



Requesting Department:
Development Services

TO: Planning and Zoning Commission

THRU: Brett Burningham, Development Services Director

FROM: Kyle Barichello, Planner II

RE: Public Hearing and Possible Action on P19-0084 ZONING ORDINANCE TEXT AMENDMENTS, a request for Zoning Ordinance Text Amendments addressing fencing standards, animal standards, and general code corrections.

DATE: July 10, 2019

STAFF RECOMMENDATION

Staff recommends approval of P19-0084 ZONING ORDINANCE TEXT AMENDMENTS.

PROPOSED MOTION

Move to recommend approval of P19-0084 ZONING ORDINANCE TEXT AMENDMENTS.

RELEVANT COUNCIL GOAL



Effective Government

SUMMARY

As presented at the January 9, 2019, Planning Commission Study Session, Planning Staff is proposing a number of Zoning Ordinance Text Amendments based on direction provided by the Town Council, changes in State law, and to make the Zoning Ordinance a more efficient tool for development in the Town. The amendments provided below are the first in a series that will be presented to the Planning Commission throughout the year for the Commission's input and further direction.

The first round of amendments included modifications in the application and hearing process of Conditional Use Permits, increasing the size of parcels allowed for site plan administrative review by Planning Staff from five (5) acres up to ten (10) acres, and general clean-up items. These text amendment items were approved at the Town Council's Regular Meeting on May 1st.

The second round of amendments as part of this public hearing include fencing standards, animal and swine standards, and general clean-up items.

AMENDMENTS

Fencing Standards

The changes include modifying the fencing standards in both the rural zoning districts (i.e. A-1, AT, R1-190, R1-154, R1-108, R1-54, R1-43) and the R1-35 zoning district. The changes will clarify that metal wire fencing that has a rectangular or square pattern can be used around the property boundaries consistent with the existing rural zoning districts. The only change proposed in the suburban zoning districts is to allow a similar set of fencing standards for R1-35 zoned properties due to their similarities in size and standards. This text amendment will also clarify that plastic, plastic mesh, plastic fabric, chain link, and similar material to fill in the fences that are visible from the public view are not allowed.

Animal References

The changes include updating animal definitions, clarifying allowed animals as part of educational programs, fixing scrivener's errors, and referencing applicable Town Code sections. Additionally, staff has updated the service and emotional support animals section to comply with federal and state level regulations. All above changes have been reviewed by the Town's legal counsel.

Text Clean-up

A variety of clean-up items are proposed addressing definitions, adding clarifying language, fixing scrivener's errors, and amending the code where above code requirements are being modified. Planning Staff is also recommending modifications to the Permitted Use Table reflecting a combination of prior scrivener's errors as well as expanding on permitted uses within a particular zoning district. Below are a number of textual modifications.

Article 1, Sections 1.14: Definitions

- Clarify, add, and delete language relating to definitions

Article 3, Sections 3.8-1: Time limits for Zoning Approvals and Permits

- Update timelines for consistency between table and text

Article 4, Sections 4.7-1: Permitted Use Table

- Fix scrivener's error; remove redundant use category and clarify for consistency

Article 6, Section 6.2.B.3 & G: Animal Regulations

- Fix scrivener's error by removing incorrect language and add a reference to Federal and State regulations

Article 4, Section 4.3: Table 4.3-1

- Update relationship descriptions to 2018 General Plan

Article 4, Section 4.7.E.4

- Fix scrivener's error by removing incorrect language

Design Standards, DS.4.3. 1 & m

- Clarify existing language to match zoning ordinance

ATTACHMENTS

1. Zoning Code Text Amendments addressing all Zoning Ordinance changes

EXHIBIT A
ZONING ORDINANCE TEXT AMENDMENTS: ADD, DELETE, AND EDIT
LANGUAGE THROUGHOUT THE ZONING ORDINANCE

Article 1, Section 1.14

VEHICLE, RECREATIONAL. See "Recreational Vehicle".

Article 3, Section 3.2.F.1.2.b.1

- 1) Religious Institutions (with seating capacity up to 1,500 persons) which meet the criteria established in applicable sections of this Ordinance ~~shall submit for site plan approval as established in Section 3.3 Site Plan and Final Subdivision Review. will be required to proceed through Town Council approval. After a complete application has been reviewed, the Planning Administrator shall submit to Town Council for final site plan approval as an administrative item only.~~ The applicant may apply for building permits consistent with the proposed plans. No building permit application may be issued by the Planning Administrator until he has certified such application conforms to the approved final site plan.

Article 1, Section 1.14

ANIMALS, AGRICULTURAL-ANIMALS. The following animals (also known as livestock) and fowl are considered accessory to an agricultural or residential use, whether used for personal enjoyment or for commercial purposes: horses, oxen, donkeys, mules, burros, sheep, cattle, rabbits, roosters, chickens, ducks, geese, goats, ostrich, emu or rhea, alpaca, llama or similar animals or fowl (excluding pea fowl).

ANIMAL UNIT. Represents the unit of measurement utilized as the basis for determining the number of agricultural animals permitted in residential districts on lots 35,000 square feet and larger. See Article 6.2 Animal Regulations for additional information. ~~and shall be subject to the following provisions:~~

~~One (1) animal unit shall consist of the following:~~

- ~~• One (1) large livestock animal (weaned beef animal over six (6) months of age, horse, llama, alpaca, mule, burro, ostrich or similar animals). Swine are only permitted as part of an educational project as stated in Section 6.2 of this Ordinance) or;~~
- ~~• Five (5) medium livestock animals (goats, sheep, or similar animals.) or;~~
- ~~• Ten (10) small livestock animals (rabbits, ducks, chickens, geese, fowl (excluding pea fowl) or similar animals.~~

ANIMALS, EXOTIC-ANIMALS. Those animals not defined as household pets or agricultural animals.

ANIMALS, HOUSEHOLD PETS. Those animals which are commonly kept as pets: dogs, cats, fish, small birds (e.g. parakeets, parrots), rodents (e.g. mice, rats), and reptiles (non-poisonous snakes, lizards or similar animals).

ANIMALS, LIVESTOCK, (LARGE). Cattle, oxen, horses, mules, donkeys, alpaca, llama, or similar animals. One (1) large livestock animal is equivalent to one (1) animal unit.

ANIMALS, LIVESTOCK, (MEDIUM). Sheep, goats or other similar animals ~~(swine are only permitted as an educational activity as described in Section 6.2F).~~ Five (5) medium livestock animals are equivalent to one (1) animal unit.

ANIMALS, LIVESTOCK/FOWL, (SMALL). Rabbits, ducks, chickens, geese or similar animals or fowl (excluding pea fowl). Ten (10) small livestock or fowl is equivalent to one (1) animal unit.

Article 6, Section 6.2.A(6)

5. Corrals, or yard areas used for the keeping of agricultural animals on lots less than one (1) acre shall be located within the rear half of the lot (or side yard) or parcel and shall be enclosed by a view or partial view-type fence, pipe rail or other similar fencing material, or wall of sufficient height to restrain the animal(s). Such fence or wall shall be maintained and kept in a sound condition at all times.

5.6. Animal wastes shall be stored at least fifty feet (50') from any property line, open space, drainage channel or surface waters and shall not violate the health and sanitation provisions of the Town Code and Maricopa County's Health Code.

6.7. The maintaining and keeping of animals within the Town shall be allowed only so long as they not cause, create, contribute to or become a public nuisance due to noise, odors, dust, accumulation of animal waste, garbage, refuse or other obnoxious or putrescible material, or for any other like reason. See Town Code for additional regulations regarding animals.

Table 6.2-1 Permitted Animal Units Allowance

Square Footage Of Residential Lot	Number of Animal Units Permitted
35,000 sf to 39,999 sf	2
40,000 sf to 43559 sf	3
43,560 sf and larger*	4
<i>Exceptions:</i>	
<ul style="list-style-type: none"> One (1) additional animal unit permitted per 30,000 sf in excess of one (1) acre (43,560 sf). 	
<ul style="list-style-type: none"> Offspring (under the age of six (6) months) of animals on-site, do not count towards the number of permitted animal units. 	
<ul style="list-style-type: none"> Animals used for educational purposes as stated in Subsection F do not count towards the number of permitted animal units. 	

One (1) animal unit shall consist of the following:

- One (1) large livestock animal (weaned beef animal over six (6) months of age, horse, llama, alpaca, mule, burro, cattle, oxen, donkeys, ostrich or similar animals). ~~Swine are only permitted as part of an educational project as stated in Section 6.2 of this Ordinance~~ or;

- Five (5) medium livestock animals (goats, sheep, or similar animals). Swine are not permitted or;
- Ten (10) small livestock animals (rabbits, ducks, chickens, geese, fowl (excluding pea fowl) or similar animals). Roosters are only permitted on lots one (1) acre and larger.

~~7.8.~~ Chickens in smaller lot residential zoning districts.

- On each lot that is at least 5,000 square feet and less than 10,000 square feet in area, up to five (5) total chickens are permitted.
- On each lot that is at least 10,000 square feet and less than 35,000 square feet in area, up to ten (10) total chickens are permitted.
- ~~Roosters are only permitted on lots one (1) acre and larger.~~
- Aviaries (i.e. chicken coops) shall be located within the building envelope or the rear one-half of the lot. If located within the rear one-half of the lot, the aviary shall be a minimum of five (5) feet from any property line. All aviaries shall be no taller than six (6) feet in height and screened by a six (6) foot tall block wall.
- ~~The maintaining and keeping of chickens within the Town shall be allowed only so long as they not cause, create, contribute to or become a public nuisance due to noise, odors, dust, accumulation of animal waste, garbage, refuse or other obnoxious or putrescible material, or for any other like reason. For purposes of this subsection, a public nuisance is defined as maintaining any of the conditions described above to the extent that one or more adjacent property owners are restricted in the use of their property due to the existence of the public nuisance.~~

~~8.5.~~ Animal wastes shall be stored at least fifty feet (50') from any property line, open space, drainage channel or surface waters and shall not violate the health and sanitation provisions of the Town Code and Maricopa County's Health Code.

A. *Household Pets.*

- It shall be unlawful to keep any household pet or animal as defined in this ordinance in such a manner so as to disturb the peace, comfort or health of any person residing within the Town. Any person violating any provisions of this chapter shall be subject to civil penalties as determined by the Town municipal court authority. See Town Code for additional regulations.
 - It shall be unlawful to keep any animal in such condition that any offensive, disagreeable or noxious smell or odor shall arise therefrom to the injury, annoyance or inconvenience of any inhabitant of the neighborhood thereof.
 - The keeping of all animals within the Town is subject to all pertinent regulations of the town, county and the state.

- c. The premises upon which animals, livestock and poultry are kept shall always be sanitary and subject to inspection and regulation by the Town Code Enforcement Division.
- d. The maintaining and keeping of animals within the Town shall be allowed only so long as they not cause, create, contribute to or become a public nuisance due to noise, the presence of flies, mosquitoes, insects, vermin, rodent harborage, odors, dust, standing water, accumulation of manure, garbage, refuse or other obnoxious or putrescible material, or for any other like reason. For purposes of this subsection, public nuisance is defined as maintaining any of the conditions described above to the extent that one or more adjacent property owners are restricted in the use of their property due to the existence of the public nuisance.

Article 6, Section 6.2.B.(3)

- 2. Dogs confined in non-commercial kennels shall not be kept closer than twenty feet (20') from the nearest principal residential structure on an adjacent property. Such permission may be revoked at any time. Upon revocation, the owner of the animal(s) shall have thirty (30) days to move the animal(s) so that compliance is achieved. All agreeing parties shall have their signatures notarized.

Article 6, Section 6.2.C.(3)

- ~~3. Animal wastes shall not be stored any closer than fifty feet (50') from any property line, open space, drainage channel, or surface waters.~~

Article 6, Section 6.2.(G)

G. Service and Emotional Support Animals.

- 1. The Town follows all applicable federal and state regulations concerning service animals and emotional support animals, including the Federal Fair Housing Act (FHA) and the American with Disabilities Act (ADA).

Article 3, Section 3.8-1 table

Table 3.8-1 Time Limits for Use of Zoning Approvals and Permits

Type	Time Limit
Rezoning Zoning Map	Time limits for Rezoning or Zoning Map change shall be at the discretion of the Town Council.
Conditional Use Permit	Eighteen (18) months to obtain a building permit and commence construction of the primary use authorized by the permit, or in the case of home occupations, to complete any necessary alterations, adjustments, modifications, or other activities authorized by the permit.
Variance or Special Exception	Six <u>One (16)</u> year <u>months</u> to obtain a building permit and to commence construction of the primary use authorized by the variance.
Building Permit	Six (6) months.

Cemetery, Mausoleums (See Section 4.6.D.6)	W	W	W	W	W	W	P-	--	--	--	C	C	--	C	C	W	--
Golf Course (See Section 4.6.D.6)	W	W	W	W	W	W	--	--	--	C	W	W	C	C	C	W	--
Golf Driving Range	--	--	--	--	--	--	--	--	--	C	C	C	C	C	C	C	--
Parks/lakes/reservoirs	--	--	--	--	--	--	C	C	C	C	C	C	C	C	C	C	--
All Other Parks/Open Space (See Section 4.6.D.6)	W	W	W	W	W	W	C	C	C	C	C	C	C	C	C	P	--

Use Category	Specific Use Type	Residential Zoning Districts					Non-Residential Zoning Districts										
		A1 R1-190 R1-145 R1-108	R1-54 R1-43 R1-35	R1-18 R1-15 R1-12	R1-9 R1-8 ¹ R1-7 R1-6 ¹ R1-5 R1-4	HD R/ M DR	A T	N C	D C	M U	C-1	C-2	C-3	EM P A	EM P B	PR C	P Q P

Commercial (Continued)																	
Retail Sales and Service (Continued)	* Large Format Retail	--	--	--	--	--	--	--	--	P	--	P	P	--	--	--	--
	Book Stores	--	--	--	--	--	P	P	P	P	P	P	P	--	--	--	--
	Cemeteries, Mausoleums	--	--	--	--	--	P	--	--	--	--	--	€	€	--	--	--
	Theaters	--	--	--	--	--	P	--	P	P	--	P	P	--	--	--	--

Article 5, Section 5.2.A

13. The use of barbed wire, ~~wireplastic, plastic mesh, plastic fabric, canvas, or chain link, or similar material shall not be used that is visible from public view is prohibited~~ in any zoning district. Metal wire mesh fencing is allowed as provided in Article 5.2.B and C.

Article 5, Section 5.2.B

B. Rural Zoning Districts A-1, AT, R1-190, R1-154, R1-108, R1-54, R1-43.

4. Metal wire fencing that has a rectangular or square pattern, excluding chain link fencing, is allowed as perimeter fencing provided it meets the height and location for fencing and walls as provided in this Section. Metal wire fencing may be added to the side of split rail fencing that faces the interior of the lot. Metal wire fencing shall not extend beyond the top of the highest rail of a fence.

Article 5, Section 5.2.C

C. Suburban Zoning Districts R1-35, R1-18, R1-15, R1-12, and Urban Zoning Districts R1-9, R1-8, R1-7, R1-6, R1-5, R1-4, MDR and HDR

3. For R1-35 Zoning Districts, metal wire fencing that has a rectangular or square pattern, excluding chain link fencing, is allowed as perimeter fencing provided it meets the height and location for fencing and walls as provided in this Section. Metal wire fencing may be added to the side of split rail fencing that faces the interior of the lot. Metal wire fencing shall not extend beyond the top of the highest rail of a fence.

Article 4, Section 4.3. Table 4.3-1

Table 4.3-1 Relationship of Residential Districts to General Plan (Continued)

Urban Development		
R1-9 Type A	9,000 Square Feet Per Dwelling Unit	To provide for medium density detached and attached single family homes and duplexes in areas where large-lot development is discouraged and adequate public facilities and services are located nearby. R1-9 supports the Queen Creek General Plan's principles of concentrating urban growth and reinforcing existing community centers. A mix of dwelling types is allowed in this district. This district implements the Medium Density Residential future land use classification of the Queen Creek General Plan.
R1-8 Type A	8,000 Square Feet Per Dwelling Unit	Pursuant to Ordinance 127-98, this district is not in use after August 1, 1998.
R1-7 Type A	7,000 Square Feet Per Dwelling Unit	High density district allowing the full spectrum of residential single family detached unit types within specified densities where adequate public facilities and services are available in the Urban Corridor tiers. R1-7 may serve as a transitional district between single family and multi-family and non-residential districts. This district is intended to allow a mix of residential unit types and densities to provide a balance of housing opportunities while maintaining neighborhood compatibility. R1-7 implements the Medium Density Residential future land use classification of the Queen Creek General Plan. However, it may also be appropriate in lower intensity areas where it is part of a mixed density development.
R1-6 Type A	6,000 Square Feet Per Dwelling Unit	Pursuant to Ordinance 127-98, this district is not in use after August 1, 1998.
R1-5 Type B	Up to Five (5) Dwelling Units Per Acre	To provide a transitional district between lower density and higher density residential uses or non-residential uses. It may also be used to facilitate "infill" development for properties that may be difficult to develop due to their size, shape, or location at the same densities as adjacent residential properties. Lower densities may be developed in this district and it requires approval of a Planned Area Development (PAD) overlay as part of the development application process. This district implements the MHDR-A Future Land Use classification of the Queen Creek General Plan.
R1-4 Type B	Up to Eight (8) Dwelling Units Per Acre	To provide residential uses in conjunction with Office and Commercial uses as part of a master planned development. The R1-4 district is intended to allow a broader mix of residential opportunities by allowing single family housing on smaller lots and lot clustering. Lower density residential may be developed in this district and it requires approval of a Planned Area Development (PAD) Overlay as part of the development application process. This district implements the MHDR-B Future Land Use classification of the Queen Creek General Plan.

MDR	Medium Density Residential	Medium density district allowing for single family attached or detached residential uses within specified densities. MDR may serve as a transitional district between single family and commercial districts. This district is intended to allow a mix of residential unit types and densities to provide a balance of housing opportunities while maintaining neighborhood compatibility. MDR implements the Medium Density Residential, and Mixed Use <u>Neighborhood and Urban</u> future land use classifications of the Queen Creek General Plan.
HDR	High Density Residential	High density district allowing for multiple family unit types and densities to provide a balance of housing opportunities. The HDR District implements the High-Density and Mixed Use <u>future Neighborhood and Urban</u> land use classifications of the Queen Creek General Plan.

Design Standards, DS.4.3. l

- 1) Front loaded garages shall be recessed a minimum of five feet (5') from the ~~front plane of the living area~~ livable or covered front porch area of the building to provide interest and relief from the street.

Design Standards, DS.4.3. m

- 2) Front ~~fac~~ ing-loaded garages shall be recessed by a minimum of five feet (5') from the ~~front plane~~ livable or covered front porch area of the ~~home~~ building in order to provide interest and relief for the streetscape.