
**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

Meeting Date: 02/28/17
Agenda Item: 3

ACTION: Request for a Zoning and Development Code Text Amendment for MAINTENANCE (PL170049), consisting of a definition reference for deteriorated or deterioration within Section 4-102 General Regulations and Approval Criteria. The applicant is the City of Tempe.

FISCAL IMPACT: There is no fiscal impact on City funds.

RECOMMENDATION: Staff – Approve

BACKGROUND INFORMATION: MAINTENANCE (PL170049), the Nuisance Code within the Tempe City Code has a definition for *deteriorated* or *deterioration*. Referencing this Nuisance Code definition in Section 4-102(E) of the Zoning & Development Code provides a clear and consistent definition for enforcement purposes. The request includes the following:

1. Code Text Amendment for within the Zoning & Development Code for Section 4-102(E).

ATTACHMENTS: Ordinance

STAFF CONTACT(S): Jeff Tamulevich, Code Compliance Administrator (480) 350-8441

Department Director: Chad Weaver, Community Development Director

Legal review by: N/A

Prepared by: Drew Yocom, Code Compliance Analyst

COMMENT: Zoning and Development Code Text Amendment for MAINTENANCE (PL170049)

At the City Council's Committee of the Whole meeting of January 19, 2017, the Mayor and City Council discussed Section 4-102(E) Maintenance, of the Zoning & Development Code, and potential changes to address the following topic:

Deteriorated or Deterioration enforcement capabilities – Lack of definition for *deteriorated or deterioration* in the Zoning & Development Code.

PUBLIC INPUT

The added definition of *Deteriorated or Deterioration* to the Zoning & Development Code was discussed with the Neighborhood Advisory Commission on February 1, 2017.

Conclusion

Staff recommends approval of the requested Zoning and Development Code text amendment changes. This request will provide a clear and consistent definition of *Deteriorated or Deterioration* for enforcement purposes.

HISTORY & FACTS:

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| January 19, 2017 | City Council Committee of the Whole meeting held and discussed the topic of "Pavement Quality on Commercial Property Recommendation." Direction was provided to move forward with the modifications to the Zoning & Development Code. |
| February 1, 2017 | The added definition of <i>Deteriorated or Deterioration</i> to the Zoning & Development Code was discussed with the Neighborhood Advisory Commission. |

ZONING AND DEVELOPMENT CODE REFERENCE:

Sections 4-102 (E), MAINTENANCE

ORDINANCE NO. O2017.____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE ZONING AND DEVELOPMENT CODE, PART 4 – DEVELOPMENT STANDARDS, SECTIONS 4-102, PERTAINING TO COMMERCIAL MAINTENANCE.

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

SECTION 1. That Section 4-102 of the Zoning and Development Code, pertaining to Subsection E. Maintenance, is hereby amended to read as follows:

E. Maintenance.

1. The owner or owner's association, or the lessee of the site, as applicable, shall maintain the *development* and property in conformance with the plans approved by the city. Any deterioration shall be considered a violation of this Code and any applicable ordinances. SUCH DETERIORATION SHALL BE BASED ON THE DEFINITION AS DEFINED IN THE CITY CODE.

City code reference—See TCC §21-1, DEFINITIONS. (DETERIORATED OR DETERIORATION)

2. Any *landscape* feature required in this section that does not survive, function properly, or is in need of repair, shall be replaced within thirty (30) days of its demise or damage. The Community Development Director, or designee, may approve an extension when requested in writing, based on conflicts arising from construction activity, seasonal availability of materials, or a similar hardship.
3. *Landscape* features, lighting, walls, screening devices or other features installed in conformance with Part 4 of this Code shall not be modified or removed without prior approval by the Community Development Director, or designee. The removal or destruction of such features without prior approval by the Community Development Director, or designee, shall constitute a violation of this Code. In such case, the

owner shall be required to replace said feature(s) with those of like size and quality, or alternate material may be approved by the Community Development Director, or designee.

4. Improvements required under Part 4 of this Code shall be reasonably maintained.
5. Plant material and trees shall be pruned to promote a healthy growth pattern, natural characteristic form, and maximize shade.
6. The lack of *maintenance* shall constitute a violation of this Code, penalties for which are provided in Section 1-201.

SECTION 2. 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 _____, 2017.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney