

# Staff Summary Report



Development Review Commission Date: 09/22/09

Agenda Item Number: \_\_\_\_

**SUBJECT:** This is a public hearing for a Code Text Amendment for the ZONING AND DEVELOPMENT CODE.

**DOCUMENT NAME:** DRCr\_ZoningAmendmentsII\_092209      **ZONING & DEVELOPMENT CODE (0414-03,-04,-06,-07)**

**COMMENTS:** Request for **ZONING AND DEVELOPMENT CODE AMENDMENTS PART 2 (PL090008)** (City of Tempe Development Services Dept., applicant) consisting of changes within the Code for Guest Quarters and related definitions; Boarding Room; and Freeway Signs. The request includes the following:

**ZOA09001 (Ordinance No. 2009.15)** – Code Text Amendment for the Zoning and Development Code within Sections 3-102, 3-410, 3-411, 4-902, 4-903, 7-103, and 7-108.

**PREPARED BY:** Ryan Levesque, Senior Planner (480-858-2393)

**REVIEWED BY:** Lisa Collins, Development Services Planning Director (480-350-8989)

A handwritten signature in black ink, appearing to be 'LC' or similar initials, located to the right of the 'REVIEWED BY' line.

**LEGAL REVIEW BY:** N/A

**DEPARTMENT REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval

**ADDITIONAL INFO:** On August 25, 2009, the Development Review Commission requested staff to come back at the next available hearing to consider provisions that would allow guest quarters on certain sized lots.

- PAGES:**
1. List of Attachments
  - 2-5. Comments
  6. Reason for Approval / History & Facts / Zoning & Development Code Reference
- ATTACHMENTS:**
- 1-5. Ordinance No. 2009.15 (part 2)

## COMMENTS:

This request includes a code text amendment within the Zoning and Development Code for Guest Quarters, related definitions, Boarding Rooms and Freeway Signs.

## PUBLIC INPUT

On August 25, 2009, Development Review Commission advised staff to bring back potential provisions for guest quarters that would permit the use in other Zoning Districts based on a minimum lot size. Staff has scheduled a meeting with the Neighborhood Advisory Commission for October 7, 2009 to receive feedback from our broad-based neighborhood representatives on the additional changes in the Code.

During meetings with a representative from the North Tempe Neighborhoods Association, comments focused on guest quarters concerning assurance that the buildings are not rented and have limitations from utilizing the alleys as the primary access to the guest quarters. Specific regulations are included in the guest quarters provisions to address these concerns.

## CODE TEXT AMENDMENTS

Below are explanations of the code text amendments and their related section of the Zoning and Development Code. Attachments 1-4, are the proposed ordinance language using legislative format: strikeouts for removed code language and capitalized/underlined for new language.

### Guest Quarters in the AG District; (Section 3-411)

This is a code amendment change proposed to allow guest quarters back into the AG, Agricultural District and other Districts with minimum sized lots. Guest quarters, as defined in the code, cannot be rented or leased separately from the primary building.

The Development Review Commission requested staff bring back a proposed amendment that would allow guest quarters in other zoned areas based on a minimum lot size. Each residential zoning classification in the City of Tempe is designated by minimum lot size requirements of either 4,000; 5,000; 6,000; 7,000; 8,000; 10,000; 15,000; or 43,560 square feet in size, except in R1-PAD, where the lots may vary in size.

The attached ordinance would amend the Zoning and Development Code to allow guest quarters, as defined in this ordinance, on a minimum 10,000 square foot lot. This change would allow properties that are larger than the minimum lot size of the zoning classification to have quest quarters. As an example, an R1-6 District which requires a minimum 6,000 square foot lot could have a property that qualifies for a quest quarters if the lot was a minimum of 10,000 square feet. The proposed amendment could allow approximately 6,800 properties such use. Additional criteria are proposed for guest quarters that would limit some of the characteristics found within an independently rented space. The key component would require the owner to sign and record a covenant on the property restricting the guest quarters from being rented. This would place future owners of the property on notice of the limitations for the guest quarters.

Other cities that currently allow guest quarters with specific criteria in residential districts include Mesa, Gilbert, Scottsdale with minimum lots sizes, and Phoenix with specific large lot districts with minimum lot sizes.

### Freeway Signs; (Section 4-902 and 4-903J)

This is a code amendment change proposed to restrict "Freestanding Off-Premise Freeway Signs". The following changes are proposed to provide limitations on freeway signs, including "off-premise signs". See ordinance Attachment 3-4 for details.

Off-premise signs are defined in the Zoning and Development Code as, "...a sign that directs attention to a business, product, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed. The term off-premise/off-site sign shall include an outdoor advertising sign (billboard) on which space is leased, rented, or donated by the owner thereof to others for the purpose of conveying a commercial or non-commercial message;". On-premise signs are defined in the Zoning and Development Codes as, "...a sign that directs attention to a business, product, commodity, service, entertainment or attraction sold, offered or existing upon the same lot where such sign is displayed;"

**REASONS FOR APPROVAL:**

1. The proposed code text amendments are consistent with the directions provided.

**CONDITIONS OF APPROVAL:**

None

**HISTORY & FACTS:**

- |                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| August 25, 2009    | Development Review Commission recommended approval for Zoning and Development with the following modifications: Section 5, delete "aviaries" from the small animal use chart; Section 15, within the outdoor parking chart add the words, "per" to read "1 space per 150 sf"; and Section 28, under the definition for small animal, delete the words "the keeping of". Commission had also recommended considering other properties to allow guest quarters in addition to the AG district based on a certain sized lot. In response staff will follow up at a future hearing with additional research as a separate request. |
| September 22, 2009 | Additional Code Text Amendments proposed at the Development Review Commission hearing for this request.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| October 7, 2009    | Proposed meeting with the Neighborhood Advisory Commission on this request.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| October 8, 2009    | Proposed introduction and first public hearing at City Council for the August 25 <sup>th</sup> and September 22 <sup>nd</sup> Code Text Amendment recommendations.                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| October 22, 2009   | Proposed second public hearing at City Council for the Code Text Amendment recommendations.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

**ZONING AND DEVELOPMENT CODE REFERENCE:**

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

**ORDINANCE NO. 2009.15**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING THE ZONING AND DEVELOPMENT CODE, CHAPTER 3 – LAND USE, SECTIONS 3-102, 3-410, AND 3-411, CHAPTER 4 – DEVELOPMENT STANDARDS, SECTIONS 4-902 AND 4-903, CHAPTER 7 – DEFINITIONS, SECTION 7-103 AND 7-108.**

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

**SECTION 1.** That a portion of Table 3-102 of Section 3-102, within the Zoning and Development Code pertaining to guest quarters, is hereby amended to read as follows:

<b>Table 3-102 – Permitted Land Uses (AG, SFR, MF, MH, RMH, TP)</b>				
<b>Uses</b>	<b>Status of Use in District</b>			
	<b>AG</b>	<b>SFR</b>	<b>MF</b>	<b>MH/RMH/TP</b>
Guest Quarters [Section 3-411]	<u>S</u>	<u>S</u>	<u>N</u>	<u>N</u>
Attached	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
Detached	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>

**SECTION 2.** That Section 3-411, within the Zoning and Development Code pertaining to guest quarters, is hereby amended to read as follows:

**Section 3-411      Guest Quarters**

**A.      APPLICABILITY.      GUEST QUARTERS ARE PERMITTED IN SINGLE-FAMILY RESIDENTIAL DISTRICTS HAVING A MINIMUM LOT SIZE OF 10,000 SQUARE FEET, SUBJECT TO THE FOLLOWING STANDARDS:**

- 1.      ONLY ONE GUEST QUARTERS IS PERMITTED ON A SINGLE LOT;**
- 2.      THE GROSS FLOOR AREA SHALL BE NO GREATER THAN FIFTY (50) PERCENT OF THE MAIN BUILDING’S GROSS FLOOR AREA;**
- 3.      AN ATTACHED BUILDING SHALL COMPLY WITH THE DEVELOPMENT STANDARDS SET FORTH IN TABLE 4-202A;**
- 4.      GUEST QUARTERS DETACHED FROM THE MAIN BUILDING SHALL COMPLY WITH THE ACCESSORY BUILDING STANDARDS SET FORTH IN SECTION 3-401;**

5. NO SEPARATE ACCESS WAY SHALL BE CREATED FROM AN EXISTING ALLEY FOR THE PURPOSE OF A GUEST QUARTERS;
6. THERE SHALL BE NO SEPARATE METERING FOR UTILITY SERVICES AND NO SEPARATE MAILING ADDRESS;
7. NO COOKING PROVISIONS SHALL BE MADE FOR THE CONNECTION OF A RANGE, COOKTOP OR OVEN, INCLUDING BUT NOT LIMITED TO GAS OR 220V ELECTRIC SERVICE, EXCEPT IN THE AG DISTRICT; AND
8. PRIOR TO ISSUANCE OF A BUILDING PERMIT, A REAL COVENANT SHALL BE RECORDED WITH THE LAND RESTRICTING THE USE OF THE GUEST QUARTERS FROM BEING RENTED OR LEASED. THE CITY OF TEMPE SHALL BE PARTIES TO SUCH COVENANT AND SHALL BE BINDING TO ALL SUBSEQUENT OWNERS.

**SECTION 3.** That Section 3-410, Boarding Room, within the Zoning and Development Code hereby amends the section title to read “room addition” as found throughout this Code, and the related section hereby amended to read as follows:

**Section 3-410      Boarding Room ADDITION.**

A ~~boarding~~ room, or sleeping room OR BOARDING ROOM ~~for rent~~ in a single-family residence, shall provide occupancy for not more than two (2) persons, ~~and shall have no provision for cooking facilities.~~ All points of ingress or egress to such room shall be located PROVIDED INTERNALLY through the main residence of which such room is an integral part; this excludes doors opening to patios or balconies that are part of the main residence.

**SECTION 4.** That Section 4-902(B), within the Zoning and Development Code pertaining to off-premise signs, is hereby amended to read as follows:

**B.      Prohibited Signs.** Prohibited *signs* include:

1.      Non-public *signs* in public right-of-way or on public property;
2.      *Signs* mounted on a *building roof*;
3.      *Signs* that are mounted, attached, or painted on *trailers*, boats or vehicles when used as additional signage on or near the business premises; and similar *signs*. Business vehicles displaying signage or advertising shall be parked in an assigned *parking* space which is not immediately adjacent to a *street* frontage;
4.      *Signs* having intermittent or flashing illumination, animated or moving parts, or that emit sound except as allowed under Section 4-903(N) (Menu Board) and Section 4-903(U) (Marquee Sign);
5.      Freestanding changeable copy *signs*, except as allowed under Section 4-903(N) (Menu Board), Section 4-903(Q) (Service Station Sign), and Section 4-903(U) (Marquee Sign);

6. Banners, pennants, wind-driven spinners, streamers, balloons, flags, search lights, strobe lights, holographic projections, laser light displays, beacons, inflatable *signs*, except as otherwise provided in Section 4-903(R) (Special Events Sign), Section 4-903(C) (Boutique Directional Sign) and approved *banner signs* installed pursuant to the city's banner program;
7. *Signs* imitating official traffic control *signs*, or any *sign* or device obscuring such *signs* or devices;
8. *Signs* mounted on, or applied to trees, utility poles, rocks, or city owned property;
9. *Signs* placed on private property without the property owner's written approval;
10. *Off-premise/off-site signs* and *portable signs*, except as permitted in Sections 4-903(C) (Boutique Directional Sign), SECTION 4-903(J) (FREEWAY SIGN), Section 4-903(M) (Lead-In Sign), Section 4-903(O) (Political Sign), or Section 4-903(S) (Subdivision/Apartment Community Advertising Sign); and
11. Business identification/*advertising signs* in single-family zoning districts.

**SECTION 5.** That Section 4-903(J), within the Zoning and Development Code pertaining to freeway signs, is hereby amended to read as follows:

**J. Freeway Sign.** Freeway *sign* requirements are as follows:

1. Freestanding ON-PREMISE FREEWAY SIGN.
  - a. Any *lot* with more than one thousand (1,000) feet of lineal frontage adjacent to a freeway right-of-way (I-10, US 60, Loop 202, Loop 101 and SR 143), may have such *signs*;
  - b. One (1) *freestanding sign* per freeway frontage;
  - c. Maximum height, including any supporting *structures*, shall be thirty-five (35) feet, and maximum *sign* area shall be one hundred twenty (120) square feet;
  - d. *Sign* must be located within three hundred (300) feet of freeway right-of-way;
  - e. May identify a center or *building*, and a maximum of four (4) tenants; and
  - f. A *sign* permit is required.

2. FREESTANDING OFF-PREMISE FREEWAY SIGN.

- a. A LOT WITH MORE THAN FIVE HUNDRED (500) FEET OF LINEAL FRONTAGE ADJACENT TO A FREEWAY RIGHT-OF-WAY (I-10, US 60, LOOP 202, LOOP 101 AND SR 143), MAY HAVE SUCH SIGN;
- b. ONE (1) FREESTANDING OFF-PREMISE SIGN PER LOT;
- c. SIGN SHALL NOT BE LOCATED ON A LOT WITHIN ONE HUNDRED FIFTY (150) FEET, MEASURED BY A STRAIGHT LINE IN ANY DIRECTION, FROM THE LOT LINE OF ANY RESIDENTIAL DISTRICT;
- d. SIGN SHALL NOT BE LOCATED WITHIN FIVE HUNDRED (500) FEET, MEASURED FROM THE SIGN'S CENTERPOINT BASE, OF ANY OTHER FREESTANDING ON-PREMISE OR OFF-PREMISE FREEWAY SIGN;
- e. SIGN MUST BE LOCATED WITHIN THREE HUNDRED (300) FEET OF FREEWAY RIGHT-OF-WAY;
- f. ALL FREESTANDING OFF-PREMISE SIGNS SHALL BE AUTHORIZED THROUGH A DEVELOPMENT AGREEMENT APPROVED BY THE CITY COUNCIL, INCLUDING BUT NOT LIMITED TO ALLOWABLE SIGN HEIGHT AND SIZE; AND
- g. A SIGN PERMIT IS REQUIRED.

2-3. Building Mounted.

- a. Any *building*, except residential, located within three hundred (300) feet of a freeway right-of-way (I-10, US 60, Loop 202, Loop 101 and SR 143), may have such *signs*;
- b. The maximum total area for *building mounted* freeway *signs* on the premises may be equal to two (2) square feet of *sign* area for every lineal foot of *building* frontage adjacent to the freeway. Allocation of the total *sign* area to individual tenants shall be determined through a comprehensive *sign package*, approved through *development plan* review; and
- c. A *sign* permit is required.

**SECTION 6.** That Section 7-103, within the Zoning and Development Code pertaining to the definition of attached building, is hereby added to read as follows:

BUILDING, ATTACHED MEANS A BUILDING WITH AN INTERNALLY ACCESSIBLE CONNECTION THROUGH AN ENCLOSED AIR CONDITIONED SPACE, OR A BUILDING WITH AN INTEGRAL ROOF STRUCTURE WHICH UTILIZES THE MAIN BUILDING'S WALL TO ENCLOSE THE SPACE OF THE ATTACHED BUILDING.

**SECTION 7.** That Section 7-108, within the Zoning and Development Code pertaining to the definition of guest quarters, is amended to read as follows:

*Guest quarters* means an attached or detached building used to house guests of the occupants of the main building, which is not rented or leased independently from the main building. GUEST QUARTERS ARE DEFINED AS HAVING SPACE FOR A ROOM OR SLEEPING ROOM AND A BATHROOM, WHICH DOES NOT PROVIDE INGRESS OR EGRESS INTERNALLY THROUGH THE MAIN RESIDENCE.

**SECTION 8.** 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 \_\_\_\_\_, 2009.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney