



TOWN OF
QUEEN CREEK
ARIZONA

5.B

TO: PLANNING AND ZONING COMMISSION

THROUGH: BRETT BURNINGHAM, DEVELOPMENT SERVICES DIRECTOR

FROM: ERIK SWANSON, PLANNING ADMINISTRATOR, SARAH CLARK, SENIOR PLANNER/PROJECT MANAGER

RE: PUBLIC HEARING AND POSSIBLE ACTION ON P22-0223 REASONABLE ACCOMMODATION TEXT AMENDMENT, A STAFF INITIATED TEXT AMENDMENT TO ARTICLE 6.3 GROUP RESIDENTIAL FACILITIES OF THE ZONING ORDINANCE ADDING LANGUAGE REGARDING THE REASONABLE ACCOMMODATION WAIVER PROCESS.

DATE: November 9, 2022

Suggested Action:

Move to recommend approval of P22-0223 Reasonable Accommodation Text Amendment.

Relevant Council Goal(s):

Effective Government

Discussion:

The request is for a staff initiated text amendment to 6.3 Group Residential Facilities of the Zoning Ordinance adding language regarding the reasonable accommodation waiver process. The process allows applicants for a group residential facility, which is defined as a “facility licensed or authorized by the State of Arizona for 10 or fewer clients/persons who reside together as a single housekeeping unit and who receive common support, care, training, supervision, or counseling from one (1) or more staff persons on a twenty-four hour per day basis” to request a reasonable accommodation waiver to the required 1,200-foot buffer requirement for a group residential facilities (State statute prohibits residential facilities from operating within 1,200 feet of another). The purpose of the buffer requirement is to permit persons requiring common support, care, training, supervision, or counseling the opportunity to reside in single-family residential neighborhoods, while preserving the residential character of the neighborhood.

The Federal Fair Housing Act prohibits local government from refusing to make reasonable accommodations when these accommodations are necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling. Per State Law, if a municipality has a Zoning Ordinance that implements a distance requirement between group care homes, the municipality shall have an administrative procedure in place in which a deviation from the separation requirement may be requested as a reasonable accommodation under the Federal Fair Housing Act. The proposed text amendment documents the process for requesting the reasonable accommodation waiver and the

required findings to consider the request as required by State Law.

Examples of a reasonable accommodation waiver request may include a home that is closer than 1,200-feet of another group home, however an arterial road separates the neighborhoods, the subdivisions are not connected, and/or the home holds less than the maximum 10 persons permitted in a group home facility. Each request for a reasonable accommodation will be reviewed on a case-by-case basis and on its own merits.

Attachment(s):

1. [Proposed Zoning Ordinance - Redlined.pdf](#)
2. [Proposed Zoning Ordinance - Clean.pdf](#)

ARTICLE 6 – SUPPLEMENTAL USE REGULATIONS

- d. A permanent and adequate water supply must be available on the property at all times within thirty feet of the hive, colony or apiary.
 - e. All hives, colonies and apiaries shall be located no closer than thirty feet to any exterior property line.
3. *Prohibited Acts.* The following are prohibited:
- a. The keeping of bees whether or not for commercial purposes without first having obtained a permit.
 - b. Failure to provide adequate water supply as set forth subsection d above.
 - c. Any act or omission the result of which is to allow bees to be kept in such a manner so that they present a hazard to the public health, safety and welfare of the residents.
4. *Exceptions.* The provisions of this section do not apply to any property owner upon whose property a swarm of transient bees are attempting to or have established a domicile.
5. *Penalty.* Upon conviction of a violation of any provision of this Section, the first offense shall be punished as a petty offense and all subsequent convictions within a two-year period shall be treated as class I misdemeanors.
6. *Abandoned Hives, Colonies and Apiaries.* Any hive, colony or apiary which does not contain the marking requirements, the water supply requirement of Section 6.2.F and for which no permit has been issued shall be presumed to be abandoned. The town upon a complaint may take all action necessary to remove the abandoned hive, colony or apiary from the property.
2. The purpose of these regulations is to permit persons requiring common support, care, training, supervision, or counseling to reside in single family residential neighborhoods, while preserving the residential character of the neighborhood.
3. A complete application shall be submitted to the Development Services Department on a form established by the Department.
4. Prior to registration, a request for zoning confirmation may be submitted to the Development Services Department to confirm that the proposed location of the Group care home is permitted under Article 4 of this document.
5. Group Residential Facilities are permitted in all residential zoning districts as specified in this Ordinance (see table 4.6-1), subject to final approval by the Development Services Department. The Development Services Department shall review all applications for Group Residential Facilities submitted pursuant to this section. Group Residential Facilities shall be located, developed, and operated in compliance with the following standards:
- a. The Group Residential Facility provides twenty-four-hour assistance to no more than ten (10) persons. In determining the number of persons served by a Group Residential Facility, the following individuals shall not be counted: the operator of the facility, members of the operator's family, and persons employed at the facility as staff.
 - b. No signs, graphics, displays, or other visual means of identifying Group Residential Facilities shall be visible from a public street.
 - c. Large and/or multiple trash receptacles not usually found in the residential area in which the Group Residential Facility is located shall be completely screened from public view.
 - d. The Group Residential Facility shall comply with all applicable Building and Fire Safety regulations.

6.3 Group Residential Facilities

A. Purpose.

1. Group Residential Facilities are defined as set forth in Article 1 of this document.

ARTICLE 6 – SUPPLEMENTAL USE REGULATIONS

e. Group Residential Facilities shall not be located within one-thousand two hundred (1,200) feet from any existing Group Residential Facility. For the purposes of this Section, all distances shall be measured from the property lines of the Group Residential Facility, including any rights-of-way.

f. All Group Residential Facilities shall be subject to an annual inspection by the Town of Queen Creek to ensure compliance with applicable law, including the standards set forth in this Section.

6. Reasonable Accommodation Waiver. The purpose of this Section is to establish a procedure for persons with a disability to make a request for reasonable accommodation in the application of the Town of Queen Creek's zoning rules, policies, practices and procedures pursuant to Section 3604(f)(3)(b) of Title 42 of the Fair Housing Act which prohibits local government from refusing to make reasonable accommodations when these accommodations are necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling. A reasonable accommodation for a group home will be granted or denied, in accordance with the requirements stated herein. A request for such a reasonable accommodation waiver must be in writing and filed with the Development Services Director or designee. In all cases, the Development Services Director or designee, shall make findings of fact in support of their determination and shall render a decision in writing. The Development Services Director or designee may meet with the person making the request for additional information or discuss an alternative accommodation, in order to ascertain or clarify information sufficiently to make the required findings. To grant a reasonable accommodation waiver, the Development Services Director or designee shall find affirmatively all of the following:

a. The requesting party or future occupants of the housing for which the reasonable accommodation has been

made are protected under the Fair Housing Act and/or the Americans with Disabilities Act;

b. The request is reasonable and necessary to afford an individual with a disability an equal opportunity to use and enjoy a dwelling;

c. The request will be in compliance with all applicable building and fire codes;

d. The request will allow for the maintenance and preservation of the residential characteristics of the neighborhood and will not create a substantial detriment to neighboring properties by creating traffic impacts, parking impacts, impacts on water or sewer system, or other similar adverse impacts; and

e. Profitability or financial hardship of the owner/service provider of a facility shall not be considered by the Zoning Administrator in determining to grant a reasonable accommodation waiver.

7. An appeal of the decision regarding the reasonable accommodation request may be made to the Board of Adjustment pursuant to Section 2.5 of the Zoning Ordinance.

6-8. Any applicable requirements or provisions of State law, including but not limited to any applicable requirements set forth in Title 36 of the Arizona Revised Statutes, shall apply in addition to the provisions set forth in this Section. To the extent that applicable State law conflicts with the provisions of this Section, such laws shall preempt any conflicting term, but shall not affect the remaining provisions of this Section.

6.4 Home-Based Occupations

A. *Purpose.* A home based occupation is permitted as an accessory use in all residential districts. The purpose of the home based occupation regulations and performance standards are:

ARTICLE 6 – SUPPLEMENTAL USE REGULATIONS

- d. A permanent and adequate water supply must be available on the property at all times within thirty feet of the hive, colony or apiary.
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