
**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

Meeting Date: 05/14/2013

Agenda Item: 4

ACTION: Request for a Code Text Amendment within the Zoning and Development Code incorporating special use standards for FRATERNITY/SORORITY HOUSES. The applicant is the City of Tempe. (Ordinance No. 2013.____)

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

RECOMMENDATION: Staff – Approval, subject to conditions

BACKGROUND INFORMATION: FRATERNITY/SORORITY HOUSES (PL130052) consists of clarifying amendments for special use standard provisions for the existing fraternity and sorority regulations. The request includes the following:

ZOA13001 Code Text Amendment including changes within the Zoning and Development Code, Section 3-102, 3-202, 3-428, 6-313 and 7-107.

ATTACHMENTS: Ordinance

STAFF CONTACT: Ryan Levesque, Senior Planner (480) 858-2393

Department Director: Lisa Collins, Interim Community Development Director

Legal review by: Teresa Voss, Assistant City Attorney

Prepared by: Ryan Levesque, Senior Planner

COMMENTS:

This request includes a Code Text Amendment within the Zoning and Development Code, clarifying the land use regulations for fraternity and sorority houses. Currently, the Code allows a fraternity and/or sorority to locate within an R-3 or R-4, multi-family zoned district only and upon receiving approval of a use permit. The incorporation of special use standards are proposed to clearly indicate the current special standards for the land use, as well as clarify when an existing multi-family development is occupied by any fraternity and/or sorority, what percentage of the site would trigger the land use regulations. Staff recommends using the interpretation of when a use is ancillary to the primary use, set by other land use regulations and previous interpretations. A site occupied by 50% or more would require the use permit. In this case dwelling units is the factor for determining whether the use is either primary or ancillary to the main use.

PUBLIC INPUT

Staff has received one verbal communication with a resident, who asked for clarification on the changes and is in general support of the amendment.

Information on the original proposed amendment was forwarded to the Neighborhood Advisory Commission. No official commission position was taken. Some of the Neighborhood Advisory Commission members had expressed concerns with the proposed amendment. Comments included concern for the current situation of displaced fraternities from the ASU campus; and that the language identifies fraternities and sororities differently than other organizations. Concern was also expressed that the wording implied that members of each organization would be required to get a use permit.

On March 12TH, 26th and April 23, 2013, the Development Review Commission recommended continuance of this request, in order to receive additional information and evaluation of the proposed changes presented. A summary of the comments expressed by the Commission include enforcement; whether or not these provisions are discriminatory; other City department involvement in this topic including subcommittees Police, Fire and the City Attorney's Office; and defining a fraternity/sorority.

UPDATE TO CODE AMENDMENT

Staff has since revised the current proposed ordinance in this report. Some of the primary changes help clarify the following:

- When a fraternity or sorority use is located in another zoning classification, such as commercial or mixed-use district that may allow other residential uses.
- The language now states that more than 50% of the development units would trigger the requirement for a use permit.
- The wording of "any" fraternity and sorority was removed, and replaced with, "...members of the same fraternity..." The language would no longer imply individual fraternity members, which was not the intent. Members of the Development Review Commission had previously requested this change.
- The term "house" is removed from Fraternities and Sororities under the land use provisions. Whether the members are within a house, apartment, motel or other form of development style the ordinance is a regulation of the land use. The description of a "fraternity and sorority house" is an antiquated term.
- A security plan will be required, as reviewed by the Police Department, in order to address life safety measures.
- A new definition is proposed for the purpose of the Code.

Conclusion

Based on Section 6-304 C. Procedure, the proposed amendment is in the public interest and is consistent and conforms to the General Plan. Staff recommends approval of the Code Text Amendment, which will allow City staff to administer these land use provisions.

HISTORY & FACTS:

- March 6, 2013 Neighborhood Advisory Commission received a copy of the draft ordinance language.
- March 12, 2013 Development Review Commission recommended continuance of this request (6-1 vote, Commissioner Collett dissenting).
- March 26, 2013 Development Review Commission, with the concurrence of staff, recommended continuance of this request (7-0 vote)
- April 23, 2013 Development Review Commission, with the concurrence of staff, recommended continuance of this request (7-0 vote)
- May 14, 2013 Scheduled public hearing with the Development Review Commission for this request.
- May 30, 2013 Proposed City Council introduction and first public hearing for this request.
- June 13, 2013 Proposed City Council second and final public hearing for this request.

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 6-304, Zoning Map Amendments and Code Text Amendments

ORDINANCE NO. 2013.____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE ZONING AND DEVELOPMENT, PART 3 – LAND USE, SECTIONS 3-102, 3-202 AND A NEW SECTION 3-428, RELATING TO SPECIAL USE STANDARDS FOR FRATERNITIES AND SORORITIES; PART 6 – APPLICATIONS AND REVIEW PROCEDURES, AMENDING SECTION 6-313; AND PART 7 – DEFINITIONS, AMENDING SECTION 7-107, RELATING TO DEFINITIONS.

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

Section 1. That Table 3-102 of Section 3-102 of the Zoning and Development Code, pertaining to fraternities and sororities in residential districts, is hereby amended to read as follows:

Table 3-102 – Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)				
Uses	Status of Use in District			
	AG	SFR	MF	MH/RMH/TP
Fraternity and Sorority Houses FRATERNITIES AND SORORITIES (R-3 and R-4 Districts Only) (A) [SECTION 3-428]	N	N	U (S)	N

Section 2. That Table 3-202A of Section 3-202 of the Zoning and Development Code, pertaining to fraternities and sororities in commercial districts, is hereby amended to read as follows:

Table 3-202A – Permitted Land Uses (R/O, CSS, CC, PCC, RCC)						
Uses	Status of Use District					
	R/O	CSS	CC	PCC-1	PCC-2	RCC
FRATERNITIES AND SORORITIES [SECTION 3-428] (A)	U(S)	U(S)	U(S)	U(S)	U(S)	U(S)

Section 3. That Table 3-202B of Section 3-202 of the Zoning and Development Code, pertaining to fraternities and sororities in mixed-use districts, is hereby amended to read as follows:

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4 and MU-Ed)					
Uses	Districts				
	MU-1	MU-2	MU-3	MU-4	MU-Ed

Table 3-202B – Permitted Land Uses (MU-1, MU-2, MU-3, MU-4 and MU-Ed)

Uses	Districts				
	MU-1	MU-2	MU-3	MU-4	MU-Ed
FRATERNITIES AND SORORITIES [SECTION 3-428] (A)	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	<u>P</u>

Section 4. That a new Section 3-428 of the Zoning and Development Code, amending Part 3, Land Use, is hereby added to read as follows:

SECTION 3-428 FRATERNITIES AND SORORITIES.

FRATERNITY AND SORORITY HOUSES ARE ALLOWED, SUBJECT TO THE FOLLOWING:

- A. SUCH USE IS PERMITTED IN THE R-3 AND R-4 MULTI-FAMILY DISTRICTS ONLY AND IN THE COMMERCIAL AND MIXED-USE DISTRICTS, UPON APPROVAL OF A USE PERMIT, PURSUANT TO SECTION 6-308;
- B. WHEN MORE THAN FIFTY PERCENT (50%) OF THE DWELLING UNITS, IN AN EXISTING DEVELOPMENT WITH AT LEAST FIVE (5) UNITS OR WITHIN A CONTIGUOUS DEVELOPMENT, ARE RENTED OR LEASED TO MEMBERS OF THE SAME FRATERNITY OR SORORITY AND WHERE BUSINESS/ACTIVITIES ARE BEING CONDUCTED, A USE PERMIT IS REQUIRED;
- C. NEW DEVELOPMENT FOR A FRATERNITY AND SORORITY HOUSE SHALL PROCESS A USE PERMIT PRIOR TO OR CONCURRENTLY WITH THE DEVELOPMENT PLAN REVIEW; AND
- D. A SECURITY PLAN IS REQUIRED, PURSUANT TO SECTION 6-313.

Section 5. That Section 6-313 of the Zoning and Development Code, security plans, is hereby amended to read as follows:

Section 6-313 Security Plan.

- A. Purpose. The purpose of approving a security plan is to protect the public health, safety, and welfare through crime prevention measures that are tailored to proposed land uses.
- B. Applicability and Procedure. Security plans are required for the following uses subject to the standards contained in Chapter 26, Article V, Security Plans, of the Tempe City Code:
 1. Bars, cocktail lounges, taverns, discotheques, nightclubs and similar businesses;
 2. Adult-oriented businesses;
 3. Recreational or amusement businesses, including both indoor and outdoor activities, including pool halls and video arcades;
 4. Entertainment as accessory to restaurant facilities, bars or similar establishments;

5. Hotels and motels;
6. Convenience stores;
7. Medical marijuana dispensary or cultivation facility; ~~and~~
8. FRATERNITY AND SORORITY HOUSE; AND
- ~~8.9.~~ Any other use determined by the Community Development Director or the Chief of Police, or their designees, to be similar to a use listed immediately above.

Security plans for uses within the MU-Ed District shall be formulated in coordination with the Public University.

Section 6. That Section 7-107, F definitions of the Zoning and Development Code, adding a definition for fraternities and sororities, is hereby added to read as follows:

FRATERNITY AND SORORITY HOUSE MEANS ANY BUILDING USED IN WHOLE OR IN PART AS A DWELLING AND OCCUPIED BY AND MAINTAINED EXCLUSIVELY OR PRIMARILY, WHICH SHALL BE DEFINED AS A DEVELOPMENT CONSISTING OF 5 OR MORE UNITS WITH MORE THAN 50% OF THE UNITS OCCUPIED BY A SINGLE FRATERNITY AND/OR SORORITY AND USED FOR MEMBER MEETINGS AND OTHER ASSOCIATED ACTIVITIES, FOR COLLEGE, UNIVERSITY OR PROFESSIONAL SCHOOL STUDENTS WHO ARE AFFILIATED WITH A SOCIAL, HONORARY OR PROFESSIONAL ORGANIZATION RECOGNIZED CURRENTLY OR IN THE PAST BY A COLLEGE, UNIVERSITY OR PROFESSIONAL SCHOOL.

Section 7. 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 _____, 2013.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, Interim City Attorney