

# Staff Summary Report



City Council Meeting Date: 12/13/07

Agenda Item Number: 23

**SUBJECT:** This is the second public hearing for a Code Text Amendment for ZONING AND DEVELOPMENT CODE AMENDMENTS.

**DOCUMENT NAME:** 20071213dsrl02

**PLANNED DEVELOPMENT (0406)**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Request for **ZONING & DEVELOPMENT CODE AMENDMENTS (PL070433)** (City of Tempe Development Services Department, applicant) for changes in the Code related to the incorporation of Outdoor Seating provisions which will repeal the section in the City Code related to "Sidewalk Cafes"; new regulations for Tattoo, Body Piercing Establishments; and other miscellaneous revisions. This request includes the following:

**ZOA07003 – (Ordinance No. 2007.74)** Code Text Amendment for changes within the Zoning and Development Code Sections 3-202, 4-406, 4-903, 4-904, 6-305, 6-402, 6-404, 7-114, 7-120 and 7-121 and adding Sections 3-424 and 3-425.

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

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

**LEGAL REVIEW BY:** David Park, Assistant City Attorney (480-350-8907)

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval  
Development Review Commission – Approval (7-0 vote)

**ADDITIONAL INFO:** This request includes changes within the Zoning and Development Code pertaining to new provisions and flexibility for Outdoor Seating areas; new provisions for Tattoo, Body Piercing Establishments including separation requirements; modifications to security vision panel requirements; changes within the sign chapter for menu boards and sign permit procedures; technical corrections to the PAD procedures; clarifying changes with neighborhood meeting requirements; additional notification for neighborhood meetings and public hearings; definition name change for massage businesses; definition clarification for directional signs; and a new definition for tattoo, body piercing establishments.

On November 13, 2007 the Development Review Commission recommended approval of the request including additional separation requirements for tattoo, body piercing establishments creating separation from schools as defined in the proposed ordinance.

- PAGES:**
1. List of Attachments
  - 2-4. Comments
  4. History & Facts / Zoning & Development Code Reference

- ATTACHMENTS:**
- 1-10. Ordinance No. 2007.74
  11. Other City Regulations on Tattoo/Body Piercing
  12. Separation example
  - 13-14. Existing Tempe City Code Section 24-46—24-55

## COMMENTS:

The City of Tempe, Development Services Department requests changes within the Zoning and Development Code pertaining to new provisions for Outdoor Seating and Tattoo, Body Piercing Establishments; modifications to security vision panel requirements; changes within the sign chapter for menu boards and sign permit procedures; technical correction to the PAD procedures; clarification with neighborhood meeting requirements; changes in notification for neighborhood meetings and public hearings; definition name change for massage businesses; definition clarification for directional signs; and a new definition for tattoo, body piercing establishments. Below are the explanations of items proposed for code text amendment, related to the corresponding section found in the attached ordinance (Attachments 1-10).

- #1. **Permitted Land Use Chart changes for Commercial and Mixed-Use Districts.** These changes reflect section references to proposed special standards within this code text amendment request (see following items for further explanation). Name change from "massage therapist" to "massage establishment" for consistency based on recent changes within the City Code language pertaining to the licensing and regulations of such business.
- #2. **Proposed Separation Requirements and Regulation for Tattoo, Body Piercing Establishments.** Staff has researched municipal regulations from other cities in the Metropolitan Phoenix area for businesses providing tattoo and/or body piercing services. See attachment on "Other City Regulations for Tattoo/Body Piercing". Based on these findings staff has proposed regulations for tattoo, body piercing establishments which address public concern for uses creating negative "secondary effects" that impact the neighboring community. Secondary effects may include but are not limited to, the potential downgrading of property values, loitering resulting in potential criminal activity, and the clustering of other undesirable uses. Staff has proposed regulations that are consistent with separation requirements for non-chartered financial institutions and auto title loan businesses (1,320 feet) from one another, and separation requirements from residential consistent with non-chartered financial institutions (500 feet), as previously adopted by City Council. If accepted, the separation requirements would be effective for all new establishments not currently operating with a valid sales tax license in a specified location. Existing tattoo/body piercing establishments that have a valid sales tax license, authorized by the Development Services Department, that do not meet the separation requirements are considered "legal non-conforming uses". Those uses may be maintained, subject to the provisions found in Part 4, Chapter 5, Non-Conforming Use or Development. Such existing use will not be able to relocate to a different site without first complying with the proposed regulations. Additionally, staff has included in the amendment general regulations relating to the daily operations of a tattoo or body piercing establishment that would ensure proper handling of blood borne pathogens and appropriate disposal of contaminated needles. After additional public input for this request at the Development Review Commission hearings and with recommendation by the Commission, staff has included schools as part of the separation regulations for tattoo and body piercing establishments. Staff conducted a mapping exercise of the proposed regulations and determined that by adding schools to the separation requirements will not create any greater limitations on potential site locations than what is already proposed. Schools typically reside within residential neighborhoods which are proposed to have the separation requirements from these establishments. Staff recommends language consistent with other current separation regulations for a business from schools providing a primary or secondary education, excluding instructional and vocational schools.
- #3. **New Section for Outdoor Seating Requirements.** Currently, Tempe City Code Chapter 24, Article II, Division 4. Sidewalk Cafes, regulates outdoor seating use in the public right of way. The intent of this change is to remove the sidewalk cafe provisions from the City Code section and incorporate revised provisions into the Zoning and Development Code that better assist requests through the application process, identifying all aspects for outdoor seating, whether on site or in the public right-of-way. Currently, there is a four-step review and permit procedure required for sidewalk cafes, which include permits from Sales Tax & License Division, Development Services Planning Division, Public Works Engineering Division, and the Police Department. The process has the potential to be initiated through any one of the City departments that have an integral role in the review, which sometimes results in confusion from the customer on whether or not the approval process has been completed and/or the recommended direction on design and function. Staff with the involvement of other impacted departments, recommends eliminating the permitting process currently required through Sales Tax & License and establish a linear procedure for outdoor seating areas that are either on private property or in the public right of way. A request would first be handled through an administrative design process through Development Services. At that time, with all other departments' participation, determination would be made if additional permitting is necessary. If the request is located in the public right of way an encroachment permit would need to be requested. If alcohol is served, additional processing through

the Police Department for liquor licensing is needed. The proposed procedure changes would eliminate the Sales Tax & License annual assessment and incorporate a similar assessment allocated to a right-of-way encroachment, as with any other structure encroachment. This change would occur for the new calendar year. Furthermore, design provisions have been revised to reflect additional opportunities for alternate design configurations based on seating location and its type of use. Previous regulations mandated a permanent barrier from the pedestrian pathway. This regulation was identified as a "Pesky Ordinance", from the analysis provided by Project for Public Spaces (PPS), a nonprofit organization dedicated to helping people create and sustain public places that build communities. If an establishment is not intending to serve alcohol and only provide an outdoor dining experience, fencing is no longer necessary, which limits flexibility in creative design solutions for an interactive pedestrian environment. The proposed changes have been reviewed by all departments that have an integral role in the review, providing input and consensus on the new language.

- #4. **Security Vision Panels for Exit and Entrance Doors.** This is a change in the size requirements for security vision panels based on recently adopted Building Codes, per ANSI A117.1-1998, providing an accessible bottom edge height of the vision panel compliant with Americans with Disabilities Act guidelines. The modified requirement for a security vision panel provides language consistent with adopted building codes defining a rectilinear vision panel along the door, providing visibility for all persons.
- #5. **Menu Board Signs.** Modifications to menu board signs will permit these type of signs on patio fences, as well as mounted on a building. Revisions also include allowing signs to be measured at a maximum height from the bottom of the sign instead of at the top. This change will still provide a readable menu sign for someone viewing from a wheel chair, while ensuring a proportionate height related to the size of the sign.
- #6. **Sign Permit Procedures.** Clarifying the requirement for structural calculations when signs exceed a specific height or distance from the affixed structure.
- #7. **PAD Procedures.** This is an omission in the Code. The Redevelopment Review Commission's authority was repealed from the Zoning and Development Code in a previous amendment.
- #8. **Neighborhood Meetings.** This is a clarifying amendment. Development Plans, when a public hearing is required, are being removed based on potential misinterpretation. Previous changes within the neighborhood meeting requirements eliminated use permits from requiring a neighborhood meeting. It was interpreted at that time that a development plan with a public hearing component would include only the public hearing applications currently requiring a neighborhood meeting (i.e. variance, zoning map amendment, PAD, or general plan amendment). To avoid potential confusion, it is the intent to remove this portion of the Code and have the application procedures that require a neighborhood meeting establish the need for earlier input in the public process. Staff will continue to recommend to applicants on a case by case basis additional public input in the form of early neighborhood dialogue. Staff is also recommending including additional meeting notification requirements to include all types of tenants on a subject site proposed for a variance, zoning map amendment, PAD or general plan amendment. This change has the result of adding residential tenants to the notification procedures.
- #9. **Public Hearing Requirements.** Based on policy changes for postings of public notices, Development Services Department no longer posts all types of hearing requests. Requests requiring a 4 foot by 4 foot size neighborhood meeting sign required by the applicant, staff will work with the developer to also include information related to the future public hearing dates and related information to the case. This collaboration with the customer avoids the need to duplicate postings and provide signs that can withstand the time length a sign needs to remain posted (up to two or three months). Consistent with the changes to neighborhood meeting notification, projects will require notification to all types of tenants located on the subject site, which now include residents.
- #10. **Massage Establishment.** Changing the definition of massage therapist to "massage establishment" to coincide with recent changes in the City Code.
- #11. **Directional Sign.** This is a clarifying change identifying what a directional sign may only include.
- #12. **Definition for Tattoo, Body Piercing Establishment.** This is a new definition not currently provided in the Code. The

tattoo and body piercing definition provides a clear and concise definition when identifying a business that would fall under this category.

#### **PUBLIC INPUT:**

Public Hearing Comments:

- Suggest noticing neighborhoods when a request for a use permit is submitted.
- Suggest separating tattoo and body piercing establishments from schools and churches. *Staff has included schools within the proposed regulations for tattoo and body piercing establishments.*
- Have these businesses maintain records of customers.
- City needs to enforce conditions.
- Use permits should immediately go to the Development Review Commission with cases that have opposition.

#### **HISTORY & FACTS:**

October 23, 2007	Development Review Commission continued the request for ZONING & DEVELOPMENT CODE AMENDMENTS for changes in the Code for Outdoor Seating provisions; new regulations for Tattoo Shops/Body Piercing; and other miscellaneous revisions.
November 13, 2007	Development Review Commission recommended approval for ZONING & DEVELOPMENT CODE AMENDMENTS for changes in the Code for Outdoor Seating provisions; new regulations for Tattoo Shops/Body Piercing; and other miscellaneous revisions.
December 6, 2007	City Council introduced and held the first public hearing for ZONING & DEVELOPMENT CODE AMENDMENTS for changes in the Code for Outdoor Seating provisions; new regulations for Tattoo Shops/Body Piercing; and other miscellaneous revisions.

#### **ZONING AND DEVELOPMENT CODE REFERENCE:**

Section 6-304, Zoning Map and Code Text Amendment

**ORDINANCE NO. 2007.74**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE ZONING AND DEVELOPMENT CODE, PART 3 – LAND USE, SECTION 3-202 AND ADDING SECTIONS 3-424 TATTO/BODY PIERCING ESTABLISHMENT AND 3-425 OUTDOOR SEATING; PART 4 – DEVELOPMENT STANDARDS, SECTIONS 4-406, 4-903 AND 4-904; PART 6 – APPLICATIONS AND REVIEW PROCEDURES, SECTIONS 6-305, 6-402 AND 6-404; AND PART 7 – DEFINITIONS, SECTIONS 7-114, 7-120 AND 7-121.**

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

**Section 1.** That a portion of Table 3-202A and Table 3-202B of Section 3-202 of the Zoning and Development Code, pertaining to tattoo shops and body piercing, is hereby amended to read as follows:

<b>Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)</b>						
Uses	Status of Use District					
	R/O	CSS	CC	PCC-1	PCC-2	RCC
Restaurants						
Outdoor dining <del>(a)</del> SEATING [SECTION 3-425]	N	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>
Services [See Appendix M.]						
Massage therapist ESTABLISHMENT	U	U	U	U	U	U
Tattoo shops, body piercing ESTABLISHMENT [SECTION 3-424]	N	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>

<b>Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4 and MU-Ed)</b>					
Uses	Districts				
	MU-1	MU-2	MU-3	MU-4	MU-Ed
Restaurants					
Outdoor seating [SECTION 3-425]	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>	<u>PS</u>
Services [See Appendix M.]					
Massage therapist ESTABLISHMENT	U	U	U	U	U
Tattoo shops, body piercing ESTABLISHMENT [SECTION 3-424]	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>

**Section 2.** That Section 3-424 of the Zoning and Development Code is hereby added to read as follows:

**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:**

1. 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 CROSS-CONTAMINATION. 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.** That Section 3-425 of the Zoning and Development Code is hereby added to read as follows:

**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 BEVARAGES 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. SIDEWALK CAFES 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 A SIDEWALK CAFE SHALL BE LEVEL WITH THE PUBLIC SIDEWALK AND ACCESSIBLE FOR THE PHYSICALLY DISABLED.

**Section 4.** That Section 4-406 of the Zoning and Development Code is hereby amended to read as follows:

**Section 4-406 Employee Service Entrances and Exits.**

Employee service exit and entrance doors shall be equipped with a security vision panel. A vision panel is a ~~six (6) inch by six (6) inch~~ MAXIMUM THREE (3) INCH WIDE, BY MINIMUM TWENTY-THREE (23) INCH TALL high density, impact resistance acrylic or laminated glass window. ~~The vision panel center mounted on a door, and~~ SHALL BE located ~~sixty three (63) inches from the center of the glazing to~~ ON THE DOOR WITH THE LOWEST EDGE OF THE PANEL NOT MORE THAN FORTY-THREE (43) INCHES AND THE HIGHEST EDGE OF THE PANEL NOT LESS THAN SIXTY-SIX (66) INCHES FROM the bottom edge of the door. THIS REQUIREMENT SHALL COMPLY WITH CURRENT APPLICABLE BUILDING CODES. Wire glass vision panel is acceptable when required by ~~applicable codes~~. This section applies to new doors for remodels or additions, and new *buildings* designed for commercial, office/industrial or institutional uses, and do not apply to exterior doors installed to provide access to *building* utilities only. Multi-Family uses also require doors to be equipped with a security vision panel when not open directly to a *dwelling* unit. The Development Services Manager, or designee, may approve other types of vision panels providing equal security.

**Section 5.** That Section 4-903(N) of the Zoning and Development Code is hereby amended to read as follows:

**N. Menu Board.** Menu board requirements are as follows:

1. Building Mounted AND PATIO FENCE Menu BoardS.
  - a. Shall not exceed six (6) square feet in area and ~~top~~ BOTTOM of *sign* shall not exceed ~~five (5)~~ FOUR (4) feet above finished *grade* immediately adjacent to the *building*;
  - b. May be illuminated;
  - c. The *sign* area for a menu board shall not be counted in the total aggregate *sign* area for the business in determining the allowable *sign* area for the business; and

- d. *Sign* permit is required if illuminated.
2. Freestanding Menu Board requirements for *drive through restaurants* are as follows:
    - a. Shall not exceed forty-five (45) square feet in area and eight (8) feet in height. Height and area includes accessory clip-ons;
    - b. Two *signs* per business are allowed. The *sign(s)* shall not be placed within a clear vision triangle, per Section 4-706(G), and shall not conflict with ADA *accessibility* requirements;
    - c. The *sign* area for menu board(s) shall not be counted in the total aggregate *sign* area for the business in determining the allowable *sign* area for the business;
    - d. May be illuminated, and emit sound only as part of a transaction of business. Sound emission must comply with Tempe City Code 20-6; and
    - e. *Sign* permit is required if illuminated.

**Section 6.** That Section 4-904 of the Zoning and Development Code is hereby amended to read as follows:

#### **Section 4-904 Sign Permits, Fees and Procedures.**

##### **A. Sign Permits and Fees.**

1. A sign permit shall be required in order to erect, install, relocate, modify or change any sign within the city. "Modify", as it is used herein, shall mean any change in or to an existing sign, its face, copy, colors or supporting *structures*; except that *maintenance* of a sign shall not be considered a modification.
2. Failure to conform to the conditions of a sign permit, including any conditions or stipulation attached thereto by the City Council or other decision-making body, shall render such permit void.
3. Refer to Appendix H, for the fee schedule.
4. All electrical work must comply with the Tempe Electrical Code.
5. ALL GRAVITY AND WIND LOAD CALCULATIONS SHALL COMPLY WITH APPLICABLE BUILDING CODES.

**B. Permit Procedures. Sign Permit Criteria.** Sign permits are subject to review and approval by the Development Services Manager, or designee, per Section 6-101. The following information shall be submitted to obtain a sign permit, unless prior arrangement is made through the Development Services Manager, or designee:

1. Two (2) drawings, prepared to scale, of the proposed signage shall be submitted to the Development Services Department and shall include all of the following information:
  - a. The address of the site for the proposed signage;
  - b. All sign dimensions, including the height of the signage and all sign area calculations;
  - c. Sign materials and colors;
  - d. A *development* plan showing the proposed locations of signage;
  - e. *Building* elevations drawn to scale and dimension showing proposed locations of signage;
  - f. Details of the light fixture or other source of sign illumination;
  - g. Details of visual screening or shielding of the light fixture;
  - h. The applicant's name, name of business, business address, and work telephone number.;~~and~~
  - i. The fee as required; AND
  - J. STRUCTURAL CALCULATIONS FOR ALL FREESTANDING SIGNS EXCEEDING EIGHT (8) FEET IN HEIGHT AND FOR ALL BUILDING MOUNTED SIGNS THAT EXTEND GREATER THAN SIXTEEN (16) INCHES FROM THE FACE OF THE BUILDING.

**Section 7.** That Section 6-305(C) of the Zoning and Development Code is hereby amended to read as follows:

**C. Procedure.**

1. PAD Overlay Districts shall be processed to the Development Review Commission or Joint Review Committee, as applicable, using the public hearing procedure. PAD Overlay Districts shall also be processed to the City Council, using the public hearing procedure, after review and recommendation by the decision-making RECOMMENDING body, ~~or when part of a zoning map amendment or appeal of Redevelopment Review Commission action;~~

2. Modifications. Once a PAD Overlay District request has been approved, it can be modified or amended per Section 6-312. Questions as to procedure for modifications to existing PADs shall be determined by the Zoning Administrator; and
3. Development Plan Review. *Development Plan Review* approval is required prior to issuance of building permits.

**Section 8.** That Section 6-402 (B) and (E) of the Zoning and Development Code, pertaining to neighborhood meetings, is hereby amended to read as follows:

**B. Applicability.** A neighborhood meeting is required for the following types of applications when located within three hundred (300) feet FROM THE LOT LINE OF a residential use:

1. Variances;
- ~~2. Development plans, when a public hearing is required;~~
- ~~3-2.~~ Planned Area Development Overlay Districts;
- ~~4-3.~~ Major modification to an approved plan or condition of approval (when original approval ~~made at a public hearing~~ REQUIRES NEIGHBORHOOD MEETING);
- ~~5~~ 4. Zoning map amendments; and
- ~~6~~ 5. General Plan map amendments.

**E. Notification Requirements.** Notice of the meeting shall be provided by the applicant as follows:

1. The development site shall be posted with public notice about the meeting not less than fourteen (14) calendar days prior to the date of neighborhood meeting, a notice of the date, time and place and a summary of the request. Such notice shall be clearly legible and wherever possible, placed adjacent to the right-of-way of a *public street* or road. It shall be the responsibility of the applicant to use reasonable efforts to maintain the notice once it has been placed on the subject property. The Development Services Department will supply the *sign(s)* that shall be no smaller than six (6) square feet at a cost to the applicant. It is the responsibility of the applicant to post the notice affiliated with items identified in Section 6-402(B)(~~3-6~~ 2-5), with a *sign* having a minimum *sign* area of sixteen (16) square feet;
2. Mailing a notice not less than fourteen (14) calendar days prior to the date of the neighborhood meeting to:
  - a. All property owners of record within three hundred (300) feet of the subject property which are included on the mailing list submitted by the applicant;

- b. The chairperson of the registered neighborhood association(s) and home owners association(s) within six hundred (600) feet of the subject property; and
- c. All tenants, within the boundary of the subject property(ies), ~~for projects with commercial, industrial or mixed use zoning districts.~~

**Section 9.** That Section 6-404(C) of the Zoning and Development Code, pertaining to Notice for Public Hearings, is hereby amended to read as follows:

**C. Notification Requirements.** The Development Services Department or the City Clerk shall issue public notices for all types of hearings under this Code as follows:

1. Posting the agenda at City Hall at least twenty-four (24) hours prior to such meetings, in accordance with Arizona open meeting law;
2. The development site shall be posted with public notice about the hearing not less than fifteen (15) calendar days prior to the dates of public hearings, a notice of the date, time and place of each public hearing and a summary of the request. Such notice shall be clearly legible and wherever possible, placed adjacent to the right-of-way of a *public street* or road. It shall be the responsibility of the applicant to use reasonable efforts to maintain the notice once it has been placed on the subject property. ~~The Development Services Department will install the sign(s), at a cost to the applicant.~~ Signs shall be no smaller than sixteen (16) square feet, except applications for *single-family dwellings* and inline commercial sites without *landscape* frontage, when not part of a zoning map amendment or PAD overlay. Such sign shall be no smaller than six (6) square feet. Hearing signs are not required for Zoning and Development Code text amendments;
3. Submitting for publication in the official newspaper the hearing notice, at least once, fifteen (15) days prior to the public hearing; and
4. Mailing a hearing notice not less than fifteen (15) calendar days prior to the date of the initial hearing to:
  - a. The applicant or representative and owners of the subject property;
  - b. All property owners of record within three hundred (300) feet of the subject property which are included on the mailing list submitted by the applicant;
  - c. The chairperson of the registered neighborhood association(s) and home owners association(s) within the vicinity of the project;
  - d. All tenants, within the boundary of the subject property(ies), ~~for projects with commercial, industrial or mixed use zoning districts;~~ and

- e. Mailing of hearing notices does not apply to Zoning and Development Code text amendments.
- 5. If notification is required for a public hearing with City Council, the City Clerk shall submit for publication in the official newspaper the request, at least once, fifteen (15) days prior to the ~~meeting~~ **ACTION HEARING**. If a Tempe City Code amendment is involved, the City Clerk shall comply with the requirements of the City Charter.

**Section 10.** That Section 7-114 of the Zoning and Development Code relating to the definition of massage therapist, is hereby amended to read as follows:

~~Massage therapist ESTABLISHMENT~~ means a ~~person who~~ **BUSINESS THAT** practices or administers within the city, any massage or body work techniques as defined in the Tempe City Code, CHAPTER 16A, ~~Massage Ordinance~~ for a fee or income of any kind.

**Section 11.** That Section 7-120 of the Zoning and Development Code relating to the definition of directional sign, is hereby amended to read as follows:

- 17. *Sign, directional* means a sign, that ~~includes~~ **IS LIMITED TO** copy offering pertinent directional information for the purpose of assisting in the flow of vehicular or pedestrian traffic;

**Section 12.** That Section 7-121 of the Zoning and Development Code relating to the definition of tattoo, body piercing establishment, is hereby added to read as follows:

TATTOO, BODY PIERCING ESTABLISHMENT MEANS ANY ESTABLISHMENT OFFERING INDELIBLE DESIGNS, LETTERS, SCROLLS, FIGURES, SYMBOLS OR OTHER MARKS THAT ARE PLACED ON OR UNDER THE SKIN WITH INK OR COLORS BY THE AID OF NEEDLES OR OTHER INSTRUMENTS AND THAT CANNOT BE REMOVED WITHOUT A SURGICAL PROCEDURE; ANY ESTABLISHMENT OFFERING DESIGNS, LETTERS, SCROLLS, FIGURES OR SYMBOLS OR OTHER MARKS DONE BY SCARRING/BRANDING ON OR UNDER THE SKIN; ANY ESTABLISHMENT WHERE DECORATIONS OR OTHER DEVICES ARE INSERTED INTO THE SKIN; ANY ESTABLISHMENT USING TECHNIQUES SUCH AS PENETRATING, PERFORATING, BORING OR CREATING A HOLE IN THE SKIN OR ANOTHER HUMAN BODY PART; OR ANY ESTABLISHMENT WHOSE PRIMARY FUNCTION IS PERMANENT BODY ALTERATION FOR NON-SURGICAL PURPOSES. THE FOLLOWING ESTABLISHMENTS SHALL BE EXEMPT FROM THIS DEFINITION: THOSE WHERE OFFERING PERMANENT FACIAL MAKE-UP/COSMETICS ANCILLARY TO THE PRIMARY BUSINESS; THOSE WHERE PROCEDURES ARE PERFORMED BY A PERSON AUTHORIZED BY THE LAWS OF THIS STATE TO PRACTICE MEDICINE, OSTEOPATHY, CHIROPRACTIC,

PODIATRY, NATUROPATHY OR ACUPUNCTURE AND THE PROCEDURES ARE PERFORMED IN CONFORMITY WITH THE STANDARDS OF THAT PROFESSION; THOSE WHERE PROCEDURES ARE PERFORMED BY REGISTERED NURSES, LICENSED PRACTICAL NURSES OR TECHNICIANS, WHEN ACTING UNDER THE SUPERVISION OF A LICENSED PHYSICIAN OR OSTEOPATH; THOSE WHERE THE ONLY TYPE OF PIERCING OFFERED IS EAR PIERCING.

**Section 13.** Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

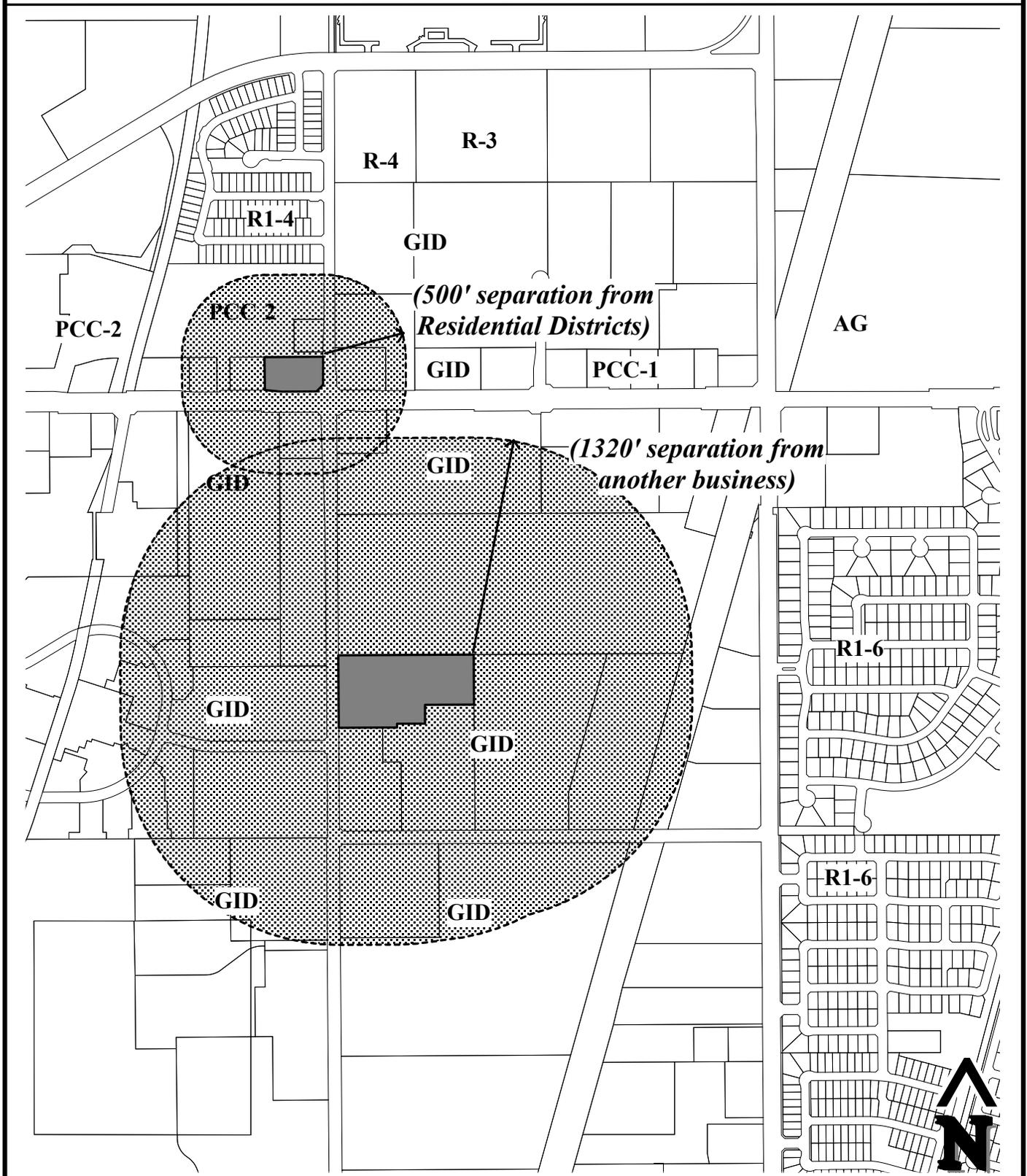
\_\_\_\_\_  
City Attorney

## OTHER CITY REGULATIONS ON TATTOO / BODY PIERCING

City	Body Modification Studios or Uses (Tattoo, Piercing, etc.)			
	Residential	Schools	Other Uses	Use Permit
Avondale	none	none	none	yes, listed as a personal service use, allowed in C-2 and C-3; requires sign posted on health risks; tattooing screened from public view
Chandler	none	none	none	no, Tattoo businesses are prohibited in CCD (downtown district)
Flagstaff	none	none	none	No Use Permit Required, considered a personal service business
Gilbert	none	500' from daycare, religious assembly or schools, and limited to hours of 8am-11pm	none	no, except conditional use permit for extended hours
Glendale	none	none	none	none
Mesa	none	1200', exceptions allowed by Council for special circumstances (road width, canals, etc.)	1200' from another tattoo/body piercing, exceptions allowed by Council for special circumstances (road width, canals, etc.)	yes, council approved use permit
Peoria	none	none	1000' from other body piercing studios, tattoo studios, massage establishment, non-chartered financial institution, pawnshop, liquor store, plasma center, adult use, correctional facility or state local alcohol reception center	yes, conditional use permit (Article 14-9)
Phoenix	none	none	none	allowed in LID, Special Permits (not use permit) required to create an overlay in commercial districts
Queen Creek	none	none	none	allowed in industrial districts with a use permit
Scottsdale	500' from residences zoned R-1 or S-R	none	1,000 from other tattoo parlors	yes, use permit
Surprise	none	none	none	no, but restricted to industrial areas or conditional in C-3 (General Commercial) only; posted procedures; all persons trained annually; retain a log book of customers; Zoning Administrator review of artists employment or leaving a business
Tucson	none	none	none	no
Goodyear	none	1,000' from schools	1000' separation from like uses and from all adult uses	no use permit, just a review for separation

Note: All information provided does not reflect all related municipality regulations

# TATTOO, BODY PIERCING SEPARATION EXAMPLE



## DIVISION 4. SIDEWALK CAFES

### **Sec. 24-46. Sidewalk cafe required authorization and regulations.**

(a) It shall be unlawful for any person to operate a sidewalk cafe without first obtaining a permit as required herein or other such applicable permits as required by the city authorizing such activity.

(b) Sidewalk cafes are subject to the following restrictions:

- (1) All services to support sidewalk cafes shall be supplied from within the building;
- (2) Advertising or signs of any sort the permitted encroachment area shall conform to the requirements of the Zoning and Development Code;
- (3) Pedestrian walkways shall not be split. The use area shall extend laterally no further than the building frontage of the business with which it is associated;
- (4) The permittee shall demarcate the permitted use area with a permanent barrier, of a size and type compatible with the decor of the surrounding area, which creates a clear and continuous division between the use area and the public portion of the sidewalk;
- (5) The permittee shall maintain at all times a clear passage adjacent to the permitted use area, between the public circulation portion of the sidewalk and every public access doorway into adjacent buildings; and
- (6) Permitted sidewalk cafes 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 a sidewalk cafe shall be level with the public sidewalk and accessible for the physically disabled.

(c) All sidewalk cafes shall obtain design approval and building permits pursuant to this code prior to the issuance of a permit as required herein.

(d) The occupation of the city right of way shall be by encroachment permit only, issued by the city engineer pursuant to chapter 29 of this code.

(Ord. No. 2004.16, 4-29-04)

### **Sec. 24-47. Application procedure; required insurance.**

(a) Any person desiring a permit to operate a sidewalk cafe within the city shall submit application on forms prescribed by the city to the financial services manager or designee. Application for an original sidewalk cafe permit shall be filed at least sixty (60) days prior to the commencement of the proposed licensing period. Required information shall include, but is not limited to, names and residence addresses of all owners, partners, general managers and principal officers, proposed location and hours, products and costs, equipment to be used and signs.

(b) The applicant shall also provide three (3) character references, a statement of any prior felony conviction and any prior misdemeanor conviction involving moral turpitude, and any other information which the financial services manager or designee deems necessary. The individual applicant shall also provide proof of health clearance from the county health department before issuance of the permit. The applicants and agents shall submit a full set of fingerprints to the Tempe Police

Department for the purpose of obtaining a state or federal, or both, criminal records check pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. Fingerprints must be submitted on fingerprint cards provided by the financial services manager or designee.

(c) No sidewalk cafe permit shall be issued until a certification of insurance is received by the City of Tempe with no less than the following limits: \$1,000,000 combined single limit per occurrence for bodily injury and property damage, including coverage for contractual liability (including defense expense coverage for additional insureds), personal injury, broad form property damage, products and completed operations, insuring the city against any and all liability or expense that may be incurred by reason of any accident to any person, persons or property arising from or in any way growing out of the use of the right-of-way by the sidewalk cafe. The general aggregate limit shall apply separately or the general aggregate shall be twice the required per occurrence limit.

(d) It shall be unlawful for any individual to omit required information from any application or to provide false information on any application submitted. Failure to provide required information or falsification of information shall be grounds for disapproval or revocation of any permit.

(Ord. No. 2004.16, 4-29-04)

**Sec. 24-48. Revocation of permits.**

Any sidewalk cafe permit may be revoked by the financial services manager or designee on the basis of information received after issuance concerning criminal record, or on the basis of violations of this article or any applicable law or for reasons of public health, safety or welfare. Revocation shall be effective on the date set by the city.

(Ord. No. 2004.16, 4-29-04)

**Secs. 24-49—25-55. Reserved.**