

# Codification of Zoning Code Interpretations and other Technical Amendments

File No. ST21-001

City Council

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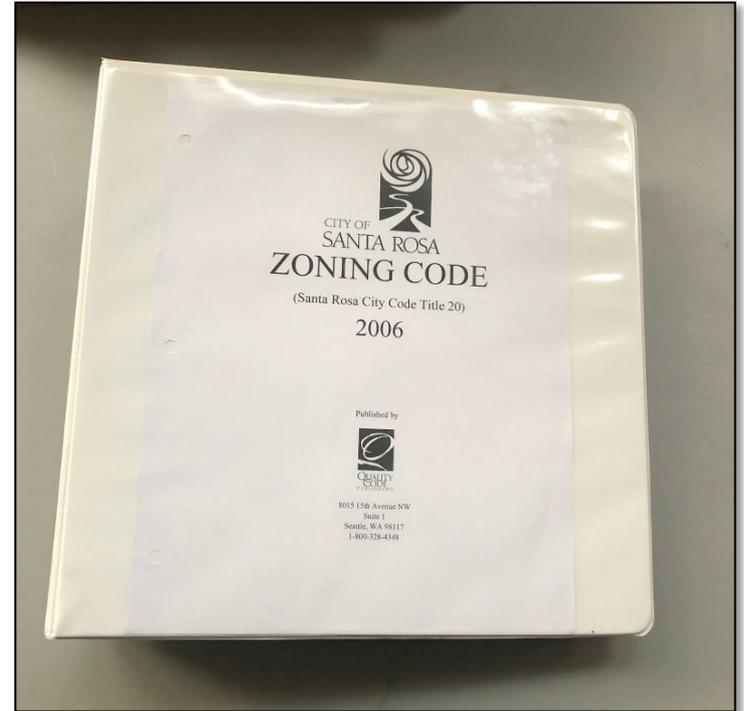
October 26, 2021

Monet Sheikhali  
City Planner  
Planning and Economic Development

# Project Description

## Amend the Santa Rosa Zoning Code:

- To incorporate 20 Zoning Code Interpretations
- To reflect changes that are technical or corrective in nature



- City Council adopted current Zoning Code in 2004
- Zoning Code Section 20-12.030 allows Zoning Administrator to issue Zoning Code Interpretations
- Zoning Administrator has issued 30 Interpretations since 2011
- Proposed Zoning Code Text Amendment will formalize remaining 20 Interpretations
- July 8, 2021, Planning Commission recommended that the Council amend the Zoning Code to incorporate Zoning Code Interpretations

# Zoning Code Interpretations

<b>Night Club</b>	<b>Cottage Food Operation</b>	<b>Fences &amp; Building Permits</b>	<b>Distilled Spirit Production</b>	<b>Alcoholic Beverage Sales</b>
<b>Restaurants Serving Alcohol (no bar)</b>	<b>Water Efficient Landscaping</b>	<b>LED Price Signs</b>	<b>Increase or Decrease in Required Parking</b>	<b>Fence, Walls and Screening</b>
<b>Parking Design Standards</b>	<b>Design Review</b>	<b>Creekside Development</b>	<b>Definition of Abutting</b>	<b>Distilled Spirit Production</b>
<b>Habitable Structure Setback</b>	<b>Prohibited Signs</b>	<b>Hemp Derived CBD Products</b>	<b>Mobile Food Vending Concentration</b>	<b>Creekside Setback Requirements</b>



OFFICIAL ZONING CODE INTERPRETATION (No. 2)  
Cottage Food Operation as a Home Occupation

ZONING CODE PROVISIONS INTERPRETED: Zoning Code Section 20-42.070 (Home Occupations)

On January 1, 2013, the California Homemade Food Act went into effect. This law created a new category of food facility operation, "cottage food operation," which unlike other food facilities can be operated out of a home kitchen. Some examples of the types of food products that can be produced by a cottage food operation include: Baked goods (without cream, custard, or meat fillings), dried pasta, fruit pies, jams, and dry baking mixes.

Per this statute, cities cannot prohibit a cottage food operation.

After reviewing the City's Zoning Code for compliance with this statute, it has been determined that a cottage food operation is a type of home occupation that is allowed per Section 20-42.070 of the Zoning Code (Home Occupations). A cottage food operation that solely involves the preparation of food in a home kitchen for off-site sale is an example of an exempt home occupation and therefore is permitted by right. A cottage food operation that includes the on-site sale of cottage food from a residence, however, is an example of a home occupation that requires approval of a Minor Conditional Use Permit. In both cases, the City's home occupation regulations apply, including the performance criteria associated with the different types of home occupations.

Therefore, a cottage food operation in the City of Santa Rosa is subject to Section 20-42.070 (Home Occupations). In addition, an annual permit from the Sonoma County Department of Health Services may also be required prior to commencement of the use.

This determination is consistent with the General Plan.

Date: 1-23-2013

  
Erin Morris  
Zoning Administrator

## 20-42.070 Home occupations.

Exempt home occupations. A home occupation that complies with the following requirements and standards, including cottage food operation (CFO) for off-site sale, shall not require the approval of a Minor Conditional Use Permit or Conditional Use Permit.

## 20-70.020 Definitions of specialized terms and phrases.

Cottage Food Operation (CFO). An enterprise at a private home where specific low-risk food products that do not require refrigeration are made or repacked for sale to consumers.

## **20-10.050 Applicability of Zoning Code.**

G. Government projects. The provisions of this Zoning Code shall apply to any County, special district, and State or Federal government or agency to the maximum extent allowed by law. The provisions of this Zoning Code shall not apply to any public project of the City except to the minimum extent required by law.

## **20-52.030 Design Review.**

B (2). City projects. The DRB shall review each Building Permit application for a development project by any City agency or department, for which review is required by Subsection B (Applicability), above. Notwithstanding other provisions of this section, the review shall be for the purposes of providing advice to the Council, Redevelopment Agency, or Housing Authority, respectively, and shall not abrogate the authority of the Council, Redevelopment Agency, or Housing Authority to make any final determination regarding a development project.

**OFFICIAL ZONING CODE INTERPRETATION (No. 16)**  
(Zoning Code Section 20-10.050.G and 20-52.030.B.2)

ZONING CODE PROVISION INTERPRETED:

Section 20-10.050(G), Applicability of Zoning Code, and Section 20-52.030(B)(2), Design Review

At issue is, under what circumstances does a public or City project require an entitlement permit and compliance with the Zoning Code and Design Guidelines.

Zoning Code Section 20-10.050(G), Applicability of Zoning Code – Government Projects, states that “the provisions of this Zoning Code shall apply to any County, special district, and State or Federal government or agency to the maximum extent allowed by law. The provisions of this Zoning Code shall not apply to any public project of the City except to the minimum extent required by law.”

Zoning Code Section 20-52.030(B)(2), Design Review – City Projects, states that “the Design Review Board shall review each Building Permit application for a development project by any City agency or department, for which review is required by Subsection B (Applicability), above. Notwithstanding other provisions of this Section, the review shall be for the purposes of providing advice to the Council, Redevelopment Agency, or Housing Authority, respectively, and shall not abrogate the authority of the Council, Redevelopment Agency, or Housing Authority to make any final determination regarding a development project.”

The intent of Section 20-10.050(G) is that City projects are not required to apply for entitlement permits, including Design Review, and are not required to comply with the Zoning Code or Design Guidelines, except to the minimum extent required by law, which would be determined on a project-by-project basis. However, as stated in Section 20-52.030(B)(2), City projects do require review by the Design Review Board, although that review is intended to be in the form of non-binding comments.

Therefore, it is determined that City projects are not required to obtain entitlement permit approvals, and are not required to comply with the Zoning Code or Design Guidelines, except to the minimum extent required by law.

This determination is consistent with the General Plan.

Date: 6-7-17



Jessica Jones  
Zoning Administrator

## 20-10.050 Applicability of Zoning Code.

G. Government projects. The provisions of this Zoning Code shall apply to any County, special district, and State or Federal government or agency to the maximum extent allowed by law. The provisions of this Zoning Code shall not apply to any public project of the City except to the minimum extent required by law. **While an entitlement permit is not required for a City project, conceptual design review by the Design Review Board is required.**

## 20-52.030 Design Review.

B (2). City projects. The DRB shall review each Building Permit application for a development project by any City agency or department, for which review is required by Subsection B (Applicability), above. Notwithstanding other provisions of this section, the review shall be for the purposes of providing advice to the Council, Redevelopment Agency **or its Successor Agency**, or Housing Authority, respectively, ~~and shall not abrogate the authority of the Council, Redevelopment Agency, or Housing Authority to make any final determination regarding a development project.~~

- Chapter 20-15 Aggressive Economic Development Measures - Remove due to Ordinance sunset date of August 20, 2015
- Chapter 20-39 Objective Design Standards for Streamlined and Ministerial Residential Developments - Change title of Chapter to Objective Design Standards for Streamlined By Right Housing to better reflect intent of provisions
- Commercial and Residential Land Use Tables - Replace footnote reference with AB 2162 (reflects correct Assembly Bill)

## Section 20-42.130 Accessory Dwelling Units

- Addresses side corner setbacks
- Removes requirement for more restrictive setback for second story portions
- Corrects maximum floor area allowed for attached ADUs and conversions
- Broadens structures that ADUs can be constructed above
- ADUs must include a separate exterior entrance
- No replacement off-street parking spaces are required when a JADU is created through the conversion or demolition of covered parking structure
- ADUs allowed on multi-family properties may be attached to existing development and up to two-stories
- Accessory structures attached to ADUs must comply with accessory structure height maximums

## **Various Zoning Code Sections amended related to the Downtown Station Area Specific Plan update**

- Clarifies Director Level Design Review process in Review Authority Table
- Deletes redundant language in the land use tables
- Specifies applicability of Zoning Code on projects in process
- Adds provision for pipeline projects
- Specifies transparency requirements apply only to non-residential buildings
- Eliminate duplicative and superseded Downtown Station Area combining district
- Update Review Authority Table for Historic Preservation decisions to be consistent with the Design Review Board as sole review authority for Design Review approvals in Historic Districts
- Eliminate superseded Downtown Station Area Specific Plan figure and table footnotes in Parking Chapter

## **Chapter 20-16 Resilient City Development Measures**

- Remove Subsection 20-16.040 (A)(6) Notification.
- Remove Section 20-16.140 Setback requirements and exceptions.
- Re-add the two automatic Tentative Map Time Extensions.

# Environmental Review

## California Environmental Quality Act (CEQA)

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- Exempt from California Environmental Quality Act (CEQA) under Section 15061(b)(3)
  - CEQA only applies to projects which have the potential for causing a significant effect on the environment.
  - Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

## Recommendation

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It is recommended by the Planning Commission and the Planning and Economic Development Department that the Council, introduce an ordinance approving amendments to Title 20 of the City Code to incorporate Zoning Code Interpretations and other technical corrections that are minor in nature.

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