

ZONING INTERPRETATION RECORD

Subject of Interpretation:

Change in “grandfathered” status (Non-conforming) upon sale of property

Zoning Ordinance Section Number:

11-1-3; 11-6-3; 11-6-3(B); 11-19-8(D)9 (Pre-2011 Zoning Ordinance)

Title of Section:

Structure of Zoning Regulations; Development Standards: Commercial and Mixed-Use Districts; General Provisions: Supplemental Provisions

Cause for Interpretation:

The applicant asked about what effect, if any, the Mesa Zoning Ordinance may have on the possible sale of the applicant’s pawnshop. The applicant has repeated statements that the Zoning Administrator made to them that their pawnshop is a legal but non-conforming or “grandfathered” use. They also seek to confirm that the sale of the applicant’s pawnshop to the interested buyer will not revoke the grandfathered status of the pawn shop, and require that the new owners apply and be approved for a Council Use Permit in order to operate.

Interpretation:

The act of the applicant selling their pawnshop will not invoke any requirements of zoning to either seek and be approved for a Council Use Permit, nor will it require upgrading the site to bring it into a higher degree of conformance with current zoning related development standards, such as landscaping, screening, parking or signage. However, the applicant should be made aware of other requirements that may affect the grandfathered status of the pawnshop once the sale has been completed, and the interested buyer intends to occupy the site.

Council adopted the requirement for pawnshops to have Council Use Permits (CUPs) in 1998. Pawnshops operating legally before the adoption date are considered legal but non-conforming land uses. Under Sections 11-1-3 and 11-6-3 of the Mesa Zoning Ordinance, non-conforming pawnshops are limited to the location and size existing at the time the City Council passed the CUP requirement. Any change to the location, or any request to increase the floor area of such pawnshops removes the “grandfathered” status, and requires an application for a CUP to be filed in the office of the Mesa Planning Division. Council Use Permits require a public hearing before the Mesa Planning and Zoning Board, which in turn will make a recommendation on the application and forward this recommendation to the City Council. The Council then considers and acts on the request. As part of the CUP process, Section 11-6-3 requires the applicant to present documentation that “the building or the site proposed for the use is in, or will be brought into, substantial conformance with all current City development requirements, including but not limited to, landscaping, parking, screen walls, signage, and Design Guidelines” [excerpt of Sec. 11-6-3(B)].

In addition, the Mesa Sign Ordinance may affect any legal, non-conforming (or “grandfathered”) signs related to the applicant’s pawn shop. Any request that invokes a requirement to issue a new sign permit or new building permit will be required, as a condition of issuing the permit, to bring any non-conforming signs into compliance with current Mesa Sign Ordinance standards. Current standards for the C-2, Limited Commercial district have maximums for detached signs of 12’ high and 80 square feet of sign area, and are subject to design requirements. Roof signs are permitted, but are limited to placement no higher than the highest portion of the building structure on which the sign is attached. For example, signs extending above the height of a building parapet are no longer permitted, and are considered non-conforming. [See Sec. 11-19-8(D)9].

To summarize, the act of the applicant selling their pawnshop, by itself, does not invoke requirements to bring a non-conforming use, a non-conforming site, or a non-conforming sign into compliance with current Mesa City Code. However, changes that require the issuance of building or sign permits, expansions of floor area, or even changes of location, may affect the current land use status of the business, and require applications and other changes to be made to bring the land use and site into full or at minimum substantial conformance with current Mesa City Code standards. The requirement for a Council Use Permit may be required, for example, for something as simple as moving the pawnshop to a similar sized suite within the same general commercial center.

The applicant should keep in mind that this letter is discussing zoning requirements that relate to the land use, location and operation of a pawnshop. It does not discuss or explain requirements related to licensing a pawnshop.