

**PLANNING AND DEVELOPMENT SERVICES REPORT**  
**Zoning Code Text Amendment**

**PUBLIC HEARING**  
**PZ-19-00125**

**DATE:** January 27, 2020  
**MEETING DATE:** February 12, 2020  
**REPORT BY:** Dan Symer, AICP

**REQUEST:**

This request is for a Zoning Code Text Amendment (Case No.: PZ-19-00125) by the City to amend the zoning code to resolve conflicts, incorporate technical corrections and clarity, add and modify definitions, and to add, delete and modify the codes requirements. The proposed amendments affect, but are not limited to, the provisions of the code's: administration and procedures, general to all provisions, non-transect and overlay zones, supplemental to zones, building height, accessory buildings, equipment screening, landscape buffers, signs, specific to building types, and definitions.

**STAFF RECOMMENDATION:**

Staff recommends the Planning and Zoning Commission, in accordance with the findings presented in this report, find that the required findings of the Zoning Code have been met, and make a recommendation to the City Council for approval of the Zoning Code Text Amendment.

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**I. Project Introduction**

**A. Background**

The Zoning Code was adopted by the City Council on November 1, 2011 to replace the former Land Development Code. Since 2011, the Zoning Code has been amended 14 times to address a variety of requirements and provisions. The most recent amendments to the Zoning Code were approved by the City Council in November 2019. These amendments modified a series of miscellaneous changes, and incorporated clarifications to the requirements of accessory dwelling units.

**B. Proposed Amendment**

The proposed amendment includes multiple changes to the Zoning Code to resolve conflicts, incorporate technical corrections, add clarity, and to simplify the existing requirements. New provisions are being added, and several sections of the reference divisions are being modified, relocated, or deleted.

The most significant of the modifications include:

- Clarifying when a Concept Plan application is required;
- Adding expiration time frames for Concept Plan and Site Plan applications and approvals;
- Clarifying when a property owner may submit a Zoning Map Amendment or Zoning Code Text Amendment;
- Allowing the Heritage Preservation Commission to approve less restrictive standards or exceptions to maintain the historic integrity of a historic property with transect zoning;
- Modifying the equipment screening requirements to require a parapet or roof feature be no shorter than the tallest object being screened, and to require wall-mounted equipment to be screened from surrounding properties, alleys and streets, or to be integrated into the architecture of the building;
- Clarifying and modify the landscape buffer requirements, including the addition of criteria to modify the required landscape street buffer; and
- Clarifying the location requirements of the transect private street frontage locations when these standards are used in the non-transect zones.

*Summary of the Staff Revisions to the Zoning Code:*

The proposed amendment includes:

1. **Concept Plan Review (Section 10-20.30.050):** The concept plan review submittal requirements have been limited to structural modifications. Also, expiration timeframes of Concept Plan applications have been incorporated.
2. **Minor Improvement Permits (Section 10-20.40.080):** Changes have been incorporated to exempt animal keeping shelters that are less than 50 square feet from the Minor Improvement Permit application process.
3. **Site Plan Review and Approval (Section 10-20.40.140):** Expiration timeframes for Site Plan Review applications and associated approvals have been incorporated.
4. **Initiation of Amendments (Section 10-20.50.030):** Changes have been incorporated clarifying when a property owner may submit a Zoning Map Amendment or Zoning Code Text Amendment.
5. **Public Improvements Defined (Section 10-30.50.030):** Changes have been incorporated for parkways to be included as a public improvement requirement.
6. **Open Spaces, Civic Spaces, and Outdoor Public Spaces (Section 10-30.60.090):** Clarification has been incorporated that the area requirements of open spaces, civic spaces, and outdoor public spaces are based on the defined term of Development Site Area.
7. **Commercial Zones (Section 10-40.30.040):** The land use Kennel, Animal Keeping has been added to the list of allowed uses in the Highway Commercial (HC) zone with a Conditional Use Permit.
8. **Building Form and Property Development Standards (Tables 10-40.30.030.C., 10-40.30.040.C., and 10-40.30.050.C.):** The building height allowances for pitched roofs, elevator and stairwell bulk heads, and architectural features have been incorporated into the property development standard tables. Currently, these provisions are in the section regarding the method of determining building height.
9. **Supplemental to Zones, Divisions (Chapter 10-50):** Division 10-50.25: Basements, Basement Garages, Building Stem Walls, Crawl Spaces, and Podium Parking Structure Walls, including sections therein, have been incorporated. Currently, these provisions are located in Section 10-50.30.030, How Building Height is Measured. Also, new provisions have been incorporated to accommodate floodplain requirements and walls of a podium parking structure. These provisions require the exterior of the podium parking structure wall to have an architectural finish that is consistent with the rest of the building's architectural finishes. Also, the changes allow for greater wall heights when they are needed to raise a residential first floor above the lowest floor requirement in a floodplain.
10. **Applicability (Section 10-50.20.020):** Clarification has been incorporated pertaining to building and structure elevations that are subject to Section 10-20.40.140, Site Plan Review and Approval. These elevations shall comply with Section 10-50.20 Architectural Design Standards.
11. **How Building Height Is Measured (Section 10-50.30.030):** The methodology to measure building height has been modified. Also, several standards of this section are being modified and relocated.
12. **General Fencing and Screening Standards (Section 10-50.50.040):** The equipment screening requirements have been modified to require a parapet or roof feature be no shorter than the tallest object being screened, and to require wall-mounted equipment to be screened from surrounding properties, alleys and streets, or to be integrated into the architecture of the building.
13. **Landscape Location Requirements (Section 10-50.60.040):** The landscape buffer requirements have been clarified and modified. The modifications include the addition of criteria to modify a required landscape street buffer, and that the parking area landscape standards apply to multiple-family residential and nonresidential developments.

14. **10-50.110 Specific to Building Types (Division 10-50.110):** The location requirements of the transect private street frontage locations have been clarified when the Commercial Block, Forecourt, Shopfront, Terrace Shopfront, and Gallery are used in the non-transect zones.
15. **Definition of Specialized Terms, Phrases, and Building Functions (Division 10-80.20)** This division includes modifications, deletions, and the addition of various definitions of the Zoning Code, including: Acreage, Gross; Acreage, Net; Density; Density, Gross; Development, Multiple-Family; Development Site; Development Site Area; Duplex, Finished Grade, Floor Area Ratio, Gross (GFAR); Industrial, Heavy – General; Key Lot; Micro-brewery or Micro-distillery; Natural Grade; Outdoor Storage or Display, and Yard, Railroad Shop.
16. **Additional Enforcement, Technical, Figure and Term Modifications (Division 10-50.110 and Sections: 10-20.40.090, 10-20.50.040, 10-40.30.030, 10-40.30.050, 10-40.50.030, 10-50.50.030, 10-50.60.010, 10-50.80.040, 10-50.100.050, 10-50.100.100, 10-50.90.060, and Appendix 2):** Various technical, enforcement, and cross reference corrections, clarifications, and modifications have been incorporated.

## II. Zoning Code Text Amendment

An application for a Zoning Text Amendment shall be submitted to the Planning Director and shall be reviewed and a recommendation prepared. The Planning Director's recommendation shall be transmitted to the Planning and Zoning Commission in the form of a staff report prior to a scheduled public hearing. The recommendation shall include: an evaluation of the consistency and conformance of the proposed amendment with the goals and policies of the General Plan and any applicable specific plans; the grounds for the recommendation based on the standards and purposes of the zones set forth in Section 10-40.20 (Establishment of Zones) of the Zoning Code; and, whether the amendment should be granted, or denied.

A Zoning Code Text Amendment shall be evaluated based on the following findings:

### A. Finding #1:

- **The proposed amendment is consistent with and conforms to the objectives and policies of the General Plan and any applicable specific plan;**

The proposed amendments are primarily to resolve conflicts, incorporate technical corrections, and add clarity to the Zoning Code. Mainly clerical in nature, the amendments do not substantively modify the existing provisions of the Zoning Code and maintain consistency and conformance with the objectives and policies of the Regional Plan (General Plan) and applicable specific plans.

In addition to the modifications summarized above, the proposed amendment includes adding the *Kennel, Animal Keeping* land use to the High Commercial (HC) zone as a Conditional Use Permit. The addition of the proposed land use is at the request of a local business owner to allow a café concept that would have pets living at the establishment. Any business with more than four dogs, cats, or other small animals that are kept, maintained, trained, or boarded is considered a *Kennel, Animal Keeping* land use. Due to the broad nature of the definition of Kennel, Animal Keeping and the accessory use provisions of the Zoning Code, some existing businesses in Highway Commercial (HC) would not be allowed (PetSmart, etc.).

Upon review of the land uses allowed in the High Commercial (HC) zone, and the zone's existing locations, it has been determined that the use could be allowed with reasonable restrictions. These restrictions include:

1. A maximum floor area size limit of 10,000 square feet. For reference purposes, the old Arizona Department of Transportation building located directly north of the intersection of South Milton Road and West University Avenue is approximately 10,000 square feet.
2. There shall be no outdoor activities allowed.
3. The walls and ceiling shall include reasonable sound transmission attenuation.

The proposed addition of the *Kennel, Animal Keeping* land use to the Highway Commercial (HC) zone is consistent and conforms to the objectives and policies of the Regional Plan (General Plan) and applicable specific plans. This

modification will incorporate additional variety and flexibility in the allowed mix of uses that are near neighborhoods and within commercial developments (RP Policies ED.4.2., LU.13.6., and LU.15.3.). Also, the addition of the *Kennel, Animal Keeping* land use to the Highway Commercial (HC) zone allows for additional locations of the use, which may assist in protecting industrial zoned properties from uses that would otherwise need to be located in an industrial zone (ED.3.8., and LU.16.1.).

**B. Finding #2**

- **The proposed amendment will not be detrimental to the public interest, health, safety, convenience or welfare of the City;**

The proposed amendments are not anticipated to be detrimental to the public interest, health, safety, convenience, or welfare of the City. These amendments are primarily to resolving conflicts, incorporate technical corrections, and add clarity to the Zoning Code.

**C. Finding #3**

- **The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.**

The proposed amendments enhance the Zoning Code’s internal consistency by resolving conflicts, incorporating technical corrections, and adding clarity. Furthermore, the proposed amendments are intended to maintain the Zoning Code’s purpose as a comprehensive contemporary set of land uses and requirements that are straightforward, usable, and easily understood.

**V. CITIZEN PARTICIPATION**

In accordance with State Statute and the Zoning Code, the Planning and Zoning Commission work session and public hearing for this amendment was advertised in the Arizona Daily Sun on Dec 21, 2020. Also, persons of interest that are on file with the Planning and Development Services Department were notified of the work sessions and hearings via first class mail.

As of the date of this report, staff has received a set of public comments and considerations. These are included as Attachment 2. To address these comments, several revisions to the proposed amendment have been incorporated. These include:

1. Clarification pertaining to the density allowance for commercially zoned properties in the Resource Protection Overlay and inside of a pedestrian shed of an activity center delineated on the General Plan was added to Section 14. (Table 10-40.30.040.C. Gross Density) of Attachment #1.
2. Clarification pertaining to the building height exceptions for stairwells and elevators was relocated from the method of measuring building height and added to Section 12 (Table 10-40.30.030.C., End Notes 8 and 9), Section 14 (Table 10-40.30.040.C., End Notes 9 and 10), and Section 16 (Table 10-40.30.050.C., End Notes 8 and 9) of Attachment #1.
3. A modification has been made in Section 24 (Section 10-50.25.020. A.) of Attachment #1 to change the maximum height of an exposed basement and basement garage wall from nine feet to ten feet. Ten feet allows for an eight-foot floor-to-ceiling height and a two-foot floor depth. Additional heights would be inconsistent with the Zoning Code’s Site and Architectural design guidelines that require a building to be stepped to follow the natural terrain.
4. A modification has been made in Section 24 (Section 10-50.25.020. A. and C.) of Attachment #1 to the provisions for materials and colors used on an exposed basement or basement garage wall and a podium parking structure exterior wall. The requirement for “consistent” materials and colors has been changed to allow the Planning Director to approve alternative materials and colors that are compatible with the design of the building, provided that the alternative materials and colors maintains a consistent design theme. This modification allows for additional flexibility in the designer’s choice of materials and colors near the grade to address weather and similar environmental considerations, while maintaining a consistent design theme.

5. Provisions that allow the Planning Director to approve additional stem wall and crawl space heights for residential building areas in a floodplain have been incorporated into Section 24 (Section 10-50.25.020. B.) of Attachment #1. In accordance with Title 12 Floodplains of the City Code, the lowest finished floor of a residential area is required to be elevated above the regulatory floodplain elevation. The addition of this provision will allow compliance with Title 12.

As it pertains to the comments received regarding the landscape buffer widths, with minimal exceptions adjacent to Route 66 in the Downtown, the staff opines that the proposed landscape buffer requirements are consistent with the suggested modifications. It is anticipated that the Zoning Code requirements pertaining to the Downtown, and adjacent to Route 66 will be reviewed as part of a future amendment.

Finally, the proposed modification to the triplex lot width and length requirement is in response to public comments that staff has received during the southside specific plan and the High Occupancy Housing text amendment public outreach meetings. Also, some members of the Planning and Zoning Commission and City Council have requested that the referenced requirements be reviewed.

The existing building type requirements for a triplex and duplex are the same. Due to having the same standards for different intensity developments, the general consensus among the public comments is that the existing provisions have resulted in developments that are inconsistent and out of scale with the existing development patterns. The proposed modification to the lot width (from 50 feet to 75 feet) and length (from 75 feet to 100 feet) will result in a lot area requirement that is consistent with other three-unit developments on a property with non-transect zoning. Based on public comments, the additional area would allow for a greater proportional lot width to height ratio that is perceived to be more compatible.

**VI. PLANNING AND ZONING COMMISSION WORK SESSION**

At the January 22, 2020 Planning and Zoning Commission Work Session, staff and the Commission reviewed the text amendment. There were no public comments. A majority of the Commission comments were editorial, including informational and clarification questions. More specific requests and modifications included the following requests:

1. Clarify that the building height includes any material added to raise the natural to a greater elevation;
2. Incorporate criteria for alternative screening of wall mounted equipment (Section 27, D.3.a.); and
3. As part of a future amendment, incorporate view corridor permeability considerations through parking lots.

**Attachments:**

1. Draft of Case No. PZ-19-00125 Updates to Zoning Code 2020 – Miscellaneous Part 1
2. Public Comments