

THIS ORDINANCE BECOMES

EFFECTIVE ON: July 11, 2008

ADOPTED BY THE
MAYOR AND COUNCIL

June 10, 2008

ORDINANCE NO. 10548

RELATING TO PLANNING AND ZONING; AMENDING THE TUCSON CODE, CHAPTER 23, LAND USE CODE, ARTICLE II, ZONES, DIVISION 8, OVERLAY ZONES, BY ADDING A NEW SECTION 2.8.11, "N" NEIGHBORHOOD PRESERVATION ZONE (NPZ); AMENDING ARTICLE V, ADMINISTRATION, DIVISION 1, POWERS AND DUTIES BY ADDING A DESIGN PROFESSIONAL DESIGNATION; AMENDING ARTICLE VI, DEFINITIONS, DIVISION 2, LISTING OF WORDS AND TERMS, BY AMENDING THE DEFINITION OF "CONTRIBUTING PROPERTY" IN SECTION 6.2.3. AND "DEVELOPMENT ZONE" IN SECTION 6.2.4; AMENDING THE TUCSON CODE, CHAPTER 23A, DEVELOPMENT COMPLIANCE CODE, ARTICLE II, REVIEW PROCEDURES, DIVISION I, GENERAL ZONING REVIEW PROCEDURE, BY ADDING A NEW SECTION "23A-32.1"; AND SETTING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF
TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. The Tucson Code, Chapter 23, Land Use Code, Article II, Zones, Division 8, Overlay Zones, is hereby amended by adding a new Section "2.8.11" to read as follows:

ARTICLE II. ZONES
DIVISION 8. OVERLAY ZONES
"N" NEIGHBORHOOD PRESERVATION ZONE (NPZ)

* * *

2.8.11 "N" NEIGHBORHOOD PRESERVATION ZONE (NPZ).

2.8.11.1. Purpose. Preserving and enhancing Tucson's established neighborhoods is critical to conserving the cultural and historic heritage of the city. The purposes of the Neighborhood Preservation Zone (NPZ) are:

- A. to provide a process for the establishment of NPZ districts to preserve, protect and enhance the unique character and historical resources of established city neighborhoods; and
- B. to provide for the creation and establishment of a neighborhood-specific design manual for each NPZ district, containing architectural and design requirements and guidelines to ensure that development is compatible with the neighborhood character overall, as well as with the character of the applicable Development Zone.

2.8.11.2. Definitions.

The following definitions apply to this section.

Compatibility/Compatible: Visual consistency of development by mirroring prevailing dimensions, spatial relationships, and architectural and design characteristics of the neighborhood overall and the Contributing Properties within the Development Zone. The term "compatible" does not mean "repetition or copy of" or "identical to" existing structures within the neighborhood. Compatibility is achieved when a development is designed in a manner that blends in with the character of structures in the Development Zone.

Contributing Property: For the purposes of this section, a building, object, site, or structure that is listed as a contributing property in a designated National Register Historic District or in an Eligibility Assessment document for the district. Under the National Register definition, a contributing property contributes to the historic significance and visual character of a district, and has sufficient integrity to convey that significance and those visual character defining features in terms of location, design, setting, material, workmanship, character, or association.

Design Professional: A registered architect with historic preservation experience employed by or under contract with the City.

Development Zone: The definition of "Development Zone" is as specified in Section 6.2.4 of the LUC.

Neighborhood Character: The combination of various defining characteristics of Contributing Properties and existing development within a Development Zone that creates and conveys the historic significance and visual character of a neighborhood. These characteristics include scale and proportion, architectural style and detail, open spaces, spatial relationships, and landscaping.

2.8.11.3. Applicability.

A. *NPZ Classification*

1. A rezoning to the NPZ is permitted for neighborhoods that are listed on the National Register of Historic Districts, include a National Register Historic District, or are eligible to be listed on the National Register of Historic Districts and have completed a National Historic District Nomination or Eligibility Assessment application.
2. The NPZ is an overlay zone superimposed over the development regulations of the underlying zoning. The land uses permitted within the NPZ district are those permitted by the underlying zoning.

B. *NPZ Design Manual and Compatibility Review Criteria.*

1. Upon the establishment of an NPZ district, requirements of the Design Manual and Compatibility Review Criteria, Section 2.8.11.9.C, apply to all development that:
 - a. is zoned RX-1, RX-2, R-1, R-2, R-3, RH, SR, and SH;
 - b. requires a building permit; and
 - c. is visible from a street that is not classified as an alley, unless the Design Professional makes a written finding that a proposed development's visibility from the street is so minimal as to be immaterial for purposes of the application of this section.
2. The requirements of the Design Manual and Compatibility Review Criteria, Sec. 2.8.11.9.C. do not apply to:
 - a. interior renovations or construction within the interior of a building.
 - b. building maintenance, repairs, or painting or minor building alterations, such as window or door alterations or replacements, or minor additions to an existing residence that do not affect the external appearance of the structure as seen from the street.
 - c. exterior development that is not visible from the street, except the Compatibility Review Criteria Privacy Mitigation Measures, Sec. 2.8.11.9.C.5, apply to any proposed development that exceeds the height of residential structures on adjacent properties.

- C. Where there is a conflict between the requirements of the applicable Historic Preservation Zone (HPZ) and the requirements of the NPZ, the requirements of the HPZ prevail.
- 2.8.11.4. Establishment or Dissolution of, or Amendment to a Neighborhood Preservation Zone.
- A. An NPZ district is initiated by the Mayor and Council at their sole discretion.
 - B. An NPZ district is established, amended, or dissolved by the Mayor and Council by ordinance through a Zoning Examiner Legislative Procedure, Sec. 5.4.1 and Sec. 5.4.3.
- 2.8.11.5. Districts Established.
- A. NPZ districts are established upon adoption of a rezoning ordinance for a neighborhood. The Design Manual created pursuant to 2.8.11.7 shall be a condition of the NPZ district.
 - B. Adopted NPZ districts shall be listed in Development Standard 2-16.0 using the following format: "NPZ-1" – NAME OF DISTRICT – Adopted on XXX, by Ordinance No. XXX.
 - C. The list shall be administratively updated, upon adoption of additional NPZ districts through the appropriate procedure.
- 2.8.11.6. Zoning Maps. To identify each of the NPZ districts on the City of Tucson Zoning Maps, the preface "N" is added to the assigned residential zoning designation, i.e., R-1 becomes NR-1.
- 2.8.11.7. Design Manual. The Design Manual shall be created upon initiation of the NPZ district. The Department of Urban Planning and Design is the lead city agency for the preparation of each neighborhood specific Design Manual.
- A. The Design Manual shall, at a minimum contain the following:
 - 1. *NPZ District Neighborhood Character.*
 - a. Identification of Contributing Properties within the NPZ District.
 - b. Identification of the defining characteristics of the NPZ district. Such identification may include excerpts or references to those portions of the National Register nomination or eligibility document that summarize the defining characteristics of the district.

- c. Illustrations and narratives describing a. and b. above.
2. *NPZ District Map*. The Design Manual shall include a map of the boundaries of the NPZ district showing the Contributing Properties and the boundaries of the National Register District or area eligible for a National Register District.
 3. Examples of specific Compatibility Review Criteria listed in 2.8.11.9.C, that illustrate elements of neighborhood character.
 4. *Privacy Mitigation Measures*. The Design Manual shall recommend specific privacy mitigation measures to be considered in a Compatibility Review pursuant to 2.8.11.9.C.5 (Privacy Mitigation).
 5. *Dimensional, Spatial, and Access Standards*, if adopted by Mayor and Council as mandatory pursuant to 2.8.11.7.B.1.b.
- B. The Design Manual may contain the following:
1. *Dimensional, Spatial, and Access Standards*, subject to the following:
 - a. Dimensional, Spatial, and Access standards may differ from the Development Criteria of Article III of the LUC. Such standards may be more or less restrictive than those of the underlying zone. Dimensional, Spatial, and Access standards shall:
 - (i) not create a nuisance or intrude on the privacy of adjoining or surrounding properties;
 - (ii) create a more historically compatible setting, accommodate energy efficiency or, ensure enhanced resource conservation greater than current regulations; and
 - (iii) in the case of alley access standards, specify mitigation measures to ensure safe access.
 - b. The Mayor and Council may adopt dimensional, spatial, and access standards as mandatory requirements upon a finding by the Director of the Department of Urban Planning and Design that proposed requirement complies with 2.8.11.7.B.1.a.
 - c. Dimensional, spatial, and access standards not adopted as mandatory requirements are advisory for purposes of a compatibility review.

2.8.11.8 Design Professional

A. The Design Professional shall:

1. conduct a compatibility review of all applications for development within the NPZ district to which this section applies. This review is in addition to the Administrative Review Procedure, Sec. 23A- 31, Zoning Compliance Review, and any other required review procedures;
2. submit a report with findings and recommendations to the Director of the Department of Urban Planning and Design pursuant to the Tucson City Code Sec. 23A-32.1, the NPZ Design Review Procedure;
3. render decisions impartially;
4. not render professional services if the Design Professional's judgment could be affected by responsibilities to another project or person or by the Design Professional's own interests; and
5. comply with City of Tucson Administrative Directive 2.02-14 and Policy 282, Ethics and Conflict of Interest for City Officers and Employees.

2.8.11.9. Compatibility Review of Applications for Proposed Development

A. In conducting the Compatibility Review, and in rendering his or her findings and recommendations, the Design Professional shall consider the relative impact and intensity of the proposed development. The Design Professional shall evaluate applications for proposed development for compliance with:

1. Design Manual standards, guidelines, or requirements;
2. Applicable Development Standards; and,
3. Compatibility Review Criteria, Sec. 2.8.11.9.C.

B. The Design Professional shall use the Design Manual to determine the overall Neighborhood Character of the NPZ district and the Compatibility Review Criteria to determine the Neighborhood Character of a specific Development Zone for the proposed development.

1. Contributing Properties within a project's Development Zone shall be used when identifying the Compatibility Review Criteria.
2. If the Development Zone for the proposed development does not contain Contributing Properties, then, for purposes of identifying the

Contributing Properties that apply to a development proposal, the Development Zone shall be expanded in every direction until the Development Zone includes at least one Contributing Property.

C. *Compatibility Review Criteria.* The following elements determine compatibility of the proposed development with the Development Zone:

1. Scale and proportion, including
 - a. height;
 - b. bulk and massing; and
 - c. number of stories.
2. Architectural style and detail, including
 - a. roof types;
 - b. projections and recessions, such as porches, awnings, overhangs, steps, entrances;
 - c. window sizes and spacing;
 - d. materials; and
 - e. surface texture and colors.
3. Spatial relationships and site utilization, including
 - a. spacing between adjacent buildings;
 - b. front and rear side setbacks;
 - c. open spaces;
 - d. attachments such as carports and garages; and
 - e. outbuildings.

4. Landscaping

Landscaping will only be reviewed for compatibility when a project proposes a comprehensive change to the streetscape such as the construction of a new residential unit.

5. Privacy Mitigation

- a. Privacy mitigation is required when the following types of development are proposed adjacent to existing single story residences:
 - (i) Construction of a multistory residence;
 - (ii) Addition of a story to an existing residence; or
 - (iii) Additions to existing second or higher stories
 - b. For the purpose of this section, privacy mitigation includes: vegetative or other screening or siting elements, walls, siting of buildings or windows, and eliminating balconies or similar features to reduce views towards the existing dwellings.
- D. Approval of proposed development may be subject to special conditions to provide for compliance with the Compatibility Review Criteria.
- E. The Compatibility Review shall be included in the Design Professional's report to the Director of the Department of Urban Planning and Design.
- F. The Design Professional design review and appeal procedures are set forth in Tucson City Code Sec. 23A-32.1, the NPZ Design Review Procedure.

SECTION 2. The Tucson Code, Chapter 23, Land Use Code, Article V, Administration, Division 1, Powers and Duties, is amended by adding a new Section "5.1.12" to read as follows:

**ARTICLE V. ADMINISTRATION
DIVISION 1. POWERS AND DUTIES**

* * *

5.1.12 DESIGN PROFESSIONAL The Design Professional is established to review building permits for projects located in NPZ overlays for compliance with applicable design manuals as set forth in *Land Use Code (LUC)*, Sec. 23 of the Tucson Code and in the Development Compliance Code, Sec. 23A-32.1 of the Tucson Code.

5.1.12.1 Appointment and Qualifications

- A. *Appointment.* The City Manager shall recommend a candidate(s) for the position of Design Professional. The Mayor and Council shall appoint the Design Professional.
- B. *Qualifications.* The Design Professional shall be a registered architect, preferably with historic preservation experience.

5.1.12.2 Powers and Duties

- A. *Compatibility Review within Neighborhood Preservation Zones.* The Design Professional shall review applications for building permits for projects located within adopted Neighborhood Preservation Zone Overlays for compliance with the applicable Design Manual and Section 2.8.11.9 (Compatibility Review for Applications for Proposed Development). The Design Professional will forward a written report with findings and recommendation to the Director of the Department of Urban Planning and Design. The Director shall take into account the recommendations of the Design Professional when considering approval of the application.
- B. *Conditions.* The Design Professional may impose conditions on the approval of a building permit to ensure that the design of the project mitigates the impact of the project on the subject development zone.
- C. *Other Responsibilities.* The Design Professional shall perform such other functions as may be required by the *Land Use Code (LUC)*.

SECTION 3. The Tucson Code, Chapter 23, Land Use Code, Article VI, Definitions, Division 2, Listing of Words and Terms, Sections 6.2.3 and Section 6.2.4 are hereby amended to read as follows:

**ARTICLE VI. DEFINITIONS
DIVISION 2. LISTING OF WORDS AND TERMS**

* * *

6.2.3 DEFINITIONS – C.

* * *

Contributing Property A property within a Historic Preservation Zone (HPZ) district that contributes to the historic significance and visual character of a district, and has sufficient integrity to convey that significance and those visual character defining features in terms of location, design, setting, material, workmanship, character, or association. Contributing Properties are historic sites or nonhistoric compatible properties.

* * *

6.2.4 DEFINITIONS – D.

* * *

Development Zone. As used in Sec. 2.8.8, Historic Preservation Zone (HPZ), Sec. 2.8.11, Neighborhood Preservation Zone (NPZ), and Sec. 2.8.10, Rio Nuevo and Downtown (RND) Zone, a certain designated area adjacent to the lot to be developed. Public and institutional structures within the development zone shall not be considered part of the development zone when evaluating proposed development on an adjacent property, except for public and institutional structures on or eligible for inclusion on the National Register of Historic Places. The development zone is determined as follows. (See *Illustration 6.2.4.A, .B, and .C.*)

- A. Where the subject lot is an interior lot, the development zone includes that lot, all lots on either side of that lot and fronting on the same street in the same block, and all those lots on the opposite side of that street, except such portions of the development zone which fall outside the boundary of the historic district, Neighborhood Preservation Zone (NPZ) district, or the Rio Nuevo and Downtown (RND) Zone.
- B. Where the subject lot is a corner lot, the development zone includes that lot, the corner lot diagonally opposite that lot, all lots fronting on the same two (2) streets in the same block, and all lots on the opposite sides of those streets, except such portions of the development zone which fall outside the boundary of the historic district, Neighborhood Preservation Zone (NPZ) district, or the Rio Nuevo and Downtown (RND) Zone.
- C. Where the subject lot is located adjacent to a historic zone boundary, the development zone includes that lot, all lots located within the same block, and those lots facing the same street as the subject lot within one block in either direction, except such portions of the zone which fall outside the boundary of the historic district, Neighborhood Preservation Zone (NPZ) district, or the Rio Nuevo and Downtown (RND) Zone.

* * *

SECTION 4. The Tucson Code, Chapter 23A, Development Compliance Code, Article II, Review Procedures, Division 1, General Zoning Review Procedure, is amended by adding a new section “23A-32.1” to read as follows:

ARTICLE II. REVIEW PROCEDURES

DIVISION 1. GENERAL ZONING REVIEW PROCEDURE

* * *

Sec. 23A-32.1 NPZ Design Review Procedure

The following procedure is for administrative design review where such review is required by the LUC. This procedure applies to review of development applications in the Neighborhood Preservation Zone (NPZ) district in accordance with Land Use Code § 2.8.11.

1. *Pre-application conference.* A pre-application conference with the Department of Urban Planning and Design (DUPD) is required to determine whether the application shall be reviewed through NPZ design review procedure.
2. *NPZ design review.* Development subject to the NPZ design review procedure shall be reviewed as follows.
 - a. *Submittal.* Upon submittal, DUPD staff shall review the application to determine that it provides all required information. The application shall be accepted or rejected within two (2) days.
 - b. *Design Professional.* The Design Professional shall review the application to determine compliance with the neighborhood specific Design Manual and Compatibility Review Criteria.
 - c. *Design Professional Findings and Recommendation.* The Design Professional shall submit a written report with findings and recommendation to the Director of Urban Planning and Design within fifteen (15) working days of acceptance of the application.
 - d. *Director Decision.* The Director shall review the application and render a decision finding compliance or noncompliance with the neighborhood specific Design Manual and Compatibility Review Criteria within five (5) days of receiving the Design Professional's report.
 - e. *Notice of decision.* Notice of the decision shall be provided to the applicant within three (3) days of the date of the decision.
 - f. *Appeal to the Design Review Board (DRB).* Appeals to the Director's decision shall be referred to the DRB. Appeals shall be scheduled within thirty (30) days of acceptance of the application for appeal. The DRB, in formulating its preliminary findings and recommendations, shall apply the same standards that the Design Professional applies.

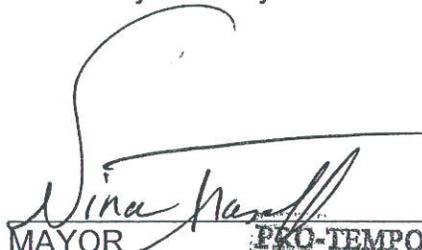
- g. *Appeal to the board of adjustment.* If an application for appeal is denied by the DRB, the applicant may appeal the decision to the board of adjustment in accordance with section 23A-61 by filing an appeal within five (5) days of the notice of the DRB's decision.

SECTION 5. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 6. If any provision of this Ordinance or the application to any person or circumstance is invalid, the invalidity shall not affect other provision or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 7. This Ordinance becomes effective thirty (30) days after the date the Ordinance is adopted by the Mayor and Council and is available from the City Clerk.

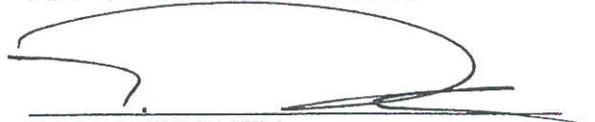
PASSED, ADOPTED, AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, June 10, 2008


MAYOR **PRO-TEMPORE**

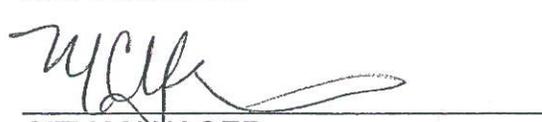
ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

REVIEWED BY:


CITY MANAGER

VRW

VR/kr
6/5/2008 2:48 PM