

## Chapter 56: Form-Based Code Overview

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### 11-56-1 Purpose

The purpose of the Form-Based Code is to implement the vision, goals, and policies of the community for Traditional Neighborhood Development and urban centers. The standards set forth in this Code are intended to ensure that future development and redevelopment will reinforce an urban environment and active streetscape.

### 11-56-2 Authority and Applicability

- A. The Form-Based Code (FBC) replaces the Zoning for parcels that have been mapped with a Transect Zone. See Chapter 57 (Regulating Plans) of this Title for the mapping of Transect Zones.
1. **Area of Initial Application.** In its initial application, the Form-Based Code will be applied to the Downtown and Pioneer/ Temple Neighborhoods, as mapped in Chapter 57: Maps, once rezoning to the designated transect zone is made effective through completion of the opt-in process (Sub-sections C and D, below).
  2. **Areas of Future Use.** Rezoning requests for use of Form-Based Code and transect zones in other areas of the City shall be governed by Chapter 63: Smart Growth Community Plans (SGCP). As individual SGCPs become adopted by City Council in the future, the regulating plans for each SGCP shall be added to Chapter 57: Maps.
  3. **Relationship of FBC to Zoning Ordinance.** This Form-Based Code is a subpart of the Zoning Ordinance. All provisions of the Zoning Ordinance apply within the areas mapped with Transect Zones using FBC unless otherwise provided in Article 6: Form-Based Code of this Title.
  4. **Applicability of Non-Transect Development Standards.** The FBC shall be considered in combination with any applicable standards in Article 3: Overlay Districts and Chapter 31 of Article 3: 'Standards for Specific Uses' in the Zoning Ordinance. Requirements referenced in Chapter 30: 'General Site Development Standards' may be applicable when directly referenced as part of a requirement of Article 6: Form-Based Code.
- B. **Other Agreements.** If conflicts occur between the requirements of this FBC and applicable standards adopted by City Council as part of any other agreement, and determined by the Zoning Administrator in consultation with the City Attorney's Office to remain in effect, the more restrictive requirements shall apply.

- C. **Council Option to Designate Transect and Non-transect Zones to Same Parcel.** At the time of adoption of a regulating plan, the City Council may designate a parcel for both the existing non-transect zone (i.e., the current zoning designation) and a FBC transect zone (refer to Section 11-3-2 ‘Official Zoning District Map and District Boundaries’ and associated map for non-transect zone boundaries and Chapter 57 of this Article: ‘Maps’ for applicable regulating plan). When this occurs, a property owner may continue to apply the standards of the non-transect zone (see Sub-section D, below) or, may choose to designate the site entirely for compliance with the requirements of the FBC transect zone, pursuant to the Opt In Procedures in Section D below, but in no case may the site be developed utilizing a mixed set of standards from both transect and non-transect zones at the same time, unless reference to a non-transect standard is specified in the transect requirement.
- D. **Opt In Procedures.** In those circumstances in which the City Council designates a parcel for both non-transect and transect zones, the property owner may choose to continue to comply with the existing non-transect zone requirements, or choose to comply with the FBC requirements applicable to the transect zone, but not both. When a property owner selects a transect zone, they shall sign before a notary public a “Form-Based Code Opt-In” form prepared by the Zoning Administrator and approved by the City Attorney’s Office. Such form shall state that the FBC transect zone standards are now effective, and that the non-transect zone is no longer effective for that site. The City shall maintain an official record of the agreement in the files of Planning Division Office, and shall update the Official Zoning Map of the City (Section 11-3-2) to reflect the agreed change. The selected change will remain on the site until rezoned in the future.

### 11-56-3 Effect on Existing Development and Land Uses After Opt In to FBC

**Note:** In circumstances in which transect and non-transect zones apply to the same site, development will be subject to the requirements of the non-transect zones, until a property owner opts in pursuant to the Opt In Procedure described in Section 11-56-2.D above. The following language describes the use of FBC requirements on existing development for properties designated with only transect zones (non-transect zones are not present), or after the owner of dual designated transect/non-transect property has chosen to opt in to the FBC requirements and therefore make the transect zone effective.

Development and land uses that were lawfully established, and exist within the FBC boundaries prior to the effective date of this FBC are affected by this code as follows:

- A. **Complies with FBC.** Existing development and land uses that comply with all applicable requirements of Article 6: Form-Based Code of this Title may continue to operate, and shall be altered or replaced only in compliance with Article 6: Form-Based Code.
- B. **Non-compliance with FBC.** Any development or land use that was lawfully built in conformance with non-transect zone requirements (the Zoning Ordinance), and does not comply with the requirements effective for the applicable transect zone, shall be considered as legal, but non-conforming, and may continue to operate in compliance with the city’s regulations for non-conformities in the Zoning Ordinance (see Zoning Ordinance Chapter 36 ‘Nonconforming Uses, Structures and Lots’). Sites that are non-conforming relative to site development standards may redevelop, remodel or expand only in conformance with the following:
  - 1. Article 6 and Transect zone requirements. However, existing construction may stay in place without modification or demolition except what is necessary to accommodate the redevelopment, remodel or expansion.

2. When the expansion, or remodeling of existing development amounts to an increase of 20 percent (20%) or less of the existing floor area, up to a maximum of 1000 square feet, then such remodeling or expansion may proceed in accordance with any conditions attached to the Zoning Clearance by the Planning Director.
3. When expansion or remodeling of an existing development results in a larger building that exceeds a 20 percent (20%) increase of the existing floor area, or exceeds 1000 square feet, then such remodeling or expansion may only proceed in accordance with an approved Substantial Conformance Improvement Permit (SCIP), as per Chapter 73 of this Ordinance. Said SCIP application shall be reviewed prior to issuance of a Zoning Clearance.

**11-56-4 Permit Processing, Rezoning and Administration**

- A. **Processing and Procedures.** The standards, permits, procedures, and other requirements of this Code shall be administered and enforced per Zoning Ordinance requirements, unless specifically stated otherwise in this FBC.
- B. **Text amendments.** Text amendments to this FBC, or to adopted regulating plans as listed in Chapter 57 'Maps', shall be processed in accordance with the procedures and standards found in Chapter 76 'Zoning Ordinance: Amendments to Map and Text' in the Zoning Ordinance.
- C. **Rezoning of Parcels within Adopted Regulating Plans**
  1. **Parcels within Adopted Regulating Plans – Rezone from One Transect Zone to Another Transect Zone.** Amendments to the map shall be processed in accordance with the procedures and standards in Chapter 76 'Zoning Ordinance: Amendments to Map and Text' in the Zoning Ordinance.
  2. **Properties Outside of Adopted FBC Mapped Area(s) - Rezone from a Non-transect Zone to a Transect Zone.**
    - a. Requests for Transect Zones outside of areas with adopted Regulating Plans shall include all Smart Growth Community Plan (Chapter 63) requirements when an application includes a request for a regulating plan and the project involves:
      - (1) Parcels of 10-acres or greater, or
      - (2) Parcels designated by City Council as a redevelopment site.
    - b. Requests for Transect Zones on Parcels other than those described by Sub-section C2a, above:
      - (1) Parcels or project sites abutting and/or coterminous with an existing regulating plan may request rezoning to a transect zone in conformance with Chapter 76 'Zoning Ordinance: Amendments to Map and Text' in the Zoning Ordinance. Such rezoning to a transect zone shall be a natural extension of the standards adopted in the abutting and/or coterminous regulating plan and include the updating of that regulating plan to include the area being rezoned.
      - (2) Other parcels may request rezoning to a transect zone only by determination of the Planning Director that a successful application will result in more complete conformance with goals and objectives as found in the Mesa General Plan, applicable sub-area plans, and other adopted Council policies, than the use of non-transect zones and requirements.

### D. Conditional Use Permit Procedures

1. **Administrative Use Permit (AUP).** Uses or activities of the FBC requiring an AUP shall be processed according to the requirements of Section 11-70-3 'Administrative Use Permit' of the Zoning Ordinance.
2. **Special Use Permit (SUP).** Uses or activities of the FBC requiring a SUP shall be processed according to the requirements of Section 11-70-5 'Special Use Permit' of the Zoning Ordinance.
3. **Council Use Permit (CUP).** Uses or activities of the FBC requiring a CUP shall be processed according to the requirements of Section 11-70-6 'Council Use Permit' of the Zoning Ordinance.

### E. Zoning Clearance - Review Process for FBC Compliant Projects

1. **Zoning Clearance Required before Application for Building Permit.** Prior to submitting a building permit request, an application for Zoning Clearance shall be filed with the Planning Director or designee, who shall then review the project for compliance with the requirements of FBC.
  - a. **Fee Payment.** Payment of a fee for this service shall be in accordance with the adopted fee schedule for the Development and Sustainability Department.
  - b. **Design Review.** Upon determination that one or both of the two following items is present, the Planning Director may elect to also review the project under the provisions of Design Review, Chapter 71 of this Title:
    - (1) That the project largely conforms to the minimum requirements of the FBC, and may benefit from review and comments generated by the Design Review process to achieve full compliance, or
    - (2) That the project conforms to the minimum requirements of the FBC, but fails to contribute to the creation of a visually interesting built environment that includes a variety of building styles and designs with well-articulated structures that present well designed building facades on all sides, rooflines, and building heights within a unifying context that encourages increased pedestrian activity and promotes compatibility among neighboring land uses within the same or different districts.
2. **Zoning Clearance Issuance.** Upon successfully determining the project complies with the minimum requirements of the FBC, and/or Design Review, as may be applicable, the Planning Director or designee shall issue a Zoning Clearance, which shall then allow an application to be filed for a construction or a building permit in accordance with Title 4 of the Mesa City Code. Concurrent review of applications for building permit and FBC zoning clearance may be requested and allowed upon agreement by both the Planning Director and Building Official.

### F. Variances.

In the event that an applicant believes special circumstances applicable to a property, including size, shape, topography, location, or surroundings, deprives such property of privileges enjoyed by other properties in the vicinity and under the identical transect zone classification, a variance may be requested in accordance with provisions set forth in Chapter 80 'Variances' of the Zoning Ordinance.

### 11-56-5 Overview and Organization

Form-Based Codes are an alternative approach to zoning that reinforces walkable, sustainable, mixed-use environments and development and builds upon the character of a place. Form-Based Codes foster predictable built results and a high-quality public realm by using physical form (rather than the separation of uses) as the organizing principle for the code. These codes are adopted into city or county law as regulations, not mere guidelines. Form-Based Codes are an alternative to conventional zoning.

#### A. Form-Based Code Components

1. The Building Form Standards Chapter provides regulatory standards governing land use and building form within the transect zones. See Chapter 58 (Building Form Standards)
2. The Building Type Standards Chapter supplements the Building Form Standards by providing a more detailed set of standards related to the appropriate massing and form applicable to the development of each building type. See Chapter 59 (Building Type Standards).
3. The Private Frontage Standards Chapter supplements the Building Form Standards by setting forth the standards for the components of a building that provide an important transition and interface between the public realm (street and sidewalk) and the private realm (yard or building). See Chapter 60 (Private Frontage Standards).
4. The Thoroughfare Standards Chapter provides the components of a thoroughfare and thorough fare assemblies that can be used to create walkable streets that balance the needs of vehicles, pedestrians and bicyclists. See Chapter 61 (Thoroughfare Standards).
5. The Civic Space Standards Chapter provides a set of civic space types and their associated standards to use within the transect zones. See Chapter 62 (Civic Space Standards).
6. The Smart Growth Community Plan Chapter provides standards for the application of Form-Based Code standards to reinforce walkable urban neighborhoods or create new walkable urban neighborhoods within the City of Mesa.
7. The Definitions Chapter provides definitions for land use and specialized terms and phrases used in the Form-Based Code.



11-56-7 Using the Transect

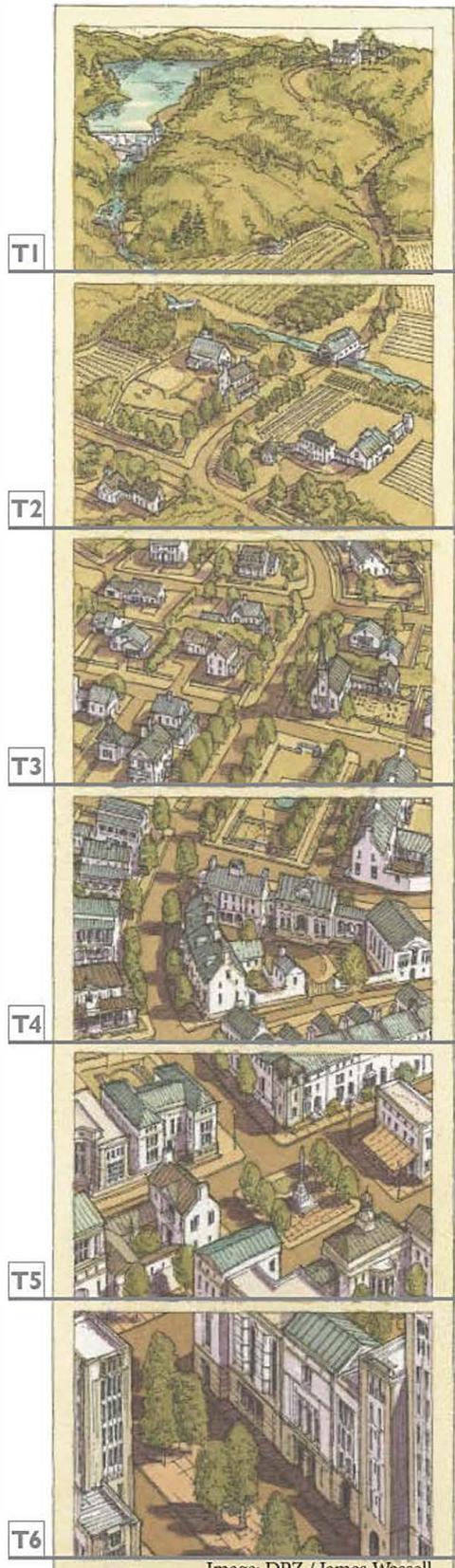


Image: DPZ / James Wassell

The Transect can be applied at various scales across the City to meet the following principles:

**A. The City-Guiding Principles**

1. Preserve and enhance community character;
2. Encourage appropriately-scaled infill and development;
3. Encourage a system of extensive trails and bicycle routes that support patterns of development conducive to more frequent transit service;
4. Preserve agriculture and open space at edges, maintaining a clear boundary;
5. Reinforce a pattern of walkable neighborhoods: support existing walkable neighborhoods and retrofit those that are not walkable; and
6. Support a range of vibrant human habitats along the transect.

**B. The Neighborhood-Guiding Principles**

1. Support a diversity of housing choices at the appropriate location along the transect;
2. Encourage and incubate small local businesses;
3. Place services within a safe, comfortable walking distance of homes; and
4. Create a framework of well-designed streets that are safe and secure for pedestrians and bicyclists.

**C. The Block and Building-Guiding Principles**

1. Build upon and reinforce the unique characteristics of Mesa;
2. Ensure that each building plays a role in creating a better whole, not just a good building;
3. Meet the changing needs of residents;
4. Ensure that architecture and landscape grow from local climate, history, culture, and building practice; and
5. Put civic buildings in important locations and make sure their form is appropriate to their civic stature.

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