
**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION****Meeting Date: 10/28/2014
Agenda Item: 6**

ACTION: Request for a Code Text Amendment for BACKYARD ANIMALS, consisting of changes within single-family to expand the allowance of certain animals subject to a use permit. The applicant is the City of Tempe.

FISCAL IMPACT: The new Use Permit fee will result in the collection of additional fees, in the amount of \$53 per request.

RECOMMENDATION: Staff – Approval

BACKGROUND INFORMATION: BACKYARD ANIMALS (PL140362) is a request for a code text amendment, which modifies Zoning and Development Code, section 3-404 to allow the keeping of additional livestock in a single-family zoning district, subject to a use permit. The current Zoning and Development Code restricts the keeping of Livestock to the Agricultural (AG) Zoning District. This amendment allows owners of all Single Family Use to request the ability to have the certain animals allowed in the AG district, by securing a Use Permit through the public hearing process. The request includes the following:

ZOA14003 Code Text Amendment within the Zoning And Development Code Sections 3-102 and 3-404.

ATTACHMENTS: Ordinance

STAFF CONTACT(S): Ryan Levesque, Deputy Community Development Director (480) 858-2393

Department Director: Dave Nakagawara, Community Development Director

Legal review by: N/A

Prepared by: Bill Kersbergen, Senior Transportation Planner

COMMENTS:

This request includes the following:

1. Code Text Amendment

The applicant is requesting the Development Review Commission provide recommendation to City Council on the item listed above.

This application will be forwarded to City Council on November 13, 2014 and December 4, 2014 for approval.

PUBLIC INPUT

- Presented at the Council or the Whole/ Issue Review Session on August 18, 2014.
- Neighborhood Advisory committee, overview of proposal on October 1, 2014.

PROJECT ANALYSIS

Staff has done research to evaluate the legitimacy of expanding the definition of domestic animal to include pygmy goats, and at the same time researched the concept of expanding the current allowance of five chickens (hens), in Single-Family zoning districts.

The opinion of staff is that Tempe is more inclusive than most of the surrounding cities in the metropolitan area. Summaries of what Tempe allows vs. what is allowed in other municipalities, was presented to the Council of the Whole on August 18, 2014.

Staff believes that the existing regulations are appropriate. It would not be fair to impose a more relaxed animal code on the residents, in a citywide manner.

Staff acknowledges that there may be circumstances where specific modifications to the Animal limitations, may be acceptable, on an individual basis.

To accomplish this concept, staff is proposing to expand the Use Permit process to allow a resident of any single-family residence to make a specific request to keep animals which are traditionally allowed in the agricultural zoning district.

This process would allow for the applicant to present a specific request for a certain animal type, and quantity; and would allow for the applicant to describe the method of keeping any animal(s) in a way which will not cause undue hardship for any neighbor or resident of the city.

This process would allow any neighbor the ability to support or object to this request, by participating in the public hearing process.

Conditions of each approval could be crafted to the specific request.

Similar to a Business, the Use permit would be attached to the owner of the property, for the duration of that ownership. Any subsequent owners would be required to process a separate use permit, if they have the same, or similar animals.

Any resident, or neighbor, who is aggrieved by any animal that has been allowed by use permit, may initiate a complaint process. If the status of the complaint is not resolved, staff can initiate a revocation process of the use permit.

In Addition, a modified fee for the use permit process. This would include a resolution to City Council for a fee in the amount of \$53.00 to process such request. This is the same fee required for community gardens.

GENERAL PLAN

Land Use Goal, LU2.5

Promote land use patterns that encourage long-term sustainability.

“Support city-wide location of sustainable local food systems including farmer’s markets, urban agriculture, community gardens, federal food assistance programs and healthy food retailers.” (egg production for individual consumption)

Conclusion

Based on the information provided and the above analysis, staff recommends approval of the Zoning Text Amendment.

HISTORY & FACTS:

October 22, 2009	City Council approved a code text amendment to allow up to 5 chickens/poultry, and two pot-bellied pigs to be considered as small animals.
August 18, 2014	Livestock in Single family zoning district was presented to the Council of the Whole.
October 1, 2014.	Livestock in Single family zoning district was presented to the Neighborhood Advisory Committee.

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 6-304, Zoning Map Amendments (Including Overlay Districts) and Code Text Amendments

ORDINANCE NO. 2014.xx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE ZONING AND DEVELOPMENT CODE, PART 3 – LAND USE, SECTIONS 3-102 AND 3-404, PERTAINING TO ANIMALS ON SINGLE-FAMILY DWELLING LOTS.

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

SECTION 1. That Section 3-102 of the Zoning and Development Code, pertaining to Table 3-102 “Animals”, 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
Animals				
Horses [Section 3-404]				
Keeping of, residential use	S	U(S)	N	N
Stables, commercial use	U(S)	N	N	N
Livestock: Cattle, Sheep, or similar [Section 3-404]	S	N	N	N
Small Animals: Chickens, Rabbits, or similar ANIMALS ON SINGLE-FAMILY DWELLING LOTS [Section 3-404]				
For farming (AG only) SMALL ANIMALS AND POT-BELLIED PIGS	S	S	S	N
Maximum 5, excluding roosters and peafowl LIVESTOCK AND ADDITIONAL SMALL ANIMALS	<u>U(S)</u>	<u>U(S)</u>	<u>U(S)</u>	N

SECTION 2. That Section 3-404 of the Zoning and Development Code, pertaining to Agricultural Uses, is hereby amended to read as follows:

Section 3-404 Agricultural Uses.

Agricultural uses, as provided in subsections below, are permitted in the AG district and shall conform to the following standards:

- A. Farming.** Farming, including all types of agriculture and horticulture, such as flower, vegetable and field crops, berry and bush crops, tree crops, and orchards, and their storage.
- B. Livestock.** The keeping of livestock, including cattle, horses, sheep, goats or similar animals except the keeping of swine. The number of such livestock permitted shall be calculated on the basis of one horse, cow or similar animal, or two (2) sheep, goats or similar animal for each six thousand (6,000) square feet of net *lot* area after deducting ~~one-half (1/2) acre~~ THIRTY (30) PERCENT OF THE LOT AREA for the home site. The total aggregate of all such animals permitted shall be twenty-four (24). Animals of six (6) months or younger shall not be counted.
- C. Apiaries.** Apiaries, upon the following conditions:
1. Occupied bee hives shall be at least two hundred (200) feet from any existing *dwelling* on another property;
 2. Occupied bee hives shall have a minimum separation of fifty (50) feet to any *property line*;
 3. Occupied bee hives shall have a minimum separation of one hundred fifty (150) feet to any *street* or *bridle path*; and
 4. Apiaries shall require a *use permit*.
- D. Grazing.** The grazing and keeping of cattle, sheep or horses, except swine on a site of five (5) or more acres; including the supplementary feeding of such cattle, sheep, or horses, provided such grazing is not a part of, nor conducted in conjunction with any dairy or livestock sales *yard* located on the same premises.
- E. Processing of Farm Products.** Farming and processing of farm products, customarily conducted on farms, is permitted subject to a use permit, on a site five (5) acres or more.
- F. Horse Stables.** A commercial horse stable may be permitted with a minimum net site of ten (10) acres or more.
- G. Keeping of Horses.** The keeping of horses for residential use is permitted in the AG district subject to Section 3-404(B). Keeping of horses in the R1-15 and R1-10 district are permitted subject to a use permit provided the following conditions OF THE *USE PERMIT* are met:
1. The zoning for such property was in effect prior to 1/20/85;
 2. The rear *yard* of site with R1-15 and R1-10 districts abuts property in the agricultural district and the conditions, covenants and restrictions of such agriculturally zoned property permits the keeping of horses;
 3. The *lots* in the R1-15 and R1-10 districts are not less than thirty thousand five hundred (30,500) square feet in area;

4. The minimum distance from the rear of the *dwelling* unit to the rear *property line* is not less than two hundred (200) feet;
5. The *lots* in the R1-15 and R1-10 districts are located south of Elliot Road; and
6. The number of horses permitted shall be determined by following the criteria set forth in Section 3-404(B).

H. Dairy Farm. A dairy farm may be permitted with a *net site area* of forty (40) acres or more.

I. Animals on Single Family Dwelling Lots. A number of *small animals* shall ~~not~~ be considered ALLOWED as an agricultural use OR DOMESTIC PET, and are permitted in all residential districts which have a *single-family dwelling*, subject to the following:

1. No more than five (5) *small animals* collectively are allowed on an individual *lot*;
2. No more than two (2) pot-bellied pigs are allowed on an individual *lot*, , and shall be counted in the total allotment for *small animals*;
3. The keeping of roosters or peafowl is prohibited, except in the AG district; and
4. THE KEEPING OF HOUSEHOLD PETS, AND ALL DOGS AND CATS PURSUANT TO THE TEMPE CITY CODE, CHAPTER 6, ARE ALLOWED IN ALL RESIDENTIAL DISTRICTS AND DO NOT COUNT TOWARDS THE NUMBER OF SMALL ANIMALS;
5. THE KEEPING OF SMALL ANIMALS AND POT-BELLIED PIGS THAT EXCEED THE MAXIMUM ALLOWED QUANTITY IN SUBSECTION (1) AND (2) ABOVE AND THE KEEPING OF LIVESTOCK, AS DEFINED IN SECTION 3-404(B), MAY BE ALLOWED SUBJECT TO REVIEW AND APPROVAL THROUGH A USE PERMIT APPLICATION, PURSUANT TO SECTION 6-308. IN ADDITION TO THE APPROVAL CRITERIA, THE LIVESTOCK MUST ACCOMMODATE ADEQUATE AREA FOR THE ANIMAL(S) AND DEMONSTRATE CONTROL OF LIVING QUARTERS;
6. It shall be unlawful to keep *small animals* AND LIVESTOCK in a manner that constitutes a nuisance.

SECTION 3. 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 _____, 2014.

Mark W. Mitchell, Mayor

ATTEST:

Brigitta M. Kuiper, City Clerk

APPROVED AS TO FORM:

Judith R. Baumann, City Attorney