

ORDINANCE NO. 2019-16

AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
AMENDING CHAPTER 4 OF THE MUNICIPAL  
CODE AND ARTICLES 6 AND 57 OF THE  
ZONING CODE TO UPDATE ANIMAL  
REGULATIONS

APPLICANT: Kelly Thor  
CASE NO.: AZ 19-0004

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That proper notices of a public hearing have been given and public hearings have been held before the Planning Commission and City Council on this issue.

SECTION 2. The Planning Commission conducted a public hearing on September 24, 2019, to discuss and consider proposed amendments to the Municipal Code and Zoning Code, considered public testimony, and made a recommendation to the City Council.

SECTION 3. The City Council has duly reviewed and considered all evidence submitted at said hearings, including, without limitation:

- a. Written information;
- b. Oral testimony from City staff, interested parties, and the public;
- c. The staff report, dated November 6, 2019, which along with its attachments is incorporated herein by this reference as though fully set forth herein; and
- d. Additional information submitted during the Public Hearing.

SECTION 4. That upon consideration of the staff report, Planning Commission recommendation, Planning Commission staff report, all public testimony presented at the hearing held on this project, and the "Findings of Fact," attached as Exhibit "A" to this

Ordinance and incorporated herein by this reference as though fully set forth herein, this City Council finds the Municipal and Zoning Code Amendments are consistent with the General Plan and all applicable specific plans of the City of Escondido. At this time, the City Council of the City Escondido desires to amend Chapter 4 of the Escondido Municipal Code and Articles 6 and 57 of Chapter 33 of the Zoning Code to improve existing regulations related to animal keeping to promote the general health, safety, and welfare of Escondido residents and other community members.

SECTION 5. This action is exempt from environmental review pursuant to California Environmental Quality Act Guidelines (“CEQA” and “CEQA Guidelines”) Section 15061(b)(3) since there would be no possibility of a significant effect on the environment because the amendments will not directly result in development. Any future project or development as defined by the CEQA that may occur as a result of the amended language would be subject to CEQA review and analysis.

SECTION 6. That the specified sections of the Escondido Municipal Code and Zoning Code are amended as set forth in Exhibit “B” to this Ordinance and incorporated herein by this reference as though fully set forth herein

SECTION 7. SEPARABILITY. If any section, subsection sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 8. That as of the effective date of this Ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed. Renumbering and relabeling of existing ordinance title, chapter, article, and/or section headings by this ordinance does

not affect the continuing validity of existing laws. Any existing reference to an ordinance, title, chapter, article, or section heading which is renumbered or relabeled by this ordinance must be construed to apply to the corresponding provisions contained within this ordinance.

SECTION 9. That the City Clerk is hereby directed to certify to the passage of this Ordinance and to cause the same or a summary to be prepared in accordance with Government Code Section 36933, to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 20<sup>th</sup> day of November, 2019 by the following vote to wit:

AYES : Councilmembers: DIAZ, MARTINEZ, MASSON, MORASCO, MCNAMARA

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED:

DocuSigned by:  
*Paul McNamara*  
CAACE20782954D3...  
PAUL MCNAMARA, Mayor of the  
City of Escondido, California

ATTEST:

DocuSigned by:  
*Zack Beck*  
ZACK BECK, City Clerk of the  
City of Escondido, California

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STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO : ss.  
CITY OF ESCONDIDO )

I, Zack Beck, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2019-16 passed at a regular meeting of the City Council of the City of Escondido held on the 20<sup>th</sup> day of November, 2019, after having been read at the regular meeting of said City Council held on the 6<sup>th</sup> day of November, 2019.

DocuSigned by:  
*Zack Beck*  
A68535F088D21430...  
ZACK BECK, City Clerk of the  
City of Escondido, California

ORDINANCE NO. 2019-16

## EXHIBIT "A"

### FACTORS TO BE CONSIDERED / FINDINGS OF FACT

#### **Municipal and Zoning Code Amendment Determinations:**

1. Cities from time to time make significant efforts to tailor their city's ordinances to create a local community that develops in a way that the local policy-makers desire. Cities use its "police power" to create laws that promote the general health, safety, and welfare of its citizens. The public health, safety, and welfare of the City of Escondido would not be adversely affected by the proposed batch of Municipal Code and Zoning Code Plan Amendments because the project establishes and updates, as necessary, local standards and guidelines for animal keeping in residential areas to ensure land use compatibility is achieved, neighborhoods are preserved, and community character is protected.
2. The City Council finds that it is necessary and appropriate to amend various provisions of the Zoning Code to add, refine, and update the provisions relating to animal keeping. The public health, safety and welfare of the City and its residents require the enactment of this ordinance in order to: (1) mitigate and reduce the potential adverse effects of pets and livestock related to animal waste management, noise, health risks, odors, vectors, water pollution and treatment, lighting of animals, fencing, and erosion and sedimentation control; (2) protect the quality of life and neighborhoods in the City, local property values, and minimize the potential for nuisances; and (3) protect the peace, welfare and privacy of persons who own or reside adjacent to properties with pets or livestock. The City Council finds that, through their discretion, the promulgation of codes that change land use regulation must strike a balance between private property rights and the public interests. The City Council further finds that the revisions to the City's Municipal Code and Zoning Code implemented by this ordinance are necessary in order to respond to recent complaints, further a legitimate governmental and community interest, protect residents, businesses, and other community members from various animal keeping nuisances. Specifically, the revisions and amendments to the City's Municipal Code and Zoning Code included in this ordinance are essential and necessary to ensure the orderly land use regulation as to uses within the City and thereby protect the public peace, safety and general welfare in the City of Escondido.
3. All rights and obligations existing under any ordinance in effect prior to the effective date of this ordinance continue in full force and effect. This ordinance does not invalidate any action taken prior to the effective date of this ordinance if the action was proper under the law governing the action at the time the action was taken.
4. There are no assurances to residents, businesses, community members, and project proponents that the affected titles, chapters, articles, and/or section headings by this ordinance will not be subject to future revisions.

5. The action to amend the Zoning Code is based on factors pursuant to Section 33-1263 of the Escondido Zoning Code. The action to which the City Council takes action on helps update the City's animal regulations and the degree to which various land use activities are permitted in each residential zoning district.
  
6. The proposed Zoning Code Amendments do not conflict with any Specific Plan as the project.

## **EXHIBIT "B"**

### **PROPOSED MUNICIPAL CODE AND ZONING CODE AMENDMENTS**

#### **SECTION I.**

*Repealing in its entirety, Section 4-6 of Chapter 4 of the Municipal Code, and adopting in full new text to read as specified below.*

#### **CHAPTER 4. ANIMAL CONTROL**

##### **Section 4-6. Disturbing the peace and quiet prohibited; evidence required of violation.**

(a) No person may own or keep a dog within the city in such a manner that the peace and quiet of the public is disturbed or in such a manner that the noise from the dog causes unreasonable annoyance or discomfort to a person of normal sensitivity.

(b) No person shall own, have in possession, or harbor any animal which by any frequent, habitual, or long continued noise causes unreasonable disturbance to surrounding residents.

(c) Unless good cause exists, the written affirmation by two (2) persons having separate residences indicating that the noise made by a dog or other animal disturbs the peace and quiet or causes unreasonable annoyance or discomfort, as set forth in subsection (a) or (b) of this section, shall be required before any proceeding alleging a violation of this section. Good cause shall be the existence of circumstances preventing more than one (1) person from perceiving the disturbance, including but not limited to factors such as the hours during which the disturbance, annoyance or discomfort occurs, the physical configuration of the residences, or the physical inability of additional persons to perceive the disturbance, annoyance or discomfort.

(c) This section shall not be construed to apply to reasonable noises emanating from legally operated veterinary hospitals or animal care clinics, humane societies, animal shelters, farms or other agricultural facilities on Residential Agriculture (R-A) or Agricultural Overlay (AO) zones, or similar facilities.

(d) Any person who violates this section is guilty of a misdemeanor.

#### **SECTION II.**

*Repealing in its entirety, Section 33-95 of Article 6 of the Zoning Code, and adopting in full new text to read as specified below.*

#### **ARTICLE 6. RESIDENTIAL ZONES.**

##### **Sec. 33-95. Permitted accessory uses and structures.**

(a) Accessory uses and structures are permitted in residential zones, provided they are incidental to, and do not substantially alter the character of the permitted principal use or structure. Such permitted accessory uses and structures include, but are not limited to those listed in Table 33-95.

(b) The permitted types and quantities of animals allowed in residential zones is listed in Table 33-95a. Other household pets are allowed pursuant to Section 33-1116 of Article 57 of this Chapter.

(1) At no time shall the keeping of such animals and pets constitute a nuisance or other detriment to the health, safety, or general welfare of the community.

(2) All animal keeping is subject to the animal control and humane treatment standards in Chapter 4 of the Municipal Code (Animal Control) and other regulations found in County and State codes, including, but not limited to, State Health and Safety Code.

(3) No more than the quantities of animals specifically listed in Table 33-95(a) or Section 33-1116 shall be kept on any premises, except that offspring may be kept onsite for up to four (4) months from birth.

**Table 33-95a.**

<b>Permitted Animals in Residential Zones</b>	<b>R-A</b>	<b>R-E</b>	<b>R-1</b>	<b>R-T</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>R-5</b>
Alpacas	2**	2 with a minor CUP						
Birds: Small species as household pets including canaries, parrots, parakeets, love birds, etc.	Pursuant to Sec. 33-1116 of Article 57							
Birds: Racing or homing pigeons	Pursuant to Sec. 33-1116 of Article 57							
Birds: Domesticated fowl. Quantity indicates total of all bird species for each parcel	25*	25*	6*					
Chickens (hens only), ducks, etc. raised for meat and/or egg production	25	25	6					
Turkeys, peafowl, and emus	2**	2 to 3 maximum**						

Roosters	1 to 2 maximum**	1 maximum with CUP						
Bovine and large animals: Domesticated cattle, sheep, goats, llamas, swine raised for meat, fleece, and/or milk production. Quantity indicates the total number of bovine large animals per acre	1	1						
Cats (adults over 4 months)	Pursuant to Sec. 33-1116 of Article 57							
Dogs (adults over 4 months)	Pursuant to Sec. 33-1116 of Article 57							
Goats (pygmy/miniature):	2	2	2 with a minor CUP					
Horses (miniature)***: In the R-1 zone said animals are permitted only on properties zoned R-1-10 or larger	2	2	2 with a minor CUP					
Horses (standard)***:	1**	1**						
Potbelly pigs, as household pet	1	1						
Rodents: Chinchillas, chipmunks, guinea pigs, mice (white), hamsters, rabbits (adult), squirrels, etc. Quantity indicates total of all species for each parcel	Pursuant to Sec. 33-1116 of Article 57							
Tropical fish*: excluding turtles and carnivorous	No limit							

fresh water fish								
Other animals in RA-AO and RE-AO animal overlay zones pursuant to Article 9 of this chapter	P	P						

\* The total combined number of domesticated birds/fowl permitted shall include both those birds/fowl allowed by all categories of chickens, ducks, etc.; turkeys, peafowls, and roosters; and emus.

\*\* The quantity indicates the number of animals permitted per lot or for the first 40,000 SF of lot area; plus 1 animal permitted for each 20,000 SF over 40,000 SF.

\*\*\* The total number of horses and the usable acreage for horses calculated shall include both those horses allowed pursuant to private horse keeping (i.e. private horse stable) as well as horses rented, shown, used or boarded on a commercial basis for compensation (i.e. commercial horse stable), and all of the combined areas for both use types.