

**To:** Planning & Zoning Commission

**Through:** Robert Goodhue, Development Services Director

**From:** Dana Burkhardt, Planning Consultant

**Date:** September 22, 2014

**Re:** Public Hearing, Discussion and Action on **Res #14-36 & Ord #14-12** “City of Maricopa Zoning Code”

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The purpose for this agenda item is to hold the required Public Hearing to receive input from the public on the proposed City of Maricopa Zoning Code, and to discuss and consider a recommendation to the Mayor and City Council. This item is on the Planning & Zoning Commission agenda in compliance with statutory requirements pursuant to amending or adopting changes to the city’s Zoning Code (Article 16 of the City Code), Arizona Revised Statutes Article 6.1, “Municipal Zoning.” State law requires that all amendments to the Zoning Code are to be delivered to the Planning Commission for Public Hearing and recommendation to the governing body (i.e., City Council) for review and final approval. Authorization for the city to adopt zoning regulations is given in the Arizona Revised Statutes, Section 9-462.01 et. seq., as amended.

On August 25, 2014 the Planning and Zoning Commission voted unanimously to initiate the draft Zoning Code (and associated design guides) including all amendments recommended by the Zoning Code Rewrite Task Force. In the recommendation, the Planning and Zoning Commission requested the following three amendments:

1. Amend the first sentence of Article 202.03D.5 by changing “mid-size passenger vehicle” to “large-size passenger vehicle.”
2. Amend article 202.04G by adding the following sentence after the existing language: “All storage structures shall be designed and constructed in a manner consistent with, and complementary to, the primary building architecture.”
3. Amend Article 202.04H by including “spa” as an amenity option.

The September 2014 Zoning Code Rewrite Public Hearing draft (and associated design guides) includes all updates as recommended by the Zoning Code Rewrite Task Force and Planning and Zoning Commission. Attached, please find Resolution 14-36 and

Ordinance 14-12, which are the adopting instruments for the Zoning Code Rewrite as initiated by the Planning & Zoning Commission on August 25, 2014. Please refer to the prior Planning and Zoning Commission and Zoning Code Rewrite Task Force staff reports and meeting materials for further details surrounding this request.

The required notification has been provided for this Ordinance and Public Hearing. Staff recommends the Planning & Zoning Commission forward a recommendation of **APPROVAL** to the Mayor and City Council, on **Resolution #14-36** and **Ordinance #14-12, "City of Maricopa Zoning Code."**

Attachments:           Resolution #14-36  
                                  Ordinance #14-12

**RESOLUTION NO. 14-36**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED “CHAPTER 16 CITY OF MARICOPA ZONING CODE” OF THE MARICOPA CITY CODE RELATING TO THE ENFORCEMENT AND ADMINISTRATION OF ZONING RELATED LAWS AND REGULATIONS WITHIN THE CITY OF MARICOPA AND AMENDING THE CITY CODE BY ELIMINATING CHAPTER 16 AND ALL AMENDMENTS THERETO OF THE PREVIOUSLY ADOPTED CITY CODE AND REPLACING THE PREVIOUSLY ADOPTED PROVISIONS WITH ARTILCES 101 THROUGH 602.**

**WHEREAS**, the City Council previously adopted Ordinances which establish laws and regulations related to zoning of property within the City of Maricopa; and

**WHEREAS**, staff for the City has provided amendments to those Ordinances which amend those laws and regulations related to zoning; and

**WHEREAS**, the City Council believes that declaring such document a public record and adopting its provisions by reference will be in the City’s best interest.

**NOW THEREFORE BE IT RESOLVED** by the Mayor and City Council of the City of Maricopa, Arizona as follows:

That certain document known as “Chapter 16 City of Maricopa Zoning Code” amending the Maricopa City Code by eliminating Chapter 16 of the previously adopted City Code and replacing those Articles with Articles 101 through 602 relating to the enforcement and administration of zoning related laws and regulations within the City of Maricopa, is hereby declared to be a public record, and three (3) copies shall remain on file in the office of the City Clerk of the City of Maricopa for examination by the public.

**PASSED AND ADOPTED** by the Mayor and City Council of the City of Maricopa, Arizona, on this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Christian Price, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Vanessa Bueras, City Clerk

\_\_\_\_\_  
Denis Fitzgibbons, City Attorney

**ORDINANCE NUMBER 14-12**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, ADOPTING “CHAPTER 16 CITY OF MARICOPA ZONING CODE” BY REFERENCE AS ARTICLES 101 THORUGH 602 OF CHAPTER 16 OF THE MARICOPA CITY CODE AND REPEALING ALL PREVIOUSLY ADOPTED PROVISIONS OF CHAPTER 16 OF THE MARICOPA CITY CODE AND PROVIDING FOR SEVERABILITY AND THE EFFECTIVE DATE THEREOF.**

**WHEREAS**, that certain document known as the "Chapter 16 Maricopa Zoning Code" was adopted as a public record by Resolution No. 14-36 on \_\_\_\_\_, 2014;

**WHEREAS**, the City Council previously adopted Ordinances which established laws and regulations related to zoning of property within the City of Maricopa;

**WHEREAS**, the Mayor and City Council of the City of Maricopa believe, after consultation with its staff, that amending Chapter 16 by repealing all previously adopted provisions of Chapter 16 and replacing them with Articles 101 through 602 as set forth in Resolution 14-36 would be in the best interest of the City of Maricopa; and

**WHEREAS**, A.R.S. §9-802 allows a City to adopt a public record by Ordinance as a means to reduce publication costs while ensuring that the public gets fair notice and opportunity to review its operative provisions.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MARICOPA, ARIZONA, AS FOLLOWS:**

**SECTION 1.** Pursuant to Arizona Revised Statutes Section 9-802, that certain document known as “CHAPTER 16 CITY OF MARICOPA ZONING CODE” of the Maricopa City Code, three copies of which are on file in the office of the City Clerk of the City of Maricopa, Arizona, which document was made a public record by Resolution No. 14-36 of the City of Maricopa, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

**SECTION 2.** Chapter 16 of the Maricopa City Code and all amendments thereto are hereby repealed in their entirety and replaced with Chapter 16 City of Maricopa Zoning Code which was made public record by Resolution No. 14-36 of the City of Maricopa, Arizona.

**SECTION 3.** Section 409.14(C) of Chapter 16 of the Code of the City of Maricopa contains the following penalty clause:

Before issuing any Zoning Permit required by this Code, the City shall collect a fee in accordance with a fee schedule established by the City Council. If work for which a permit is required by this Code is started before a permit has been issued,

the fees specified above shall be doubled. The payment of such double fee shall not relieve any persons from complying fully with the requirements of this Code in the execution of the work or from any penalties prescribed herein.

**SECTION 4.** Section 412.06(D) of Chapter 16 of the Code of the City of Maricopa contains the following penalty clause:

Failure to comply with co-location requirements when feasible may result in denial of a permit request or revocation of an existing permit.

**SECTION 5.** Section 512.06 of Chapter 16 of the Code of the City of Maricopa contains the following penalty clauses:

Any person, firm or corporation, whether as principal, owner, agent, tenant, employee or otherwise, who violates any provisions of this Code shall be subject to an administrative, civil, or criminal penalty. Each day of a continuing violation is a separate violation for the purpose of imposing a separate penalty. The administrative, civil, or criminal penalty for violations of this Code are established herein.

**A. Criminal Actions.**

1. Notwithstanding any other provision of this Code, each person violating, causing, or allowing a violation of any provision of this Zoning Code or any permit or condition of approval granted pursuant thereto, shall be guilty of an infraction, unless the violation is specifically declared to be a misdemeanor.
2. Every violation of any provision of this Code, or of any permit issued pursuant to this Code (including any of the conditions of approval for such permit) that is prosecuted as an infraction shall be punished, upon conviction or upon a plea of nolo contendere (commonly called no contest), by:
  - a. A base fine not exceeding \$100.00 for a first violation;
  - b. A base fine not exceeding \$200.00 for a second violation of the same Code Section or permit (or any of the conditions of approval) occurring on the same property and committed by the same person within one year; and
  - c. A base fine not exceeding \$500.00 for each additional violation of the same Code Section or permit (or any of the conditions of approval) occurring on the same property and committed by the same person within one year.
3. Any court costs that the court may otherwise be required to impose

pursuant to applicable State law or local ordinance shall be imposed in addition to the base fine. Notwithstanding the above, a first or subsequent violation of this Code may be charged and prosecuted as a misdemeanor.

4. A misdemeanor shall be punished, upon conviction or upon a plea of nolo contendere (commonly called no contest), by a base fine of not less than \$500.00 and not more than \$1,000.00, or by imprisonment in the County jail for a period of not more than six months, or by both base fine and imprisonment. Any court costs that the court may otherwise be required to impose pursuant to applicable State law or local ordinance shall be imposed in addition to the base fine.
5. The conviction and punishment of any person of an offense as described in this Section or the payment of a criminal fine by or on behalf of the person convicted, shall not relieve that person from the responsibility for correcting, removing, or abating the violation that resulted in the conviction; nor prevent the enforced correction, removal or abatement thereof by the City. The correction, removal, or abatement of a violation begun after the issuance of a criminal citation or the filing of a criminal complaint shall not be a defense to the infraction or misdemeanor so charged and, following a conviction or plea of nolo contendere, shall not be grounds for the dismissal of the action or the waiver, stay, or reduction of any fine established in this Section.

**B. Civil Actions.** An alleged violator who is served with a Citation or Notice of Violation subject to a civil penalty shall not be subject to a criminal prosecution for the same factual situation. However, all other remedies provided for herein shall be cumulative and not exclusive. The conviction and punishment of any person hereunder shall not relieve such person from the responsibility to correct prohibited conditions or to remove prohibited buildings, structures, or improvements nor prevent the enforcement, correction or removal thereof. In addition to the other remedies provided in this Article, the City Council, the City Attorney, or any adjacent or neighboring property owner who shall be especially damaged by the violation of any provision of this Code, may institute, in addition to the other remedies provided by law, injunction, mandamus, abatement or any other appropriate action, proceeding or proceedings to prevent or abate or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use

**C. Injunctive Relief and Abatement.** At the request of any person authorized to enforce this Code, the City Attorney may commence proceedings for the abatement, removal, correction and enjoinder of any act or omission that constitutes or will constitute a violation of this Code or any permit or land use approval granted pursuant thereto, and an order requiring the violator(s) to pay civil penalties and/or abatement costs. Where multiple violators are involved,

they shall be jointly and severally liable for the civil penalties and/or abatement costs.

- D. **Civil Remedies and Penalties.** Any person, whether acting as principal, agent, employee, owner, lessor, lessee, tenant, occupant, operator, contractor, or otherwise, who violates any provision of this Code or any permit or any condition of land use approval granted pursuant thereto, shall be liable for a civil penalty not to exceed one thousand dollars (\$1,000.00) per violation for each day or any portion thereof, that the violation continues to exist. In determining the amount of civil penalty to be imposed, both as to the daily rate and the subsequent total amount for any given violation, the court shall consider all relevant circumstances, including but not limited to the extent of the harm caused by the conduct constituting the violation, the nature and persistence of such conduct, the length of time over which the conduct occurred or as repeated, the assets, liabilities, and net worth of the violator, whether a corporate entity or an individual, and any corrective action taken by the violator.
  
- E. **Attorney's Fees.** In any civil action, administrative proceeding, or special proceeding to abate a public nuisance, whether by seeking injunctive relief and/or an abatement order, or other order; attorney's fees may be recovered by the prevailing party and shall not exceed the amount of reasonable attorney's fees incurred by the City in that action or proceeding.
  
- F. **Administrative Actions.** As an alternative to the criminal or civil enforcement of this Code, i.e., Chapter 16 of the Maricopa City Code, and, further, as an alternative to all other administrative enforcement procedures provided by this Code, all violations of this Code may be subject to enforcement through the use of Administrative Citations.

**SECTION 6.** To the extent of any conflict between other City Ordinances and this Ordinance, this Ordinance shall be deemed to be controlling; provided, however, that this Ordinance is not intended to amend or repeal any existing City Ordinance, Resolution or regulation except as expressly set forth herein.

**SECTION 7.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**SECTION 8.** This Ordinance shall become effective thirty (30) days from the date of adoption by the City Council for the City of Maricopa.

**PASSED AND ADOPTED** by the Mayor and Council of the City of Maricopa, Arizona, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED:

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

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