allow a range of *development* intensities and uses including, but not limited to: personal and professional *services*, institutional and *civic uses*, *retail*, *multi-family dwellings*, *attached single-family dwellings*, and *mixed-use buildings* and *building* sites. All *mixed-use* districts require a PAD Overlay for processing.

- a. The MU-1 district allows low to medium *density* housing to be combined with commercial, *office* and *public uses* that serve the neighborhood. Residential uses are allowed up to ten (10) units per acre. Permitted commercial uses are limited to those that are compatible with low to medium *density* housing.
- b. The MU-2 district allows medium *density* housing to be combined with commercial, *office* and *public uses* that serve the neighborhood. Residential uses are allowed up to fifteen (15) units per acre. Permitted commercial uses include those that are allowed in the MU-1 district, and some *hotels*, *motels* and lodging when approved with a *use permit*.
- c. The MU-3 district allows medium to high *density* housing to be combined with commercial, *office* and *public uses* that serve the neighborhood and/or community. Residential uses are allowed up to twenty-five (25) units per acre. Permitted commercial uses include those that are allowed in the MU-1 and MU-2 districts, and *hotels* and *motels* (permitted); and *hospitals*, commercial *parking*, and *retail*, and *restaurant* uses with drive through facilities when approved with a *use permit*.
- d. The MU-4 district (previously designated as MG district) allows unlimited housing *density* in a *mixed-use* setting with commercial, *office*, and *public uses*. *Development intensity* in the MU-4 district is established through the PAD Overlay process and must be consistent with the General Plan and the city's ability to provide public facilities.
- 7. Mixed Use Educational (MU-Ed). 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. However, if MU-Ed zoned land is leased to an entity that is not a Public university, Improvements on such land shall be subject to the MU-Ed Zoning District regulations and process.
- C. Applicability of Other Code Chapters. Uses permitted under this chapter shall conform to the *development* standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any *overlay district* requirements that are applicable. Uses permitted with special standards or limitations ("S" type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. Zoning Administrator opinions may also apply. See Appendix H.

Commercial Use, Residential Use and Mixed-Use development within the MU-Ed district shall conform to the design review criteria as adopted by ASU and applicable Development Standards in Part 4. The Joint Review Committee will determine the criteria to be applied. Uses permitted under this Chapter shall utilize the applications and review procedures in Part 6.

City code reference—See TCC §14A, Historic Preservation Ordinance.

Section 3-202 Permitted Uses in Commercial and Mixed-Use Districts

Table 3-202A identifies land uses according to permit status. See key below the table:

Uses	Status of Use District					
	R/O	css	СС	PCC-1	PCC-2	RCC
Accessory Use (see Section 7-102, Definitions)	Р	Р	Р	Р	Р	Р
Animal Kennel	N	U	U	U	U	U
Amateur Radio Antennas [Section 3-422]						
35 feet in height or less	S	S	S	s	S	S
Over 35 feet in height	U(S)	U(S)	U(S)	U(S)	U(S)	U(S)
Brewery, ancillary to a bar (a)	N	Р	Р	Р	Р	Р
Card room (a) [Section 6-313]	N	S	S	S	S	S
Cemeteries, Crematoriums and Mausoleums	N	U	U	U	U	N
Childcare Centers: Nursery Schools, Day Care Centers, similar	Р	Р	Р	Р	Р	Р
Clinic (medical, dental, veterinary (small animals))	Р	Р	Р	Р	Р	Р
Plasma donation center	U	U	U	U	U	U
Clubs						
Bar (indoor or outdoor), tavern, or nightclub (a)	N	U	U	U	U	Р
Lodge or similar organization (a)	N	Р	Р	Р	Р	Р
Teen night club (a)	N	U	U	U	U	U
Community gardens [Section 3-427]	U(S)	U(S)	U(S)	U(S)	U(S)	U(S)
Conference/Assembly (convention center)	N	Р	Р	Р	Р	Р
Construction Offices and Sheds, Appurtenant Signs and Storage; Temporary – incidental to a construction project only for the duration of such project; not to exceed 24 months	Р	Р	Р	Р	Р	Р
Entertainment	N	U	U	U	U	Р
Amusement businesses (a)	N	U	U	U	U	Р
Outdoor (permanent use)	N	U	U	U	U	U
Theater or similar use	N	Р	Р	Р	Р	Р
Fitness Centers: e.g. Heath Club, Fitness Studio	N	Р	Р	Р	Р	Р
Heliport	N	U	U	U	U	U

Key:

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted R/O = Residential/Office

(a) Security plan required. See Section 6-313.

CSS = Commercial Shopping and Services (previously designated as CCR,

C-1, C-2 districts)

CC = City Center (previously designated as CCD)
PCC-1 = Planned Commercial Center Neighborhood

PCC-2 = Planned Commercial Center General

RCC = Regional Commercial Center

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)						
Uses			Status of U	Jse District		
	R/O	css	СС	PCC-1	PCC-2	RCC
Hospitals, Sanitariums, Nursing Homes: e.g. Orphanages, Institutions [Section 3-413]	N	U(S)	U(S)	U(S)	U(S)	U(S)
Hotels and Motels (a)	N	U	Р	U	υ	Р
Live-Work [Section 3-414]	S	N	S	U(S)	U(S)	N
Medical Marijuana cultivation [Section 3-426]	N	N	N	N	N	N
Medical Marijuana dispensary (without cultivation) [Section 3-426]	N	S	S	S	S	S
Mini-Warehouse/Rental Storage Facilities [Section 3-415]	N	U(S)	N	U(S)	U(S)	S
Offices	Р	Р	Р	Р	Р	Р
Outdoor Storage of equipment, goods, or materials	N	N	N	U	U	U
Parking Facilities, Commercial						
Surface	N	U	U	Р	Р	Р
Structure	N	U	Р	U	U	Р
Places of Worship – (except tents and other temporary structures or buildings not permitted) including childcare, Sunday school uses which are ancillary to main use	Р	Р	Р	Р	Р	Р
Childcare center, private or charter school not ancillary to main use	U	U	U	U	U	U
Public Uses						
Civic facilities (e.g., post office, library, city office, customer serving)	Р	Р	Р	Р	Р	Р
Municipal Facilities (maintenance, repair and storage)	N	U	U	U	U	U
Open space, parks, similar uses (See also, Schools)	Р	Р	Р	Р	Р	Р
Radio and Television Studios with Receiving and Transmitting Towers	N	U	N	U	U	Р
Recycling centers						
Large	N	N	N	N	N	N
Small	Р	Р	Р	Р	Р	Р
Resale Items	N	U	U	U	U	U
Antiques	N	U	U	U	U	U
Pawn Shops	N	U	U	U	U	U
Second Hand Stores	N	U	U	U	U	U
Residential, caretaker residence	Р	Р	Р	Р	Р	Р
Residential (all types)	Р	U	Р	U	U	U

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

R/O = Residential/Office

(a) = Security plan required. See Section 6-313.

Commercial Shopping and Services (previously designated as

CSS = CCR, C-1, C-2 districts)

CC = City Center (previously designated as CCD)
PCC-1 = Planned Commercial Center Neighborhood
PCC-2 = Planned Commercial Center General

RCC = Regional Commercial Center

Uses			Status of U	Jse District		
	R/O	css	СС	PCC-1	PCC-2	RCC
Restaurants (a)	N	Р	Р	Р	Р	Р
Entertainment as accessory use (a)	N	U	U	U	U	Р
Outdoor seating [Section 3-425]	N	S	S	S	S	S
With drive-in or drive-through, [Section 3-408]	N	U(S)	N	S	S	S
With liquor license (a)	N	Р	Р	Р	Р	Р
Retail Sales [See Appendix M.]	N	Р	Р	Р	Р	Р
Gun shop	N	U	U	U	U	U
Convenience Store (a)	N	Р	Р	Р	Р	Р
Gas/fuel sales (a)	N	U	U	U	U	U
Drive-through or drive-in [Section 3-408]	N	U(S)	S	S	S	S
Liquor store	N	U	U	U	U	U
Outdoor retailing [Section 3-417]	N	U(S)	S	U(S)	U(S)	U(S)
Tire store	N	U	U	U	U	U
Tobacco retailer [Section 3-423]	N	U(S)	U(S)	U(S)	U(S)	U(S)
Schools						
Charter	Р	Р	Р	Р	Р	Р
Instructional	Р	Р	Р	Р	Р	Р
Private	U	U	U	U	U	U
Public	Р	Р	Р	Р	Р	Р
Vocational	N	U	U	U	U	U
Services [See Appendix M.]	N	Р	Р	Р	Р	Р
Auto title Ioan [Section 3-423]	N	U(S)	U(S)	U(S)	U(S)	U(S)
Barber/ beauty salon	Р	Р	Р	Р	Р	Р
Employment agency	U	U	U	U	U	U
Financial institution (without drive through)	Р	Р	Р	Р	Р	Р
Financial institution, non-chartered [Section 3-423]	N	U(S)	U(S)	U(S)	U(S)	U(S)
Massage establishment	U	U	U	U	U	U
Mortuary	N	U	U	U	U	U
Personal or business (e.g. drycleaner, small appliance repair)	N	Р	Р	Р	Р	Р
Photography Studio, except adult-oriented businesses	N	Р	Р	Р	Р	Р
Tattoo, body piercing establishment [Section 3-424]	N	U(S)	U(S)	U(S)	U(S)	U(S)

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)						
Uses	Status of Use District					
	R/O	css	СС	PCC-1	PCC-2	RCC
Tutoring/After school learning center	Р	Р	Р	Р	Р	Р
Vehicle based service (e.g. courier, delivery service, taxi and ambulance dispatch)	N	U	U	U	U	U
With drive through (e.g. dry cleaner) [Section 3-408]	N	S	S	S	S	S
Similar Uses [Section 6-301]	S	S	S	S	S	S
Vehicle						
Auto Body Repair	N	N	N	N	N	N
Car wash [Section 3-408]	N	U(S)	N	U(S)	U(S)	s
Repair	N	N	U	U	U	Р
Sales/ rental (indoor or outdoor)	N	N	U	U	U	Р
Service station	N	U	N	U	U	Р
Warehouse Commercial	N	Р	Р	Р	Р	Р
Wireless Telecommunication Facilities [Section 3-421]	U(S)	U(S)	U(S)	U(S)	U(S)	U(S)

P = Permitted

S = Permitted with special standards or limitations

U = Use permit required

N = Not permitted

R/O = Residential/Office
(a) Security plan required. See Section 6-313.

CSS = Commercial Shopping and Services (previously designated as CCR,

C-1, C-2 districts)

CC = City Center (previously designated as CCD)
PCC-1 = Planned Commercial Center Neighborhood
PCC-2 = Planned Commercial Center General

RCC = Regional Commercial Center

Uses	Districts				
	MU-1	MU-2	MU-3	MU-4	MU-Ed
Accessory Use	Р	Р	Р	Р	Р
Amateur Radio Antennas [Section 3-422]					
35 feet in height or less	s	s	S	S	S
Over 35 feet in height	U(S)	U(S)	U(S)	U(S)	U(S)
Bed and Breakfast [Section 3-405]	U(S)	U(S)	U(S)	U(S)	U(S)
Brewery, ancillary to a bar (a)	Р	Р	Р	Р	U
Card room (a) [See Section 6-313]	S	S	S	S	S
Childcare, In-Home					
Not to exceed 6 children [Section 3-407]	s	s	S	s	U(S)
7 to 10 children [Section 3-407]	U(S)	U(S)	U(S)	U(S)	U(S)
Childcare Centers: Nursery Schools, Day Care Centers, similar	Р	Р	Р	Р	Р
Clinic (medical, dental, veterinary (small animals))	Р	Р	Р	Р	U
Plasma donation center	U	U	U	U	U
Clubs					
Bar, tavern, nightclub (a)	U	U	U	Р	U
Lodges & similar organization (a)	U	Р	Р	Р	U
Teen nightclub (dance hall) (a)	N	N	U	Р	U
Community gardens [Section 3-427]	U(S)	U(S)	U(S)	U(S)	U(S)
Conference/Assembly (Convention Center)	Р	Р	Р	Р	Р
Construction Offices and Sheds, Appurtenant Signs and Storage; Temporary – incidental to a construction project only for the duration of such project, not to exceed 24 months	Р	Р	Р	Р	Р
Entertainment	U	U	Р	Р	Р
Amusement businesses (arcade) (a)	N	U	U	Р	Р
Outdoor/permanent use	N	N	N	N	Р
Theater or similar use	U	U	U	Р	Р
Fitness Centers: e.g. Health Club, Fitness Studio	Р	Р	Р	Р	Р
Hospitals, Sanitariums, and Nursing Homes: e.g. Orphanages, Institutions [Section 3-413]	N	N	U(S)	U(S)	U(S)
Hotels and Motels (a)	N	U	Р	Р	Р

P = Permitted

MU-1 = Low - Medium Density District

S = Permitted with special standards or limitations

MU-2 = Medium Density District

U = Use permit required
N = Not permitted

MU-3 = Medium – High Density District
MU-4 = High Density District (previously designated as MG district)

MU-Ed = Mixed Use Educational District

(a) = Security plan required. See Section 6-313.

Uses			Districts			
	MU-1	MU-2	MU-3	MU-4	MU-Ed	
Live-Work [Section 3-414]	S	S	S	S	S	
Medical Marijuana cultivation [Section 3-426]	N	N	N	N	N	
Medical Marijuana dispensary [Section 3-426]	N	N	N	N	N	
Mini-Warehouse/Rental Storage Facilities [Section3-415]	N	N	N	N	N	
Offices	Р	Р	Р	Р	Р	
Outdoor Storage of equipment, goods, or materials	N	N	N	N	N	
Parking Facilities, Commercial						
Surface	N	N	U	U	Р	
Structure	N	N	U	U	Р	
Places of Worship (except tents and other temporary structures or buildings not permitted) including childcare, Sunday school uses which are ancillary to main use	Р	Р	Р	Р	Р	
Childcare center, private school, or charter not ancillary to main use	U	U	U	U	Р	
Public Uses						
Civic facilities (e.g., post office, library, city office, customer serving)	Р	Р	Р	Р	Р	
Municipal Facilities (maintenance, repair and storage)	N	N	N	N	Р	
Open space, parks, similar uses (See also, Schools)	Р	Р	Р	Р	Р	
Recycling centers						
Large	N	N	N	N	N	
Small	Р	Р	Р	Р	Р	
Resale Items						
Antiques	U	U	U	U	U	
Pawn Shops	N	N	N	N	N	
Second Hand Stores	N	N	N	N	U	
Residential – of a caretaker or operator employed on the premises	Р	Р	Р	Р	Р	
Residential (all types)	Р	Р	Р	Р	Р	
Restaurants	Р	Р	Р	Р	Р	
Entertainment as accessory use (a)	U	U	U	Р	Р	
Outdoor seating [Section 3-425]	s	S	S	S	S	

P = Permitted S = Permitted with special standards or limitations MU-1 = Low – Medium Density District

MU-2 = Medium Density District

U = Use permit required N = Not permitted

MU-3 = Medium – High Density District
MU-4 = High Density District (previously designated as MG district)

(a) Security plan required. See Section 6-313.

MU-Ed = Mixed Use Educational

Uses	Districts				
	MU-1	MU-2	MU-3	MU-4	MU-Ec
With drive-in or drive-through [Section 3-408]	N	N	U(S)	S	U(S)
With liquor license (a)	Р	Р	Р	Р	Р
Retail Sales [See Appendix M.]	Р	Р	Р	Р	Р
Convenience Store (a)	Р	Р	Р	Р	U
Drive-through [Section 3-408]	N	N	U(S)	s	U(S)
Gas/fuel sales (a)	N	N	N	N	U
Gun shop	U	U	U	U	U
Liquor store	U	U	U	U	U
Outdoor retailing [Section 3-417]	U(S)	U(S)	U(S)	U(S)	S
Tire store	U	U	U	U	U
Tobacco retailer [Section 3-423]	U(S)	U(S)	U(S)	U(S)	U(S)
Schools					
Charter	Р	Р	Р	Р	Р
Instructional	U	U	U	U	Р
Private	U	U	U	U	Р
Public	Р	Р	Р	Р	Р
Vocational	U	U	U	U	Р
Services [See Appendix M.]	Р	Р	Р	Р	Р
Auto title loan [Section 3-423]	U(S)	U(S)	U(S)	U(S)	U(S)
Barber/Beauty Salon	Р	Р	Р	Р	U
Employment agency	U	U	U	U	U
Financial institutions (without drive through)	Р	Р	Р	Р	Р
Financial institutions, non-chartered [Section 3-423]	U(S)	U(S)	U(S)	U(S)	U(S)
Massage establishment	U	U	U	U	U
Mortuary	U	U	U	U	U
Personal or business (e.g. drycleaner, small appliance repair)	Р	Р	Р	Р	Р
Photography Studio, except adult-oriented businesses	Р	Р	Р	Р	Р
Vehicle base service (courier, delivery service, taxi and ambulance dispatch)	N	N	N	N	U
Tattoo, body piercing establishment [Section 3-424]	N	N	U(S)	U(S)	N
Tutoring/After school learning center	Р	Р	Р	Р	Р
With drive through (e.g. dry cleaner) [Section 3-408]	N	S	S	S	U(S)
similar Uses [Section 6-301]	S	S	S	S	S
Vireless Telecommunication Facilities [Section 3-421]	U(S)	U(S)	U(S)	U(S)	U(S)

CHAPTER 3 – PERMITTED USES IN OFFICE/INDUSTRIAL DISTRICTS

Section 3-301 Purpose and Applicability.

- **A. Purpose.** The *office*/industrial districts are designed to provide for *office*/industrial business involved in research, warehousing, *wholesaling*, and manufacturing. The facilities range from administrative and research institutions to assembly and production. The *office*/industrial districts allow a range of industrial uses, as expressed below.
- **B. Applicability.** Industrial uses are accommodated in three districts:
 - Light Industrial District (LID) (previously designated as IBD district).
 Administrative and research industries, offices, and limited manufacturing to provide opportunities for employment and for protection to neighborhood residential areas;
 - 2. General Industrial District (GID) (previously designated as I-1 and 1-2 districts). Office uses, warehousing, wholesaling, assembling and manufacturing of building materials, machinery and other commodities to provide employment centers and production; and
 - 3. Heavy Industrial District (HID) (previously designated as I-3 district). Intensive manufacturing, fabricating, and storage to provide for concentrated industrial uses.
- **C. Applicability of Other Code Chapters.** Uses permitted under this chapter shall conform to the *development* standards in Part 4 and the application procedures in Part 6, as applicable. Uses shall also conform to any *overlay district* requirements that are applicable. Uses permitted with special standards or limitations ("S" type uses) shall comply with the standards in Part 3, Chapter 4, Special Use Standards. Zoning Administrator opinions may also apply. See Appendix H.

City code reference—See TCC §14A, Historic Preservation Ordinance.

Permitted Uses in Office/Industrial Districts. Section 3-302

Table 3-302A identifies land uses according to permit status. See key below the table:

Table 3-302A Permitted Land Uses (LID, GID, HID)				
Uses		Districts		
	LID	GID	HID	
Accessory Use	Р	Р	Р	
Adult Businesses [Section 3-403]	N	S	S	
Amateur Radio Antennas [Section 3-422]				
35 feet in height or less	S	S	S	
Over 35 feet in height	U(S)	U(S)	U(S)	
Animal Kennels, and Animal Hospitals	N	Р	Р	
Ball Bearing, Boxes or Cabinets Manufacturing	N	U	Р	
Cement and Paving Material Mixing Plant	N	N	Р	
Cemetery, Crematorium, Mausoleum	N	U	U	
Childcare, center: nursery school, daycare center, similar	N	U	U	
Chocolate, Cocoa or Coffee Roasting or Manufacturing	N	U	Р	
Clinics: Medical, Dental and Veterinary	Р	Р	Р	
Computer Centers, including Computer Hotels and Similar Technology Facilities	Р	Р	Р	
Commercial Uses – and all other uses under Table 3-202A "Permitted land Uses", unless otherwise specified in this table (except outdoor display)	U	U	U	
Construction Offices and Sheds, Appurtenant Signs and Storage; Temporary – incidental to a construction project only for the duration of such project, not to exceed 24 months	Р	Р	Р	
Dispatching, Weighing Station	N	Р	Р	
Electronic Instruments and Devices, Computers, Assembling and Manufacturing	Р	Р	Р	
Entertainment	N	U	U	
Amusement businesses (a)	N	U	U	
Outdoor (permanent use)	N	U	U	
Theater or similar use	Р	Р	Р	

Key:

P = Permitted

S = Permitted with special standards or limitations
U = Use permit required

N = Not permitted

LID = Light Industrial District (previously IBD district)
GID = General Industrial District (previously I-1 and I-2 districts)
HID = Heavy Industrial District (previously I-3 district)

(a) Security plan required. See Section 6-313.

Table 3-302A Permitted Land Uses (LID, GID, HID)				
Uses		Districts		
	LID	GID	HID	
Exterminator and Insect Poison Manufacturing	N	N	Р	
Storage, Wholesale and Distribution	N	Р	Р	
Extraction of Sand, Gravel and Other Natural Resources	N	N	U	
Farming, Landscaping and Agricultural Supplies and Equipment, Wholesaling and Storage	N	Р	Р	
Foundry Casting Light-Weight, Nonferrous Metal, not Causing Noxious Odors or Fumes	N	U	Р	
Fuel Distributing Station, Gasoline (bulk plant)	N	U	Р	
Gasoline and Petroleum Bulk Storage Tanks	N	N	Р	
Hospitals, Sanitariums, Nursing Homes: e.g. Orphanages, Institutions [Section 3-413]	U(S)	U(S)	U(S)	
House-Movers, Equipment Storage or Wrecking Yards	N	N	Р	
Ice Manufacturing and Cold Storage	N	U	Р	
Industrial, Scientific, Bio-Technology or Business Research, Development and Testing Laboratories, and Offices	Р	Р	Р	
Junkyards	N	N	Р	
Machine shops	N	Р	Р	
Medical Marijuana cultivation [Section 3-426]	N	S	S	
Medical Marijuana dispensary [Section 3-426]	S	S	S	
Manufacturing, not causing noxious odors, fumes, noise, dust or vibration	N	Р	Р	
Mini-Warehouse/Rental Storage Facilities [Section 3-415]	N	U(S)	S	
Motion Picture/Recording Studios	Р	Р	Р	
Offices	Р	Р	Р	
Outdoor				
Retailing [Section 3-403]	N	U(S)	U(S)	
Storage of equipment, goods, or materials [Section 4-706(F)]	N	S	S	
Places of Worship (except tents and other temporary structures or buildings not permitted) including childcare, Sunday school uses which are ancillary to main use	Р	Р	Р	
Childcare center, private school or charter school not ancillary to main use	U	U	U	

Table 3-302A Permitted Land Uses (LID, GID, HID)			
Uses	Districts		
	LID	GID	HID
Public Uses			
Civic Facilities (e.g., post office, library, city office, customer serving)	Р	Р	Р
Municipal Facilities (maintenance, repair and storage)	N	Р	Р
Open space, parks, similar uses (See also, Schools)	Р	Р	Р
Recycling centers			
Large	N	U	Р
Small	Р	Р	Р
Residence – of a caretaker or operator employed on the premises; such residence may include the family of the caretaker	Р	Р	Р
Mobile Home or Trailer	U	U	U
Single- or Multi-Family Dwelling	N	N	N
Retail uses – directly related to the primary industrial use, not to exceed 15% of the total building area's primary industrial use.	Р	Р	Р
Retail and Restaurant Uses – and all other uses under Table 3-202A, "Permitted Land Uses", unless otherwise specified in this table (except outdoor display)	U	U	U
Rock Crushing, Sand Blasting Yard	N	N	Р
Schools			
Charter	Р	Р	Р
Instructional	N	U	U
Private	N	U	U
Public	Р	Р	Р
Vocational	N	U	U
Similar Uses [Section 6-301]	S	S	S
Stadium, Arena	N	U	Р

Key:

P = Permitted
S = Permitted with special standards or limitations

LID = Light Industrial District (previously IBD district)
GID = General Industrial District (previously I-1 and I-2 districts)
HID = Heavy Industrial District (previously I-3 district)

U = Use permit required
N = Not permitted

lleas	Uses Districts			
U363		Districts		
	LID	GID	HID	
Vehicle				
Auto Body Repair	N	Р	Р	
Auto Salvage, parts, supplies or wrecking	N	N	Р	
Car Wash	N	U	U	
Repair	N	Р	Р	
Sales/Rental (indoor or outdoor)	N	U	U	
Service Station	N	U	U	
Towed Vehicle Storage	N	Р	Р	
Warehouse, including distribution centers	N	Р	Р	
Wholesaling, Repairing, Storage, and Rental Activities – in conjunction with a permitted use	N	Р	Р	
Wireless Telecommunication Facilities [Section 3-421]	U(S)	U(S)	U(S)	
Wood Products, Manufacturing	N	U	Р	

Key:

P = Permitted
S = Permitted with special standards or limitations

LID = Light Industrial District (previously IBD district)
GID = General Industrial District (previously I-1 and I-2 districts)
HID = Heavy Industrial District (previously I-3 district)

U = Use permit required
N = Not permitted

CHAPTER 4 – SPECIAL USE STANDARDS

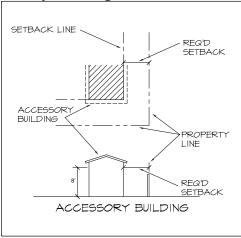
Section 3-401 Accessory Buildings, Uses and Structures.

- **A. Applicability.** *Accessory buildings*, uses and *structures* shall be incidental to the principal use. They must occupy less floor area, cover less *lot* area, and have a use that is secondary to the primary *structure(s)* and use(s) on the property. *Buildings*, *structures* (e.g., fence, carport, deck, etc.), and uses may all function as "accessory," subject to the provisions below.
- **B.** Accessory Uses. Accessory buildings may be used for home occupations in reference to Section 3-412.
- **C. Accessory Building.** Buildings that exceed two hundred (200) s.f. in area or eight (8) feet in height are *accessory buildings* (e.g., freestanding garages, large sheds, workshops, etc.). Such buildings are permitted in the *single-family* residential districts, subject to the following:
 - 1. Use. Accessory buildings shall not be used as a dwelling, except where permitted as quest quarters.

2. Setback.

- a. Accessory buildings shall not be located in the required front yard and street side yard building setbacks. Such buildings shall be setback at least three (3) feet from all side and rear property lines. An additional one (1) foot setback is required for every additional foot in height above nine (9) feet, up to fifteen (15) feet in height. This requirement may be reduced to the minimum setback standards required in the district, subject to approval of a Use Permit Standard, pursuant to Section 6-308;
- b. *Accessory buildings* in the AG district shall comply with the setback standards required in the district:
- c. When adjacent to a dedicated public alley, the side and rear *yard setbacks* for an *accessory building* shall be measured from the midpoint of the alley; and
- d. Accessory buildings shall comply with required separation for applicable building codes.

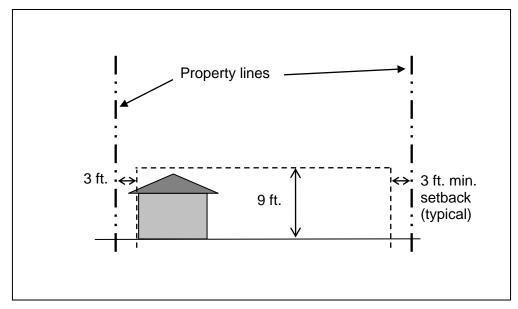
Figure 3-401 C1. Accessory Building



3. Height.

- a. The maximum allowed building height shall be fifteen (15) feet. Additional height may be permitted up to the maximum height allowed in the district, subject to approval of a Use Permit Standard, pursuant to Section 6-308; and
- b. In the AG district, *accessory buildings* may be erected to the maximum allowed height in the district.

Figure 3-401 C2. Accessory Building Envelope Example



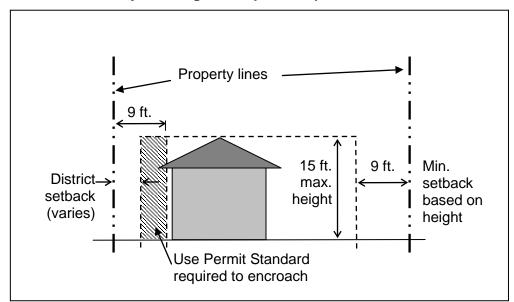
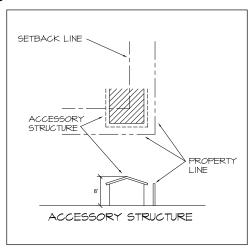


Figure 3-401 C3. Accessory Building Envelope Example

- 4. Area. Lot coverage, as defined in this Code, for accessory buildings shall be included in the overall maximum allowed in the district.
- **D.** Accessory Structure. Accessory structures (e.g., ramadas, small sheds) are structures that are a maximum of two hundred (200) s.f. in area and equal to or less than eight (8) feet in height. A structure that exceeds this building area or height shall be considered an accessory building. Such structures are subject to the following standards:

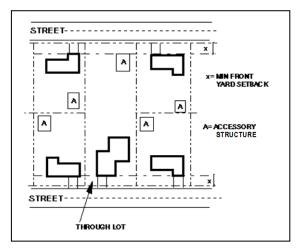
Figure 3-401 D1. Accessory Structure



Accessory structures shall not be located in the required front yard building setback.
 An accessory structure may be located in the required rear, side, and street side yard setbacks provided that required separation for applicable building codes is provided.

2. On a *through lot*, an accessory *structure* shall not be located closer to the rear *property line* than the distance required for the front *yard building setback*; and

Figure 3-401 D2. Through Lot



3. Lot coverage, as defined in this Code, for accessory structures shall be included in the overall maximum allowed in the district.

E. Neighborhood Libraries.

- 1. Neighborhood libraries. Neighborhood libraries, which are gathering places where neighbors share their favorite literature and stories, are considered an accessory structure.
- Neighborhood libraries are permitted to be placed, with the landowner's permission, on single-family residential lots, multi-family residential lots, church properties, public or private school properties, and on City properties with the authorization of the Community Development Director or designee. Neighborhood libraries are not permitted in public right-of-way.
- 3. Neighborhood libraries are accessory use to the property and shall conform to all of the following:
 - a. The neighborhood library shall not be located between the street and the public sidewalk.
 - b. The neighborhood library shall not obstruct vehicular, bicycle or pedestrian traffic, either physically or by a person utilizing the neighborhood library.
 - c. The neighborhood library shall not obstruct access isles or paths utilized by persons in wheelchairs or for ADA accessibility.

- d. On residential property, the neighborhood library must be placed in the front yard between the face of the building and the right-of-way.
- e. The neighborhood library shall be designed to hold books. The overall structure shall be limited to a height not to exceed sixty-six (66) inches; a width not to exceed thirty (30) inches; a depth not to exceed eighteen (18) inches; and the box height shall not exceed thirty (30) inches.
- f. The neighborhood library shall be anchored to the ground or securely attached to something having a permanent location on the ground.
- g. There shall be a limit of one (1) neighborhood library per residential property.
- h. A neighborhood library meeting the above conditions will not be subject to any permits or special licensing requirements.

Section 3-402 Accessory Dwellings. [reserved]

Section 3-403 Adult-Oriented Businesses.

A. Purpose. It is recognized that there are some uses, which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several such uses are concentrated under circumstances having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to insure that these adverse secondary effects will not contribute to the blighting or downgrading of the existing surrounding neighborhood. These special regulations are itemized in this section. The purpose of the regulation is to promote the health, safety, and general welfare of the citizens of the city by preventing a concentration of these uses in any one area. It is not the intent of this Code to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Further, it is not the intent of this Code to permit any use or act, which is otherwise prohibited or made punishable by law.

Cross reference—See also the following definitions in Part 7 of this Code: adult-oriented business, adult arcade, adult retail store, adult cabaret, adult motel, adult motion picture theater, adult service, adult service business, adult theater, adult video facility, escort, escort agency, nude model studio, nudity/state of nudity, sexual encounter center, specified anatomical areas and specified sexual activities.

City code reference—See TCC §16A-56, *escort* definitions and rules; TCC §16A-112 et seq., *adult-oriented businesses*.

State law reference – A.R.S. 13-1422, Adult oriented businesses; location; hours of operation; injunction; classification; definitions

- **B.** Location Requirements. Adult-oriented businesses are allowed in the GID and HID zoning districts, subject to the following:
 - No adult-oriented business shall be operated or maintained within 1,320 feet from the defined provisions located in Section 3-403(B)(1)(a-g) below. Measurements shall be made in a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing an adult-oriented business to the nearest point on the property line of a parcel containing the following:
 - a. Another adult-oriented business:
 - b. Child care facility;
 - c. Public, private or charter school;
 - d. A church, synagogue, temple or similar religious worship building;
 - e. A library, a public playground, a public community *building*, a public recreational facility, or a private recreational facility where minors are permitted;

- f. An establishment having an Arizona spirituous liquor license with any of the following classifications: *Bar* (Series 06); Beer and Wine Bar (Series 07) or the equivalent of such licenses; or
- g. A residential district or the *property line* of a *lot* devoted to a residential use in any zoning district.
- 2. Any adult-oriented business that fails to comply with this section but which was lawfully operating before City Code Chapter 16A Article VI, took effect shall not be deemed to be in violation of this Code. However, such business will not be permitted to be increased, enlarged, extended or altered except the business may be changed so as to fully comply with this Code. An adult-oriented business lawfully operating is not rendered in violation of this Code by the location, subsequent to the grant or renewal of the license herein, of any of the premises identified in subsection 1 above. (Ord. No. 95.49, 12-14-95)
- **C. Operation Requirements.** Any *adult-oriented business* shall comply with the following requirements, as well as those contained in Tempe City Code, Chapter 16A 112 through 135:
 - 1. Security plan required;
 - 2. For the prevention of the spread of sexually transmitted disease, no partitions between *subdivisions* of a room, portion or part of a *building*, *structure* or premises may have an aperture which is designed or otherwise constructed to permit sexual activity between persons on either side of the partition; and
 - 3. No booths, stalls, or partitioned portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of entertainment, shall have doors, curtains or portal partitions, but all such booths, stalls, partitioned portions of a room, or individual rooms so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment.
 - a. The words "booth, stalls, partitioned portions of a room or individual rooms" mean such enclosures as are specifically offered to the public or members of that establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the *entertainment* to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the *entertainment* is dispensed for a fee, but a fee is not charged for mere access to the enclosure;

- b. The words "booths, stalls, partitioned portions of a room or individual rooms" do not mean such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to any persons other than employees;
- c. The words "doors, curtains or portal partitions" mean full, complete, nontransparent closure devices through which one cannot see or view the activity taking place within the enclosure; and
- d. The words "open to adjacent public room so that the area inside is visible to persons in the adjacent public room" shall mean either the absence of any "door, curtain or portal partition" or a door or other device which is made of clear, transparent material such as glass, plexiglass or other such material meeting building code and safety standards, extending from the floor to the top of the door frame, exclusive of the door or device framing itself, so that the activity inside the enclosure may be viewed or seen by persons outside the enclosure.
- **C. Prohibited Uses.** *Sexual encounter centers*, as defined in this Code, are prohibited from all zoning districts within the boundaries of the City of Tempe.

Section 3-404 Agricultural Uses.

Agricultural uses, as provided in subsections below, are permitted in the AG district and shall conform to the following standards:

- **A. Farming.** Farming, including all types of agriculture and horticulture, such as flower, vegetable and field crops, berry and bush crops, tree crops, and orchards, and their storage.
- **B.** Livestock. The keeping of livestock, including cattle, horses, sheep, goats or similar animals except the keeping of swine. The number of such livestock permitted shall be calculated on the basis of one horse, cow or similar animal, or two (2) sheep, goats or similar animal for each six thousand (6,000) square feet of net *lot* area after deducting at least thirty (30) percent of the *lot* area and no more than one-half (1/2) acre for the home site. The total aggregate of all such animals permitted shall be twenty-four (24). Animals of six (6) months or younger shall not be counted.
- **C. Apiaries.** Apiaries, upon the following conditions:
 - 1. Occupied bee hives shall be at least two hundred (200) feet from any existing *dwelling* on another property;
 - 2. Occupied bee hives shall have a minimum separation of fifty (50) feet to any property line;

3-23

Amended

- 3. Occupied bee hives shall have a minimum separation of one hundred fifty (150) feet to any *street* or bridle path; and
- 4. Apiaries shall require a use permit.
- **D. Grazing.** The grazing and keeping of cattle, sheep or horses, except swine on a site of five (5) or more acres; including the supplementary feeding of such cattle, sheep, or horses, provided such grazing is not a part of, nor conducted in conjunction with any dairy or livestock sales *yard* located on the same premises.
- **E. Processing of Farm Products.** Farming and processing of farm products, customarily conducted on farms, is permitted subject to a use permit, on a site five (5) acres or more.
- **F. Horse Stables.** A commercial horse stable may be permitted with a minimum net site of ten (10) acres or more.
- **G. Keeping of Horses.** The keeping of horses for residential use is permitted in the AG district subject to Section 3-404(B). Keeping of horses in the R1-15 and R1-10 district are permitted subject to a use permit provided the following conditions are met:
 - 1. The zoning for such property was in effect prior to 1/20/85;
 - 2. The rear *yard* of site with R1-15 and R1-10 districts abuts property in the agricultural district and the conditions, covenants and restrictions of such agriculturally zoned property permits the keeping of horses;
 - 3. The *lots* in the R1-15 and R1-10 districts are not less than thirty thousand five hundred (30,500) square feet in area;
 - 4. The minimum distance from the rear of the *dwelling* unit to the rear *property line* is not less than two hundred (200) feet;
 - 5. The *lots* in the R1-15 and R1-10 districts are located south of Elliot Road; and
 - 6. The number of horses permitted shall be determined by following the criteria set forth in Section 3-404(B).
- **H. Dairy Farm.** A dairy farm may be permitted with a *net site area* of forty (40) acres or more.
- **I. Small Animals.** *Small animals*, as defined herein, and pot-bellied pigs are permitted in all residential districts which have a *single-family dwelling*, subject to the following:
 - 1. No more than five (5) small animals collectively are allowed on an individual lot;
 - 2. No more than two (2) pot-bellied pigs are allowed on an individual *lot* and shall be counted in the total allotment for *small animals*;

- 3. The keeping of roosters or peafowl is prohibited, except in the AG district;
- 4. The keeping of household pets, and all dogs and cats pursuant to the Tempe City Code, Chapter 6, are allowed in all residential districts and do not count towards the number of *small animals*;
- 5. The keeping of *small animals* and pot-bellied pigs that exceed the maximum allowed quantity in subsection (1) and (2) above and the keeping of livestock, as defined in Section 3-404(B), may be allowed subject to review and approval through a Use Permit application, pursuant to Section 6-308. In addition to the approval criteria, the request must demonstrate adequate area for the animal(s) and control of living quarters;
- 6. It shall be unlawful to keep *small animals* and livestock in a manner that constitutes a nuisance.

Section 3-405 Bed and Breakfast.

Bed and breakfast use, where allowed with a use permit, shall conform to all of the following standards:

- **A. Accessory Use.** A *bed and breakfast* facility must be accessory to a residential use on the subject site. This means that the individual or *family* who operates the facility must occupy the *dwelling* as their primary residence.
- **B. Maximum Size.** Bed and breakfast facilities are limited to a maximum of five (5) bedrooms for guests and the maximum occupancy per night shall be established by use permit.
- **C. Employees.** Bed and breakfast facilities may have nonresident employees for the lodging activity such as booking rooms and food preparation, if approved as part of the use permit. Hired service for normal maintenance, repair and care of the residences or site such as yard maintenance may also be approved. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of the use permit approval.
- **D. Service to Guests.** Food *services* may only be provided to overnight guests of a *bed* and *breakfast* in residential districts. Food *service* may be provided to overnight guests and other guests in all *mixed-use* (MU) districts. Any other *service* is subject to the use requirements of the zoning district.

E. Meetings and Social Gatherings.

 Commercial meetings – Activities including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited at a bed and breakfast facility. 2. Private social gatherings – The residents/guests of *bed and breakfast* facilities may be allowed to have social gatherings, parties, or meetings if authorized in the *use permit*.

Section 3-406 Boutique.

Home, religious organization, or not-for-profit *service* organization boutiques, where permitted, shall conform to the following conditions:

- **A. Location.** The boutique shall be allowed at a *dwelling* unit, *school*, or a *place of worship*.
- **B. Products Sold.** The boutique shall primarily sell locally handcrafted items.
- **C. Operation.** The boutique shall operate for not more than any five (5) consecutive days in each one-half (1/2) calendar year at any one location. The activity shall be limited to the hours between 9:00 a.m. and 8:00 p.m.
- **D. Impacts.** There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare produced by the boutique. The activity shall not generate such additional traffic and *parking* in the area of the boutique which would create a traffic or safety hazard.
- **E. Signs.** All *signs* used by the boutique shall comply with this Code, Section 4-903(C).
- **F. Sales Tax.** The boutique shall comply with the applicable transaction privilege (sales) tax provisions of the Tempe City Code (TCC) §16-1 et seq.
- **G. License.** The operator or sponsor of the boutique must apply for a city transaction privilege (sales) tax license a minimum of ten (10) days prior to the start of the boutique and obtain the license prior to conducting business.
- **H. Violation.** Any violation of the above conditions shall cause the immediate revocation of the boutique's privilege to transact business within the city.

Section 3-407 Child Care, In Home.

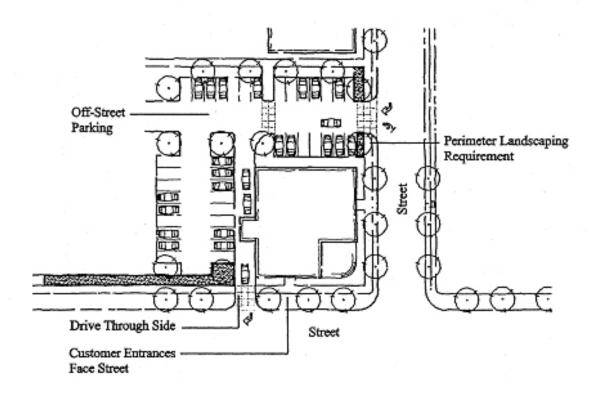
- **A.** License and Certified. Licensed, certified or approved by the State of Arizona;
- **B.** Administrative Review. Such home must be reviewed and approved and have a certificate of occupancy issued for the use by the Community Development Director, or designee, for building codes (including pool fence requirements) and land use code compliance prior to use commencing; See Arizona Revised Statutes, Division 43; and
- **C. Use Permit.** In home day care for seven (7) to ten (10) children shall require a *use permit* and comply with Section 3-407(A) and (B) above.

Section 3-408 Drive-Through Facilities.

Drive-through facilities shall be designed to minimize conflicts with the pedestrian pathway from the public street and to all building entrances. Minimum width of drive-through lanes at straightaway is nine (9) feet. Drive-through pick-up windows located on the south or west building elevation shall provide shade by means of a building canopy or additional trees alongside the drive lane. When new drive-through facilities are oriented towards the street the following standards shall be provided:

- A. All maneuvering drive lanes shall provide for a minimum twenty (20) feet of *landscape* buffer from the street sidewalk;
- B. A screen wall, three (3) feet in height, shall be located along the drive-through lane where building facades face the street and at the menu board, in compliance with Section 4-706(E);
- C. A delineated pedestrian *pathway* with a traffic calming device shall be provided where drive lane intersects the *pathway*, in compliance with Section 4-503; and
- D. Screen walls shall be separated a minimum of six (6) feet from *pathway* crossing to allow visibility of pedestrians and vehicles.





Section 3-409 Group Homes for Adult Care, Persons with Disabilities, and Child Shelter.

Group homes for adult care, persons with disabilities, and child shelters shall comply with the following provisions:

- **A. Distribution of Uses.** No such home or shelter is located on a *lot* within one thousand two hundred (1,200) feet, measured by a straight line in any direction, from the *lot line* of another group home;
- **B.** Occupancy. The number of residents is limited by applicable state laws, including any minimum square footage requirement per person, but in no event shall the number of residents exceed ten (10);
- **C. License.** Such home is licensed by, or certified by, or approved by, or registered with, funded by or through, or under contract or subcontract with, the State of Arizona. See Arizona Revised Statutes, Division 36; and
- **D.** Administrative Review Required. Such home must be reviewed and approved by the Community Development Director, or designee, for building code and land use compliance prior to the use commencing.

Section 3-410 Room Addition.

A room, sleeping room or *boarding room* in a single-family residence shall provide occupancy for not more than two (2) persons. Access to such room shall be provided internally through the main residence of which such room is an integral part; this excludes doors opening to patios or balconies that are part of the main residence.

Section 3-411 Guest Quarters.

- **A. Applicability.** *Guest quarters* are permitted in single-family residential districts having a minimum lot size of 15,000 square feet, subject to the following standards:
 - 1. Only one *guest guarters* is permitted on a single lot;
 - 2. The gross floor area shall be no greater than fifty (50) percent of the main building's gross floor area at or above grade;
 - 3. An *attached building* shall comply with the development standards set forth in Table 4-202A;
 - 4. Guest quarters detached from the main building shall comply with the accessory building standards set forth in Section 3-401;
 - 5. There shall be no separate metering for utility services and no separate mailing address; and

 Prior to issuance of a building permit, a real covenant shall be recorded with the land restricting the use of the guest quarters from being rented or leased. The City of Tempe shall be parties to such covenant and shall be binding to all subsequent owners.

Section 3-412 Home Occupation.

- **A. Purpose.** Home occupation allows small commercial ventures for which the leasing of commercial quarters is not cost effective and which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence.
- **B.** Applicability. Home occupations are permitted in all residential dwellings as an accessory use (see Section 7-102 for definition), subject to any of the following standards indicated to protect the residential character of Tempe's neighborhoods. Deviation from any provision noted below shall be considered a violation of this Code.

1. Appearance of Residence.

- a. The *home occupation* shall be restricted to lawfully-built enclosed *buildings* and be conducted in such a manner as not to give an outward appearance of a business.
- b. The *home occupation* shall not result in any structural *alterations* or additions to a *building* that will change its primary use or building code occupancy classification.
- c. The *home occupation* shall not violate any conditions of *development* approval (i.e., prior development permit approval).
- d. Products and or equipment produced or used by the *home occupation* shall not be displayed or visible from outside any *building*.
- e. No offensive noise, vibrations, smoke, dust, odors, heat or glare shall be produced.

2. Storage.

- a. On-site storage and use of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use is prohibited.
- b. Inventory, products, equipment, fixtures, and activities associated with the *home occupation* shall be allowed in any *building*, provided that the *building* conforms to the provisions under Section 3-412(B)(1).

3. Employees.

a. A *home occupation* shall have no more than three (3) individuals working within a residence for the purpose of the business.

- b. No more than one (1) person, who is not a *family* member residing within the *dwelling* located on the *home occupation* site, may be permitted to work for the benefit of the *home occupation*.
- c. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pick up/deliver at the home.
- d. The *home occupation* site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.
- **4. Signs.** *Home occupations* shall not display an *identification sign* for the purpose of the business.
- 5. Vehicles, Parking and Traffic.
 - a. Vehicles associated with the *home occupation* must comply with TCC Section 21-4.
 - b. There shall be no more than three (3) commercial vehicle deliveries to or from the *home occupation* site daily. There shall be no commercial vehicle deliveries during the hours of 8 p.m. to 7 a.m.
 - c. There shall be no more than one (1) client or customer vehicle on the premises at any one (1) time and the activity shall not generate traffic beyond that normal in its district.
- **6. Business Hours.** Clients or customers are permitted at the *home occupation* from 7 a.m. to 8 p.m. only. Additional hours of operation for such use shall require the approval of a *use permit*.
- 7. **Prohibited Uses.** A *home occupation* shall not include the sale of commodities on premises nor the following: clubs, barber shops, beauty parlors, commercial stables, veterinary *offices*, *hospitals*, *hotels*, motels, *kennels*, *restaurants*, *motor vehicle* repairing, massage parlors, and any use that does not conform to the provisions in Section 3-412.

Section 3-413 Hospitals, Sanitariums, and Nursing Homes.

Any *building* used for one (1) or more of the following uses shall be not less than fifty (50) feet from the *lot line* of any adjoining property: *Hospitals* or sanitariums for the treatment of human ailments, nursing or convalescent homes, orphanages, and institutions for the mentally *disabled*, epileptic, drug or alcoholic patients; homes for the aged, without cooking facilities in individual *dwelling* units; and related institutions of an educational, religious, or philanthropic nature.

Section 3-414 Live-Work.

Live-work is permitted in all Mixed-Use (MU) districts and in the CC and R/O districts, and is permitted with a use permit in the PCC-1, PCC-2, and all multi-family districts. Live-work is permitted to provide a housing and employment option that is transportation efficient and low-impact on adjacent neighborhoods. Live-work uses are subject to the standards for home occupations in Section 3-412, with the following exceptions:

- **A. Employees.** Two (2) employees, in addition to the *family* members residing in the *dwelling*, may work on premises. Additional employees may be authorized subject to the provisions of a *use permit*;
- **B. Signs.** Signs are permitted that do not exceed two (2) square feet of combined area for all signs and comply with the standards for commercial use signs in 4-902.
- C. Vehicles, Parking and Traffic. All *live-work* units in the Mixed-Use districts, CC, PCC-1, and PCC-2 districts are exempt from the standards in Section 3-412(B)(5). All *live-work* units in the R/O and Multi-Family districts shall comply with Section 3-412(B)(5).

Section 3-415 Mini-Warehouse/Rental Storage Facilities.

Mini-warehouse/rental storage facilities are for storage purposes only. No retailing is permitted from a rented storage unit.

Section 3-416 Mobile Homes.

- **A. Dwelling.** A *mobile home*, *recreational vehicle*, or similar vehicle shall not be considered a dwelling unit, nor occupied as such, unless located in a *trailer* or *mobile home park*, except as noted herein.
- **B.** Access. A minimum of two (2) vehicular entrances shall be provided for each *mobile home park*, *mobile home subdivision*, and *trailer park development*. One (1) entrance may be kept closed to the general public if provision is made for emergency access and if this entrance is not necessary to accommodate the volume of traffic generated by uses on the site.
- C. Perimeter Walls. Perimeter boundaries of all mobile home parks, mobile home subdivisions and trailer parks shall have a perimeter wall with a minimum height of eight (8) feet, measured from the highest adjacent grade within twenty (20) feet. The wall shall be of masonry or concrete construction, with architectural texture, finish, and color to be compatible with other buildings in the vicinity. The perimeter wall shall be designed to create an attractive appearance, incorporating elements such as recesses, piers, pilasters, contrasting courses and texture. The area between the wall and the public street shall be landscaped, and the wall may contain pedestrian access gate(s), as approved through development plan review. Street frontage landscape areas of mobile home and trailer park developments shall be maintained by the mobile home or trailer park operators.

Section 3-417 Outdoor Retailing.

A. Purpose. To allow sales or display of merchandise on the exterior of a building.

B. Permanent Outdoor Retail Display

- 1. Applicability. Permanent Outdoor retail display is a permanent outdoor sales component which is an integral part of a business, including but not limited to, Garden Centers and Auto, Boat, and RV Dealership display lots.
- 2. General Regulations.
 - a. Must be shown as part of a Development Plan Review with all applicable site improvements.
 - b. If added to an existing site. The use shall obtain Development Plan Review approval with all applicable site improvements.
 - c. Shall comply with parking ratios per Table 4-603E.

C. Temporary Outdoor Retail Display

- 1. Applicability. Temporary Outdoor retail display allows a business or tenant to display an incidental amount of merchandise sold within the business, in proximity to the exterior of a building. Outdoor display is subject to the following:
- 2. General Regulations.
 - a. Permitted subject to a *Use Permit* in the Commercial (except R/O), Mixed-Use, and Industrial Districts. Such display is permitted in the CC District without a *Use Permit*.
 - b. Merchandise must be associated with an established business and shall be the same as that sold inside the store;
 - c. Displays shall not occupy the minimum required *parking* areas, *landscape* areas, or vehicular driveways (including fire lanes);
 - d. In the CC District, displays shall be located within three (3) feet of the business space;
 - e. Any display must allow for a minimum four (4) foot wide pedestrian *pathway* across the *building frontage* and to all *building* entrances and exits. On public sidewalks a minimum six (6) foot wide *pathway* clearance shall be provided. An encroachment permit shall be required when placed in the public right-of-way, as determined by the Public Works Director or designee;
 - f. Displays are limited to the normal hours of operation of the business, unless otherwise authorized by condition;
 - g. Sound amplification shall not be used for sales demonstrations; and

h. Outdoor display signage shall not exceed a total of three (3) square feet.

D. Temporary Outdoor Vending

 Applicability. Temporary outdoor vending refers to sale of merchandise or service not within a building or a permanent structure on a site. Temporary outdoor vending includes food carts, grills and general merchandise offered for purchase in any retail establishment, on a daily basis, throughout the calendar year and limited personal services such as a shoe polishing and re-occurring outdoor events such as farmers markets.

2. General Regulations.

- a. Permitted subject to a Use Permit,
- b. Must be located on the specified lot identified by the *Use Permit* and not in the public right-of-way, unless authorized with an encroachment permit, subject to approval by Public Works Director or designee;
- c. Shall not occupy the minimum required *parking* areas, *landscape* areas, or vehicular driveways (including fire lanes);
- d. Must allow for a minimum four (4) foot wide pedestrian path across any *building* frontage and to and from all *building* entrances and exits. On public sidewalks a minimum six (6) foot wide *pathway* clearance shall be provided;
- e. Sound amplification may not be used for sales demonstrations;
- f. The allowable signage, size and location of the business, and storage of equipment/materials, shall be established through the *Use Permit*, and
- g. Shall not include the sale of the following commodities or provide the following services on the premises; vehicle sales which have more than three (3) vehicles on display, vehicle washing or detailing, or *motor vehicle repair*.

E. Outdoor Retail of Seasonal Merchandise

- Applicability. The outdoor retail allowed under the provision of seasonal merchandise includes items that are not typically offered for purchase in any retail establishment, on a daily basis, throughout the calendar year. These items include pumpkin patches, tree lots and paraphernalia associated with a sport's championship or exclusive event.
- 2. General Regulations.
 - a. Requires an administrative review process prior to commencement of use;
 - Must be located on the site specified by a site plan and not in the public right-ofway, unless authorized with an encroachment permit, subject to approval by the Public Works Director or designee;

Amended

- c. Shall not occupy minimum required *parking* areas, pedestrian *pathways*, *landscape* areas, or vehicular driveways (including fire lanes), except as granted with an administrative approval;
- d. Sound amplification shall not be used for sales demonstrations; and
- e. The allowable signage, size and location of the business and storage of equipment/materials, shall established by the administrative review.

F. Vending Machines

- 1. Applicability. Vending machines refer to automated or self service dispensers of merchandise located on the exterior of a building, including but not limited to soda, candy, other retail dispensed items and *reverse vending machines*.
- 2. General Regulations.
 - a. Requires Development Plan Review prior to installation;
 - b. Propane gas cages that have an existing fire permit issued prior to October 8, 2009, do not require a separate Development Plan Review;
 - c. Shall provide a minimum four (4) foot wide pedestrian *pathway* across any building frontage and to all building entrances and exits; and
 - d. Shall be screened from street view or provide an architecturally compatible design. Water, ice, and propane gas vending are not required to be screened.

Section 3-418 (Repealed)

Section 3-419 Residential Sales Office, Temporary.

Temporary residential sales *offices* are permitted for the sale of homes being constructed on the premises and for a period not exceeding twenty-four (24) months. Extension of this time requires approval by the Hearing Officer or Board of Adjustment who shall find that the *office* meets the standards of this section and a hardship exists warranting the extension that is beyond the applicant's control. The residential sales *office* is subject to the following conditions:

- **A. Location**. Temporary residential sales *offices* may be located in a *building* designed as a *dwelling* unit or in a modular *office building* located on the site.
- **B.** Temporary Certificate of Occupancy. Prior to use of the premises as a temporary residential sales *office*, the sales *office* must meet all applicable building codes, and a temporary certificate of occupancy shall be obtained from the Community Development Director, or designee,.
- **C.** Conversion and Final Approval of Dwelling. Prior to the sale of any *dwelling* that has been used as a temporary residential sales *office*, the *dwelling* shall be restored to comply with all applicable codes and ordinances, and final approval obtained from the Community Development Department, pursuant to Section 1-207.

Section 3-420 Single-Family Residential Second Story Addition or Rebuild.

A *use permit* is required for any single story, single-*family* residence to add, expand, or rebuild for a second story. This section shall not apply to replacement *dwellings* where the *dwelling* occupying a *lot* was demolished prior to the effective date of this Code.

Section 3-421 Wireless Telecommunication Facilities.

- **A. Towers:** Wireless telecommunications towers and related equipment facilities shall be allowed upon approval with a *use permit*. Subject to the provisions of subsection C below, co-location on existing towers is subject only to an administrative review.
- **B. Building-Mounted:** Building-mounted telecommunications shall be integrated into the design of the *building* or be fully screened, and in either case must receive *development* plan approval as a *building* modification. Satellite dishes not exceeding two (2) feet in diameter shall be permitted in any zoning district. Building-mounted dishes shall require administrative review, except for residential uses. Building-mounted dishes greater than two (2) feet in diameter are permitted only in commercial, *mixed-use*, and *office/*industrial districts and shall require a *use permit*.
- **Co-location:** Wireless Telecommunication Facilities may be co-located, subject to administrative review only. Any addition to the existing height or change in appearance of the tower, as determined by the Community Development Director, or designee, to facilitate co-location may require a use permit. Wireless Telecommunication Facilities to be attached to existing light, power or telephone poles shall require a use permit.

- **D. Application Requirements.** An applicant for a new *Wireless Telecommunication Facilities use permit* shall submit the following information:
 - 1. *Use permit* application, including a *development* plan when applicable.
 - 2. For towers, monopoles, and similar proposals, a visual study containing, at a minimum, a vicinity map depicting where, within a one-half (1/2) mile radius, any portion of the proposed *Wireless Telecommunication Facilities* could be visible, and a scaled graphic simulation showing the appearance of the proposed tower and *accessory structures* from two separate points within the impacted vicinity, accompanied by an assessment of potential mitigation measures. Such points are to be mutually agreed upon by the Community Development Director, or designee, and the applicant.
 - 3. Documentation of the steps that will be taken to minimize the visual impact of the proposed *Wireless Telecommunication Facilities*.
 - 4. A *landscape plan* drawn to scale that is consistent with the need for screening at the site. Any existing vegetation that is to be removed must be clearly indicated and provisions for mitigation included where appropriate.
 - 5. A feasibility study for the co-location of telecommunication facilities as an alternative to new *structures*. The feasibility study shall include:
 - a. An inventory, including the location, ownership, height, and design of existing Wireless Telecommunication Facilities within one-half (1/2) mile of the proposed location of a new Wireless Telecommunication Facilities. The city may share such information with other applicants seeking permits for WTFs, but shall not, by sharing such information, in any way represent or warrant that such sites are available or suitable.
 - b. Applicant shall document efforts made to co-locate on existing towers. Each applicant shall make a good faith effort to contact the owner(s) of existing or approved towers and shall provide a list of all owners contacted in the area, including the date, form and content of such contact. Co-location shall not be precluded simply because a fee for shared use is charged, or because of reasonable costs necessary to adapt the existing and proposed uses to a shared tower. Co-location costs exceeding new tower development are presumed to be unreasonable.
 - 6. The Community Development Director, or designee, may request any other information deemed necessary to fully evaluate and review the application and the potential impact of a proposed tower and/or antenna.

E. Abandoned Tower/Antenna.

1. The wireless telecommunication tower/antenna shall be removed within thirty (30) days of discontinuance of the tower/antenna's use.

Adopted

Section 3-422 Amateur Radio Antennas

Amateur radio antennas for non-commercial use.

- **A. Antennas Permitted.** Amateur radio antennas are permitted in all zoning districts subject to the following standards:
 - 1. Antenna structures are allowed up to thirty-five (35) feet in height;
 - Antenna structures shall comply with setback standards for the zoning district in which it is located and in all residential zoning districts, shall be located in the rear half of the lot;
 - 3. Antennas, including support *structures*, shall not extend beyond the *property line*; and
 - 4. When a Federally Licensed Radio Amateur no longer occupies the subject property, the antenna *structure* shall be removed.
- **B.** Antennas with a Use Permit. All amateur radio antennas that exceed thirty-five (35) feet in height shall require approval of a *use permit*. Such antennas shall be of telescoping design and lowered to a height of no more than thirty-five (35) feet when not in use. In no event shall an amateur radio antenna exceed the height of seventy-five (75) feet.

Section 3-423 Use Separation Requirements.

- A. Non-Chartered Financial Institutions.
 - 1. Non-chartered financial institutions shall not be located on a *lot* within 1,320 feet, measured by a straight line in any direction, from the lot line of another non-chartered financial institution.
 - 2. Non-chartered financial institutions shall not be located on a lot within five hundred (500) feet, measured by a straight line in any direction, from the lot line of a residential district.
 - 3. The requirements pursuant to Section 3-423(A) shall also apply to *Non-chartered financial institutions* which are ancillary to another existing or permitted use.
- **B.** Auto Title Loan. Auto Title Loan businesses shall not be located on a lot within 1,320 feet, measured by a straight line in any direction, from the lot line of another auto title loan. The requirements in this section shall also apply to auto title loan businesses which are ancillary to another existing or permitted use.
- **C. Tobacco Retailer.** *Tobacco Retailers* shall not be located on a lot within 1,320 feet, measured by a straight line in any direction, from the lot line of a *charter school*, *private school*, or *public school*, which provides elementary or secondary education. *Instructional* or *vocational schools* are excluded from the separation requirement.

Section 3-424 Tattoo, Body Piercing Establishment.

A. Separation Requirements.

- 1. Tattoo, body piercing establishments shall not be located on a lot within 1,320 feet, measured by a straight line in any direction, from the lot line of another tattoo shop or body piercing establishment.
- 2. Tattoo, body piercing establishments shall not be located on a lot within five hundred (500) feet, measured by a straight line in any direction, from the lot line of a residential district.
- 3. Tattoo, Body Piercing Establishments shall not be located on a lot within five hundred (500) feet, measured by a straight line in any direction, from the lot line of a charter school, private school, or public school, which provides elementary or secondary education. Instructional or vocational schools are excluded from the separation requirement.
- 4. Existing *tattoo, body piercing establishments* that are considered a legal *non-conforming use,* not meeting the separation requirements of this Code, may relocate to another tenant space that is located on the same *lot* of the current tenant space. Such change shall require compliance with the procedures for Use Permits, pursuant to Section 6-308 and 6-903.
- **B. General Regulations.** A use permit is required for such use, pursuant to the approval criteria within Section 6-308. Additional use requirements include the following, which shall be verified prior to occupying location:
 - The establishment must have and thereafter maintain written procedures on the premises, the proper handling and sterilization of equipment and demonstrate that all personnel are trained in the procedures;
 - 2. All practitioners must have training in blood-borne pathogens and crosscontamination. Current Verification of such shall be maintained on the premises at all times;
 - 3. The establishment must post and thereafter maintain and provide to customers, upon request, written instructions on tattoo and body piercing care; and
 - 4. All hypodermic needles shall be immediately disposed within a proper container of single-use contaminated needles that is then shipped back to the appropriate company for further disposal. Needles and other similar equipment shall not be placed within the facility's refuse container outside of the business.

Section 3-425 Outdoor Seating.

- **A. Purpose and Applicability.** This section is applicable to all outdoor seating areas designated on site or within the public right of way for use by a restaurant, bar or other related establishments providing outdoor seating.
- **B. Procedure.** All outdoor seating shall first require review through a minor Development Plan Review application, pursuant to Section 6-306. Furniture, materials, and other related exterior modifications are included in the review process.
 - 1. Use of outdoor seating within the public right of way shall require an encroachment permit and a right of way permit for construction performed, authorized by the City Engineer or designee;
 - 2. Businesses utilizing the outdoor seating area for liquor consumption shall require a liquor license and a security plan, pursuant to Tempe City Code, Chapter 4, Alcoholic Beverages and Chapter 26, Article V, Security Plans; and
 - 3. If liquor consumption is granted within the outdoor seating, the request shall comply with all Arizona revised Statutes and their related regulations, as amended, including liquor licensing and designated non-smoking areas.
- **C. Standards.** Outdoor seating areas are subject to the following requirements:
 - 1. Advertising or signs of any sort in the right-of-way or on site shall conform to the requirements pursuant to Part 4, Chapter 9, Signs, as applicable;
 - 2. The outdoor seating area shall be a clearly defined area, which creates a clear and continuous division between the use area and the public portion of the sidewalk; and
 - 3. Shall not obstruct sidewalk pedestrian traffic or create public health and safety hazards and shall leave a minimum clear distance of six (6) feet of sidewalk pedestrian area in all places. All walkways within the confines of the seating shall be level with the public sidewalk and accessible for the physically disabled.

Section 3-426 Medical Marijuana.

A. Purpose. The purpose of this section is to implement Arizona Revised Statutes, Title 36, Chapter 28.1; entitled "Arizona Medical Marijuana Act".

Cross reference—See also the following definitions in Part 7 of this Code: *medical marijuana*, *medical marijuana cultivation facility*, *and medical marijuana dispensary*.

- **B.** Location Requirements. A medical marijuana dispensary, without cultivation, is allowed in the CSS, CC, PCC-1, PCC-2, RCC, and LID districts. A medical marijuana dispensary or cultivation facility is allowed in the GID and HID zoning districts. The locations are limited to the following:
 - 1. A medical marijuana dispensary or medical marijuana cultivation facility shall not be operated or maintained on a parcel within 1,320 feet, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point on the property line of a parcel containing the following:
 - a. From one dispensary to another medical marijuana dispensary;
 - b. A child care facility;
 - c. A *charter school, private school, or public school,* which provides elementary or secondary education;
 - d. A church, synagogue, temple or similar religious worship building; or
 - e. A public park, library, or public community building.
 - 2. A medical marijuana dispensary or medical marijuana cultivation facility shall not be operated or maintained on a parcel within five hundred (500) feet from a residential zoning district or the property line of a parcel solely devoted to a residential use in any zoning district, measured by a straight line in all directions, without regard to intervening structures or objects, from the nearest point of the property line of a parcel containing such use.
 - 3. Medical marijuana cultivation for a caregiver or patient's residence in a residential district is not permitted, unless sufficient evidence exists that the location is greater than twenty-five (25) miles from a medical marijuana dispensary within the State of Arizona.
- **C. Operation Requirements.** Any *medical marijuana dispensary* or *cultivation facility*, except within a residential home, shall comply with the following requirements, as well as those contained within Arizona Revised Statutes, Title 36, Chapter 28.1:
 - 1. The business shall be located in a permanent building, with an engineered foundation that meets Tempe Building Code, and not located in a *mobile home*, *trailer*, cargo container, motor vehicle, or similar personal property.

- 2. The maximum size for a *medical marijuana dispensary* shall be no more than 5,000 square feet. The maximum size for a *cultivation facility* shall be no more than 25,000 square feet.
- 3. The business and tenant space must comply with Tempe's applicable Building Code and Fire Code requirements.
- 4. Drive-through facilities are prohibited.
- 5. The *medical marijuana dispensary* is limited to the hours of operation not earlier than 8:00 a.m. and not later than 8:00 p.m.
- 6. *Medical marijuana* remnants or bi-products shall be disposed of according to an approved plan and not placed within the facilities exterior refuse containers.
- 7. There shall be no emission of dust, fumes, vapors, or odors into the environment from the premise.
- 8. A security plan is required, which shall include, but is not limited to, the following:
 - a. All exterior doorways for the facility shall provide a security vision panel pursuant to Section 4-406, Employee Service Entrances and Exits, or a 180 degree rotatable viewer. If doorway is transparent, the door shall be designed with a material that is either impact resistant or restricts entry by means of a wrought iron gate;
 - Closed circuit television cameras, operating 24 hours a day, shall be provided at the building's exterior entrance(s) and inside the building at a designated service area;
 - c. All lighting for the site shall be brought into conformance with the current lighting standards identified in Part 4, Chapter 8, Lighting. The building entrance of the business shall be illuminated from dusk till dawn activated by photocell relay to the lighting controller;
 - d. No one under the age of eighteen (18) shall enter the medical marijuana dispensary; and
 - e. Any person, prior to entering the establishment, shall remove all hats, sunglasses or other similar objects, to avoid obstruction of physical identification.

- **D. Use Acceptance.** A zoning administrative application shall be processed, certifying that all City of Tempe regulations for the *medical marijuana dispensary or cultivation facility* are in compliance with the provisions set forth in Section 3-426 of this Code. The use shall not commence without the zoning administrator, or designee, acceptance letter. the application shall include, but is not limited to, the following items:
 - 1. A project submittal form with applicable fee;
 - 2. The property owner's letter of authorization for the use;
 - 3. The name and location of the dispensary's off-site *medical marijuana cultivation facility*, if applicable;
 - 4. A map showing the location in compliance with the separation requirements listed in Section 3-426(B);
 - 5. A copy of operating procedures adopted in compliance with A.R.S. 36-2804(B)(1)(c);
 - 6. A site plan;
 - 7. A floor plan of the building or tenant space;
 - 8. If applicable, Building permits (Separate submittal) in compliance with Tempe's Building Code and Fire Code; and
 - 9. A Security Plan, in compliance with Section 3-426(C).
- **E. Dispensary Limitations.** The maximum number of medical marijuana dispensaries within the Tempe city limits shall be two (2).

SECTION 3-427 COMMUNITY GARDENS.

- **A. Purpose.** The purpose of this section is to foster and support sustainable practices through interim use and/or the adaptive re-use of open space and vacant lands with *community gardens*.
- **B.** Applicability. A *community garden* is permitted in the AG, Agricultural District. A *community garden* is also permitted, subject to approval of a *use permit*, in all other Residential Districts and in all Commercial, Mixed-use and Industrial Districts. See procedures identified in Section 6-308, Use Permit.
- **C. Approval Criteria.** In addition to the *use permit* approval criteria found in Section 6-308, the following factors shall be considered by the decision-making body, but not be limited to:
 - 1. Compatibility with existing surroundings as it relates to the size of the *community garden*;

2.	Adequate accessibility to the site and for public parking within the vicinity, which does not create a nuisance to the surrounding area or general public;

- 3. Evaluation of acceptable hours/days of operation, including outdoor retailing of produce; and
- 4. Evaluation of acceptable products sold on-site.
- **D. Operation Requirements.** A *community garden* may be located on a vacant lot, within an enclosed building, or on a lot with other buildings and uses.
 - 1. Buildings or structures, a maximum of two hundred (200) square feet in area and equal to or less than eight (8) feet in height, may be located in the required side or rear *yard* setbacks, subject to applicable building codes. Development plan review is not required.
 - 2. Any building or structure, in excess of two hundred (200) square feet in building area or over eight (8) feet in height must comply with building setbacks and receive approval of a development plan review, pursuant to Section 6-306, including sites in all Residential Districts.
 - 3. Any existing on-site retention shall be maintained or reconfigured in accordance with City Code requirements.
 - 4. All equipment or materials, not in use, shall be stored within an enclosed structure or screened from street view.
 - 5. Use of vehicular operated equipment, such as garden tillers or tractors, for initial establishment of the *community garden* is permissible and may only be used for on-going maintenance if approved through the *use permit* process. The use of motorized hand-operated equipment is permitted.
 - 6. The *community garden* may display a maximum of one (1) *sign*, subject to review, as a part of the *use permit*. The *sign* shall be a maximum of eight (8) feet in height and a maximum of thirty-two (32) square feet in area, with no more than sixteen (16) square feet of information used for sponsor advertising. A *sign* permit is not required.
 - 7. Chain link fence and other fencing materials, without barbed or razor wire, are permissible for the *community garden*. No lighting is required for the gate entrance. Outdoor retailing of products produced on the site is permitted as a part of the *use permit*.
 - 8. Outdoor retailing of products produced on the site is permitted as a part of the *use permit*.
 - 9. Proposed improvements on the site relating to other land use *development* including adding buildings, parking, lighting and driveways, shall conform to the standards of this Code, unless otherwise permitted by this section.
- **E. Discontinuance of use.** If a *community garden* is no longer in operation or left fallow, the site shall be returned to its original form. If previously vacant, the site shall provide proper dust control mitigation. Any re-establishment of a community garden shall require processing and approval of a new *use permit*.

CHAPTER 5 – NON-CONFORMING USE OR DEVELOPMENT

Section 3-501 Purpose.

The purpose of this section is to allow *non-conforming uses* and *developments* to continue, but not to encourage their perpetuation; and ultimately bring *development* and uses into conformance with this Code.

Section 3-502 General Provisions.

- A. Legal Non-Conforming Uses and Non-Conforming Developments. Nothing in this Code shall affect existing property or the right to its continued use for the purpose used at the time the Code takes effect, nor to make any reasonable repairs or *alterations* in *buildings* or property used for such legal existing purpose.
- **B.** Approved Projects. Nothing in this Code shall be deemed to require a change in the plans, construction, or designated use of any *building* for which a *building* permit has been lawfully issued prior to the effective date of adoption or amendment of this Code.

Section 3-503 Legal Non-Conforming Development.

All *developments* may be maintained but shall not be re-erected, relocated, or replaced unless brought into compliance with this Code. Freestanding off-premise signs which are legally non-conforming shall be maintained in place and may only be relocated in accordance with Section 4-903(J)(2) with a development agreement that may be entered into at the discretion of the City Council. In the case of off-premise signs the owner of the physical sign, and not the property owner, is considered the owner of the non-conforming sign.

Section 3-504 Legal Non-Conforming Use.

A *non-conforming use* may be expanded or enlarged to an extent not exceeding twenty-five percent (25%) of the land area or *building* floor area devoted to the use at the time it became non-conforming. Such expansion shall require a *use permit*.

Section 3-505 Discontinuance of a Legal Non-Conforming Use.

Whenever a *non-conforming use* has been abandoned or ceases to exist for a period in excess of one (1) year, such use shall not thereafter be re-established, as long as the period of non-use is attributable at least in part to the property owner, tenant or other person or entity in control of the use. For purposes of this Code, rental payments or lease payments and taxes shall not be considered as a continued use. Legal non-conforming *development* rights, including but not limited to buildings, structures, parking, signs and landscape as defined in Section 3-503, shall not be granted the non-conforming use time limitations to re-establish such development.

Section 3-506 Damage to a Legal Non-Conforming Development.

If a non-conforming development is damaged by any means to an extent exceeding fifty percent (50%) of its most recent, pre-damage valuation, as determined by a qualified appraiser, and as approved by the Community Development Director, or designee. Any repair, replacement, or reconstruction of that development on the site shall conform to the requirements of the district in which it is located, unless the Community Development Director, or designee, deems a deviation from the requirements of this section is appropriate for Historic Preservation purposes.

City code reference—See TCC §14A, Historic Preservation Ordinance.

Section 3-507 Legal Non-Conforming Lots of Record.

A legal, non-conforming *lot*, existing at the time of adoption of this Code, may be *developed* with a use permitted in the district for which the *lot* is zoned, subject to complying with the current standards of that district except for, *lot* size, width and depth.