

ORDINANCE NO. ORD-2019-003

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING TITLE 20 OF THE SANTA ROSA CITY CODE, SECTIONS 20-50.040, 20-50.050, 20-52.030 AND 20-66.020 TO MODIFY PUBLIC NOTICING REQUIREMENTS - FILE NUMBER REZ19-001

WHEREAS, in 2014, the Council formed the Open Government Task Force to review applicable law, City policy and practice to develop a report that would inform the community about the current status of open and transparent government practice in the City; to review the exceptions, limitations and restrictions imposed by State or Federal law; and to present options for improvement or additional best practices related to an open and transparent government; and

WHEREAS, in October 2016, the Council accepted the Housing Action Plan, which was prepared to address the City's ongoing unmet housing needs and to implement the City's General Plan Housing Element. Program 4(e) of the Housing Action Plan is to "continue implementation of permit streamlining for planning entitlements," which includes the City's noticing requirements; and

WHEREAS, in May 2017, the City entered into a contract with Metropolitan Planning Group (M-Group) to assist with amendments to the City's entitlement streamlining process, including notification practices; and

WHEREAS, on April 26, 2017, City staff met with the Community Advisory Board to review the permit streamlining process, including the City's noticing requirements for entitlement applications. Among the feedback received, Community Advisory Board members emphasized the need to utilize social media such as Nextdoor, to send e-mail notification to those who have signed up for Citywide alerts, to make mailed notices easier to read and understand, and to notify residents and property owners earlier in the process; and

WHEREAS, in recent years, the City has received general feedback from the community through the development review process that the current notification requirements and practices are not adequate. Specifically, concerns have been raised regarding the distances that notices are sent from proposed projects to neighboring properties, the fact that notices are sent to property owners only (not tenants), and that noticing is not provided earlier in the process; and

WHEREAS, on February 28, 2019, the Planning Commission held a duly noticed public hearing on the Zoning Code Text Amendment, and at which time recommended approval of the proposed Text Amendment to the City Council; and

WHEREAS, on April 2, 2019, the City Council held a duly noticed public hearing on the Zoning Code Text Amendment at which all those wishing to be heard were allowed to speak or present written comments and other materials; and

WHEREAS, after this public hearing, the City Council of the City of Santa Rosa believes that amending the Santa Rosa Zoning Code, as follows, is required for public convenience, necessity and general welfare.

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. The Council finds, based on evidence and records presented, that amending Title 20 (Zoning) of the Santa Rosa City Code, as follows, is required to result in more clear, effective and inclusive.

The Council further finds and determines that:

- A. The proposed amendment is consistent with the goals and policies of all elements of the General Plan, and any applicable specific plan;
- B. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City in that it would amend the City Code to provide for increased public noticing for projects that may affect them;
- C. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and the City has determined that the proposed Zoning Code amendments are exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) in that there is no possibility that the proposed amendments may have a significant effect on the environment. The proposed project would amend the City's Zoning Code to provide additional notification requirements for public meetings regarding entitlement applications. The proposed Zoning Code amendments would not in and of themselves allow the development of any new structures or alteration of lands; rather, any future projects utilizing the enhanced meeting notification requirements would require their own entitlement permit and CEQA review process;
- D. The proposed amendment is internally consistent with other applicable provisions of the Zoning Code.

Section 2. Amend a portion of Santa Rosa Zoning Code Section 20-50.040 to read and provide as follows:

“F. Noticing of review.

- 1. Mailed Notice. Concept review shall be noticed by mail to real property owners and occupants located in whole or in part within a radius of 600 feet from the exterior boundaries of the Assessor's parcels that are the subject of the concept review.
- 2. Site posting. Notice shall also be given by:
 - a. The City posting notices in at least two public places within the City boundary as specified by the Director; and
 - b. The applicant installing a sign on the subject property in a place conspicuous to the public, at least 10 days before the scheduled concept review, as indicated in Section 20-66.020 C.3.b.

3. Online posting.
 - a. Notice shall be given on the Department’s webpage.
 - b. Alternative online postings including, but not limited to social media are encouraged at the discretion of the Director.
 4. Electronic notice.
 - a. Notice shall be emailed to the Community Advisory Board (CAB).
 - b. Notice shall be posted to an electronic distribution list for City public notices.
 5. Additional notice may be required at the discretion of the Director, including alternate methods and/or the use of a greater radius for notice for projects of particular interest, scale or size.
- G. Form of review. Concept review shall:
1. Be conducted as a public forum, open to interested citizens, and shall include an opportunity for citizens to comment; and
 2. Not include environmental review, referral comments, or staff analysis, and shall not substitute for development review and formal review by the DRB and/or CHB.
- H. Role of DRB and CHB. During concept review, the DRB or CHB shall not take action or make decisions; comments made by members of the DRB or CHB are not binding on future DRB or CHB actions. Individual DRB or CHB members are not required to comment or participate in concept review items.”

Section 3: Amend Santa Rosa Zoning Code Section 20-50.050 to read and provide as follows:

- “A. Pre-application neighborhood meeting required. Each discretionary project shall require a pre-application neighborhood meeting in compliance with the following requirements, to provide the opportunity for early input by affected neighbors. While neighborhood consensus or agreement is the goal, it is not a required outcome of the neighborhood meetings.
1. When neighborhood meetings are required:
 - a. A development proposal that is a discretionary project, requires a public hearing, and that may affect a residential neighborhood shall require one or more neighborhood meetings in compliance with this Section.
 - b. A discretionary project is one that requires a decision based on the application of judgment by the Council, Commission, DRB, CHB, Director, or the Zoning Administrator.
 2. When neighborhood meetings are not required:
 - a. Neighborhood meetings are not required for nonresidential development proposals that are surrounded by nonresidential zoning districts and General Plan land use categories, unless there is an effect on a residential neighborhood, regardless of whether or not a public hearing is required.
 - b. Neighborhood meetings are not required for “ministerial” projects.

- c. Ministerial proposals include the issuance of a Building Permits, or other applications where the discretionary approval or permit has been granted.
3. When a neighborhood meeting may be required. A neighborhood meeting may be required for a development proposal that otherwise would not require a meeting, if there is significant controversy or if interest has been expressed by the neighborhood regarding the proposal. In these cases, the Director shall determine whether to hold a meeting.
4. Waiver of meeting requirement. The requirement for a neighborhood meeting may be waived in cases where the position of a neighborhood is established and/or recent contact indicates that there is no interest in holding a meeting. In these cases, the Director shall determine whether to waive the requirement for a meeting.
5. Timing of neighborhood meeting.
 - a. When required, a neighborhood meeting shall be held before submittal of the application for the development proposal, except as identified in Subparagraph 3, above.
 - b. If the neighborhood meeting is not held before submittal of the application for development, the application shall be deemed incomplete until the neighborhood meeting has been held.
6. Follow-up meeting encouraged. When a neighborhood meeting has been held before submittal of the application, applicants are encouraged to hold a follow-up neighborhood meeting to explain project changes to the neighborhood, before the public review by the DRB or Commission.
7. Notification required.
 - a. A neighborhood meeting shall be noticed by mail to real property owners and occupants located in whole or in part within a radius of 600 feet from the exterior boundaries of the Assessor's parcels that are the subject of the development proposal.
 - b. The applicant shall install a sign on the subject property in a place conspicuous to the public, at least 10 days before the scheduled neighborhood meeting, as indicated in Section 20-66.020 C.3.b.
 - c. The City shall post notices in at least two public places within the City boundary as specified by the Director.
 - d. Notice shall also be given by posting on the Department's City webpage. Alternative online postings, including but not limited to social media are encouraged and at the discretion of the Director.
 - e. Notice shall be emailed to the Community Advisory Board (CAB) and posted to an electronic distribution list for City public notices.
 - f. Additional notice may be required at the discretion of the Director, including alternate methods and/or the use of a greater radius for notice for projects of particular interest, scale or size.
8. Staff responsibilities at meeting. City staff is required to attend the neighborhood meetings. The staff role is to identify and explain City policies, including provisions

of the General Plan and this Zoning Code as they relate to the development proposal under consideration. Staff may provide objective commentary on the proposal, but is not expected to present a position or recommendation on the proposal at the neighborhood meeting. Staff shall also serve as moderator/ facilitator, and take meeting notes.

9. Applicant responsibilities at meeting. The applicant or representative is required to attend the neighborhood meeting and provide basic information including the following:
 - a. Site analysis, graphically depicting existing conditions and the neighborhood context;
 - b. Conceptual site plan showing locations of all proposed structures, roads, parking areas, landscaping, and conceptual parcel lines with approximate dimensions;
 - c. Conceptual building design information and the proposed density of the project;
 - d. Purpose of the project and its target market.
 10. Independent professional staff recommendation required. Neighborhood or applicant comments and recommendations are not binding on staff. City staff will consider the neighborhood comments, as well as those of all referral agencies/organizations, but will formulate its own independent professional recommendation to the applicable review authorities.
- B. Application contents. Land use permit applications shall be filed with the Department using the forms provided by the Department. Applications shall include all necessary fees and/or deposits, and all other information and materials required by the Department. It is the responsibility of the applicant to provide information in support of any findings required by Chapter 20-52 (Permit Review Procedures) for the approval of the permit or other approval being requested.
- C. Eligibility for filing. Applications may only be filed by the owner of the subject property, or other person with the written consent of the property owner. If filed by another person, the property owner signature shall be on the application form.
- D. Filing date. The filing date of any application described in this Chapter shall be the date when the Department receives the last submission of information or materials required by Subsection B, above, in compliance with Section 20-50.080 (Initial Application Review), below.
- E. Notice of application. All applications requiring a public hearing, and minor projects that received concept design review, shall be noticed by mail to real property owners and occupants located in whole or in part within a radius of 600 feet from the boundaries of the subject Assessor's parcels, posted to the Department's webpage, emailed to the Community Advisory Board (CAB), and posted to an electronic distribution list for City public notices within 45 days of the application submittal. Additional notice may be required at the discretion of the Director, including alternate methods and/or the use of a greater radius for notice for projects of particular interest, scale or size.”

Section 4: Amend Santa Rosa Zoning Code Section 20-52.030(H) to read and provide as follows:

“Public notice and hearing.

1. Major Design Review—Public notice and hearing required. The Board shall conduct a public hearing on an application for Design Review before a decision on the application. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 20-66 (Public Hearings).
2. Minor Design Review—Public notice required. Before a decision on a Minor Design Review, the Department shall provide notice in compliance with Chapter 20-66 (Public Hearings).
 - a. Public notice. The notice shall state that the Zoning Administrator will decide whether to approve or disapprove the Minor Design Review application on a date specified in the notice, and that a public hearing will be held only if requested in writing by any interested person before the specified date for the decision.
 - b. Hearing. When a hearing is requested, notice of the hearing shall be provided in compliance with Chapter 20-66, and the Zoning Administrator shall conduct the public hearing before a decision on the application in compliance with Chapter 20-66.”

Section 5: Amend Santa Rosa Zoning Code Section 20-66.020(C)(1)(a)(4) to read and provide as follows:

“All owners and occupants of real property that is located in whole or in part within a radius of 600 feet from the exterior boundaries of the Assessor’s parcels that are the subject of the hearing, as shown on the last equalized assessment roll and its master index update. The 600-foot radius shall be measured from the exterior boundaries of the subject parcels to the exterior boundaries of the neighboring parcels, without reference to structures existing on either parcels.”

Section 6: Add Santa Rosa Zoning Code Section 20-66.020(C)(4) to read and provide as follows:

“Online posting.

- a. Notice shall be given on the Department’s webpage.
- b. Alternative online postings including, but not limited to social media are encouraged at the discretion of the Director.”

Section 7. Add Santa Rosa Zoning Code Section 20-66.020(C)(5) to read and provide as follows:

“Electronic notice. Notice shall be emailed to the Community Advisory Board (CAB) and posted to an electronic distribution list for City public notices.”

Section 8: Amend Santa Rosa Zoning Code Section 20-66.020(D) to read and provide as follows:

“Alternative to mailing. If the number of property owners to whom notice would be mailed in compliance with Subsection C.1 above is more than 1,000, the City may, as an alternative to the mailing requirements of this Chapter, provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the local agency in which the proceeding is conducted at least 10 day before the scheduled hearing. However, any site-specific development must include on-site posting consistent with Subsection C.3.b. above.”

Section 9: Amend Santa Rosa Zoning Code Section 20-66.020(F) to read and provide as follows:

“Additional notice. In addition to the types of notice required by Subsections C and D, further noticing may be required at the discretion of the Director, including, but not limited to, the use of a greater radius for notice for projects of particular interest, scale or size.”

Section 10. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 11. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on April 2, 2019.

IN COUNCIL DULY PASSED AND ADOPTED this 9th day of April, 2019.

AYES: (6) Mayor Schwedhelm, Vice Mayor Rogers, Council Members Combs, Fleming, Sawyer, Tibbetts

NOES: (0)

ABSENT: (1) Council Member Olivares

ABSTAIN: (0)

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM:

City Attorney