



OFFICIAL ZONING CODE INTERPRETATION (No. 1)
(Zoning Code Section 20-70.020)

ZONING CODE PROVISIONS INTERPRETED: Chapter 20-70 (Definitions – “Night Club”)

Chapter 20-70 provides a definition for “Night Club” as follows:

Night Club. *A facility serving alcoholic beverages for on-site consumption, and providing entertainment, examples of which include live music and/or dancing, comedy, etc.*

A question has been raised regarding the term “*facility serving alcoholic beverages for on-site consumption*” and whether or not it implies a Bar/Tavern type of facility or a Restaurant/Café with Incidental Bar type of facility; or both.

With regards to Bar/Taverns, the primary land use is the consumption of alcohol beverages. With regards to Restaurant with Incidental Bar, the primary land use is the consumption of a meal.

It has been determined that the term “facility” within the “Night Club” definition was intended to apply to uses where the primary land use is the consumption of alcoholic beverages.

Since a “Restaurant/Cafe with Incidental Bar” that also offers entertainment, still retains a primary land use focused around the consumption of a meal, and not on the consumption of alcoholic beverages or the entertainment, it has been determined that the term “facility” in the land use definition of “Night Club” implies a Bar/Tavern and not a Restaurant/Café with Incidental Bar.

This determination is consistent with the General Plan.

Date: _____

4/19/12


 Clare Hartman
 Zoning Administrator



**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

OFFICIAL ZONING CODE INTERPRETATION (No. 4)
(Zoning Code Section 20-30.060)

ZONING CODE PROVISION INTERPRETED:

Section 20-30.060(C), Table 3-1, Maximum Height of Fences

At issue is whether or not a building permit is required for fences exceeding six feet in height.

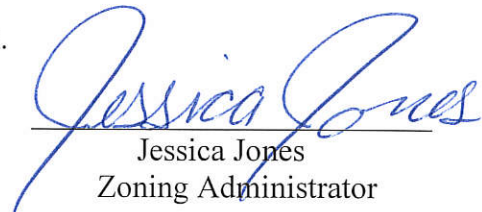
Zoning Code Section 20-30.060(C), Table 3-1, Maximum Height of Fences, includes a note (number 2) that states “a six-foot fence with two feet of lattice is allowed by right in an interior side or rear yard setback, and outside of a required front or street side setback (see Figure 3-5); provided that any fence exceeding six feet in height requires a building permit.”

California Building Code and California Residential Code (Chapter 1, Division II) both state that fences that do not exceed a height of seven feet are exempt from building permit requirements.

Therefore, it is determined that the Zoning Code reference to a requirement for a building permit for fences exceeding six feet in height is no longer applicable. Requirements for a building permit for fences shall be determined in compliance with the California Building Code and California Residential Code.

This determination is consistent with the General Plan.

Date: 10-1-14


Jessica Jones
Zoning Administrator

OFFICIAL ZONING CODE INTERPRETATION (No. 5)
(Zoning Code Sections 20-24.030, Table 2-10, and 20-70.020)

ZONING CODE PROVISION INTERPRETED:

Section 20-24.030, Table 2-10, Allowed Land Uses and Permit Requirements for Industrial Districts, and Section 20-70.020(M), Definitions of Specialized Terms and Phrases

At issue is what Zoning Code land use category distilled spirits production would fall within. The three potential land use categories under consideration are “brewery – production”, “manufacturing/processing – light: food and beverage product manufacturing”, and “winery – production”. Zoning Code Section 20-70.020 defines each as follows:

“Brewery – Production. An establishment which produces ales, beers, meads, hard ciders, and /or similar beverages on-site. Production Breweries are classified as a use which manufactures more than 15,000 barrels of beverage (all beverage types combined) annually. Breweries may also serve beverages on-site, and sell beverages for off-site consumption in keeping with the regulations of the Alcoholic Beverage Control (ABC) and Bureau of Alcohol, Tobacco, and Firearms (ATF). In addition, uses which produce 15,000 barrels of beverage or less, but which do not meet one or more of the additional requirements to be considered a brew pub, are breweries.”

“Manufacturing/Processing - Light. A facility accommodating manufacturing processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. Examples of light manufacturing uses include the following: *(note: only “food and beverage product manufacturing” definition has been included as it is the only relevant category)*

3. Food and Beverage Product Manufacturing. Manufacturing establishments producing or processing foods and beverages for human consumption, and certain related products. Examples of these uses include:

- Bottling plants
- Bred factories
- Candy, sugar and confectionery products manufacturing
- Catering services separate from stores or restaurants
- Coffee roasting
- Dairy products manufacturing

- Fats and oil product manufacturing
- Fruit and vegetable canning, preserving, related processing
- Grain mill products and by-products
- Meat, poultry, and seafood canning, curing, byproduct processing
- Soft drink production
- Miscellaneous food item preparation from raw products

Does not include: bakeries (see ‘Restaurant, Café, Coffee Shop’ – 1. ‘Counter Ordering’); beer brewing (see ‘Brewery’); or wine production (see ‘Winery’).”

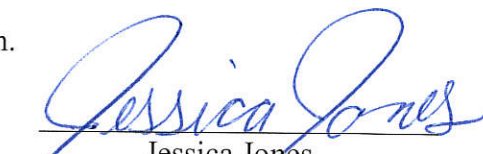
“Winery – Production. Winery producing more than 10,000 cases of wine per year. Use includes fruit processing, fermentation, pressing, barrel and bottle storage, bottling, wine tasting, and direct retail sale of wine. Participation in events involving multiple wineries is permitted to occur one time per 90-day period. All other events require separate approval (Temporary CUP or city Special Event Permit). In addition, uses which produce 10,000 cases of beverage or less, but which do not meet one or more of the additional requirements to be considered a ‘Boutique’ winery, are ‘Production’ wineries.”

In researching distilled spirit production, staff has found that, due to the differences in the processing of such beverages, as well as the separate and distinct license type classifications by the Alcoholic Beverage Control (ABC) from that of beer or wine, it does not fit within the City’s specific definitions for “brewery – production” or “winery – production”.

Therefore, it is determined that distilled spirits production shall be included in the definition of “Manufacturing/Processing – Light: Food and Beverage Product Manufacturing”. Per Zoning Code Section 20-24.030, Table 2-10, Allowed Land Uses and Permit Requirements for Industrial Districts, such a use is permitted in the Business Park (BP), Light Industrial (IL) and General Industrial (IG) zoning districts. However, a Minor Use Permit (MUP) is required if the use, specific suite or its associated operations abuts a residential zoning district or parcel with a residential use.

This determination is consistent with the General Plan.

Date: 12-4-14


 Jessica Jones
 Zoning Administrator

OFFICIAL ZONING CODE INTERPRETATION (No. 6)
(Zoning Code Section 20-42.030)

ZONING CODE PROVISION INTERPRETED:

Section 20-42.030(A), Alcoholic Beverages Sales: Applicability

At issue is whether or not a Minor Conditional Use Permit (MUP) is required for restaurants, cafés, coffee shops – serving alcohol.

Zoning Code Section 20-23.030, Table 2-6, Allowed Land Uses and Permit Requirements for Commercial Zoning Districts, states that a “restaurant, café, coffee shop – serving alcohol” is a permitted use in the following commercial zones:

- Office Commercial (CO)
- Neighborhood Commercial (CN)
- General Commercial (CG)
- Downtown Commercial (CD)
- Community Shopping Center (CSC)
- Transit Village-Mixed (TV-M)

Zoning Code Section 20-24.030, Table 2-10, Allowed Land Uses and Permit Requirements for Industrial Districts, states that a “restaurant, café, coffee shop – serving alcohol” is a permitted use in the following industrial zones:

- Business Park (BP)
- Light Industrial (IL)

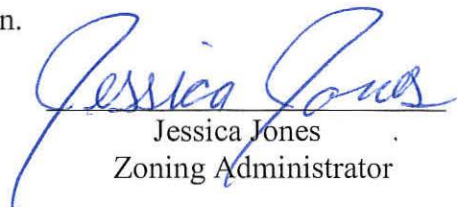
However, Zoning Code Section 20-42.034(A), Alcoholic Beverage Sales: Applicability, states “a restaurant serving alcohol, with or without an incidental bar component, shall be permitted only by Minor Use Permit.”

On September 25, 2012, the City Council adopted Ordinance No. 3995 amending Zoning Code Section 20-23.030, Table 2-6, and Section 20-24.030, Table 2-10, changing the permit requirements for “restaurant, café, coffee shop – serving alcohol” in the above noted zoning districts from requiring approval of an MUP to being a permitted use. The change was part of a larger amendment related to the City’s Aggressive Economic Development (AED) Ordinance.

With the adoption of Ordinance No. 3995, it was the intent of the Council to reduce the permit requirements for restaurants, cafés and coffee shops that serve alcohol with a meal in certain commercial and industrial zoning districts. The reference to a requirement of an MUP in Section 20-42.034(A), as it relates to the above noted commercial and industrial zoning districts, was left in error. Therefore, it is determined that restaurants, cafés, coffee shops – serving alcohol are a permitted use in the CO, CN, CG, CD, CSC, TV-M, BP and IL zoning districts, as identified in Section 20-23.030, Table 2-6, and Section 20-24.030, Table 2-10.

This determination is consistent with the General Plan.

Date: 1-27-15


Jessica Jones
Zoning Administrator

OFFICIAL ZONING CODE INTERPRETATION (No. 7)
(Zoning Code Sections 20-22.030, 20-23.030, 20-24.030, 20.26.030 and 20-28.070)

ZONING CODE PROVISION INTERPRETED:

Sections 20-22.030 (Table 2-2), 20-23.030 (Table 2-6), 20-24.030 (Table 2-10), 20.26.030 (Table 2-12), and 20-28.070 (Table 2-20), Allowed Land Uses and Permit Requirements

At issue is whether or not an incidental bar is permitted as part of a restaurant, café, coffee shop – serving alcohol.

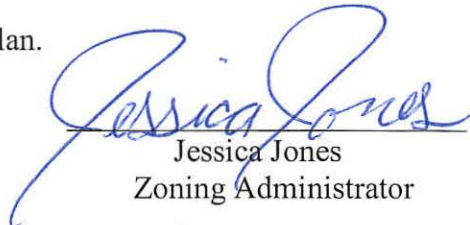
The Allowed Land Uses and Permit Requirements tables located in Zoning Code Sections 20-22.030 (Table 2-2: Residential Zoning Districts), 20-23.030 (Table 2-6: Commercial Zoning Districts), 20-24.030 (Table 2-10: Industrial Zoning Districts), 20.26.030 (Table 2-12: Special Purpose Zoning Districts) and 20-28.070 (Table 2-20: Limited Light Industrial Zoning District), include a land use category of “restaurant, café, coffee shop – serving alcohol (no bar)”.

The reference to “(no bar)” has caused confusion with those who administer the Zoning Code, as it can be interpreted to mean an incidental bar within a restaurant is not permitted. However, Zoning Code Section 20-42.034, Alcoholic Beverage Sales, refers to the permit requirements for restaurants serving alcohol “with or without an incidental bar component”.

The land use category of “restaurant, café, coffee shop – serving alcohol (no bar)” was created with the adoption of the Santa Rosa Zoning Code in 2004. It was the intent at that time to differentiate restaurants, cafés and coffee shops that serve alcohol with a meal from the “bar/tavern” land use category, which is defined by the Zoning Code as an establishment that is not part of a larger restaurant and where food service is subordinate to the sale of alcoholic beverages. It was not the intent to prohibit an incidental bar component from a restaurant. Therefore, it is determined that an incidental bar is permitted as part of the “restaurant, café, coffee shop – serving alcohol” land use category.

This determination is consistent with the General Plan.

Date: 1-27-15


Jessica Jones
Zoning Administrator

OFFICIAL ZONING CODE INTERPRETATION (No. 9)
Landscaping Standards

ZONING CODE PROVISION INTERPRETED:
Section 20-34.030(C), **Water Efficient Landscape Criteria**

Issue: Since Landscaping Standards, Ordinance No. 3677, was adopted in 2007, regulations have changes in terms of water use for landscaping. The City's Water Efficient Landscape Policy (WELP) was replaced with the State-mandated Water Efficient Landscape Ordinance (WELO), effective January 2009. In response to recent State-mandated modifications to irrigation requirements, the City's WELO is being updated. To align the Zoning Code with the WELO, a Zoning Interpretation is necessary to define the intent of the Landscaping Standards ordinance.

The section currently reads: Landscape and irrigation plans shall comply with the requirements and guidelines of the Sonoma County Water Agency for water efficient landscape and the City's Water Efficient Landscape Policy and the Single Family Residential Landscape Policy.

Because the Zoning Code is referring to an obsolete document (the WELP), and the intent of the Landscaping Standards Ordinance includes compliance with City-mandated irrigation requirement, it is determined that the Water Efficient Landscape Ordinance will apply to all land uses as follows:

- A. New projects. New nonresidential projects, multi-family residential projects, and single-family residential projects shall provide landscaping in compliance with the requirements of this Chapter.
- B. Existing development. The approval of any permit for physical alterations and/or changes in use within an existing development may include conditions of approval requiring compliance with specific landscaping and irrigation requirements of this Chapter. When landscaping is required, the landscape and irrigation improvements shall be installed prior to final building inspection.
- C. Alternatives to requirements. Modifications to the standards of this Section may be approved by the appropriate authority to accommodate alternatives to required landscape materials or methods, where it is first determined that the proposed alternative will be equally effective in achieving the intent of this Section.

This determination is consistent with the General Plan.

Date: August 27, 2015


Jessica Jones
Zoning Administrator



**OFFICIAL ZONING CODE INTERPRETATION (No. 10)
LED Service Station Price Signs**

**ZONING CODE PROVISION INTERPRETED:
Section 20-38.080(C), Prohibited Signs**

Purpose: Exempt LED-lit service station pricing signs from Zoning Code Section 20-38.080(C).

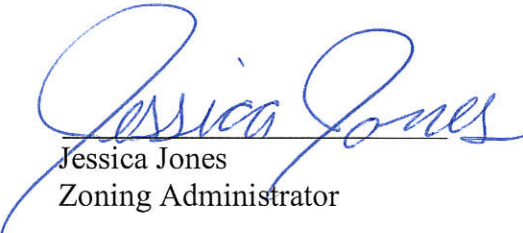
Zoning Code Section 20-38.080(C) currently reads: Moving, flashing, electronic/digital and windblown signs. No moving, rotating, flashing, or changing of color intensity or signs with electronic/digitally created content (i.e., electronic reader board signs), and no windblown signs, such as posters, pennants, streamers, or strings of light bulbs, balloons, or other inflated objects are permitted. The only exceptions to these requirements are time and temperature devices and signs installed by a governmental agency in carrying out its responsibility to protect public health, safety and general welfare.

Discussion: The intent of the Zoning Code seems clear that moving signs (scrolling, flashing, rotating, etc.) are prohibited. However, similar to a time and/or temperature sign which is allowed, a service station price sign is stationary. Additionally, LED-lit signs are easier to read by passing traffic and the prices can be changed from inside, making LED-lit signs safer.

Therefore, it is determined that LED-lit service station signs shall be exempt from the Zoning Code Section 20-38.080(C).

This determination is consistent with the General Plan.

Date: October 26, 2015


Jessica Jones
Zoning Administrator

OFFICIAL ZONING CODE INTERPRETATION (No. 13)
(Zoning Code Section 20-36.050.C.1)

ZONING CODE PROVISION INTERPRETED:

Section 20-36.050(C)(1), Increase or Decrease in Required Parking

At issue is who the review authority is for parking reductions, and how much of a reduction can be granted by that authority.

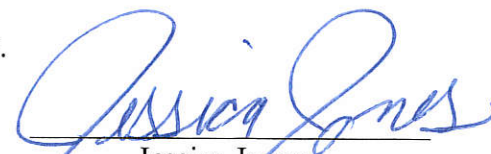
Zoning Code Section 20-36.050(C)(1), Increase or Decrease in Required Parking, provides a process by which an applicant can request a reduction in the required parking for a use due to special circumstances. This section includes a list of what entitlement applications are required for certain parking reduction percentages. What is not clearly defined, is the review authority for each of the processes identified.

The following chart has been developed to provide clarity to this section:

Application Process	Parking Reduction	Review Authority
Through Building Permit or Zoning Clearance (if no building permit is required) <i>(Change in use – When a building’s use changes to a new use, for example a retail use to a restaurant, without enlarging the space in which the use is located, there is no additional parking required, except that the new use must comply with current ADA standards for parking.)</i>	No more than 10 spaces, or up to 25% reduction, whichever is greater	Planning and Economic Development Director
Minor Adjustment <i>(When a project does not otherwise include a Minor Use Permit or Conditional Use Permit, an applicant shall apply for a Minor Adjustment to reduce parking by up to 25%. The Minor Adjustment process is for existing structures only; it does not apply to projects that are proposing new construction.)</i>	Up to 25%	Planning and Economic Development Director
Minor Use Permit <i>(When a project does not otherwise include a Minor Use Permit or Conditional Use Permit, an applicant shall apply for a Minor Use Permit to reduce parking by more than 25%. The Minor Use Permit can also be used for projects that are proposing new construction and are requesting a parking reduction.)</i>	Greater than 25%	Zoning Administrator
Project Approval <i>(When a project already includes a Minor Use Permit or Conditional Use Permit, no additional entitlements are required to request a reduction in parking by any amount.)</i>	Any amount	Zoning Administrator for Minor Use Permit; or Planning Commission for Conditional Use Permit

This determination is consistent with the General Plan.

Date: 6-7-17


 Jessica Jones
 Zoning Administrator

OFFICIAL ZONING CODE INTERPRETATION (No. 14)
(Zoning Code Section 20-30.060)

ZONING CODE PROVISION INTERPRETED:
Section 20-30.060, Fences, Walls and Screening

At issue is what type of entitlement permit, findings and fees are required for fences on non-residential and multi-family residential properties.

Zoning Code Section 20-30.060 provides regulations for the installation, construction and placement of fences on private property.

Zoning Code Section 20-30.060(C), Height Limits, states “a fence in a residential zoning district shall not exceed the height limits show in Table 3-1, unless authorized in compliance with Subsection D (additional height with a Minor Use Permit approval).”

Zoning Code Section 20-30.060(H)(1), Screening, states “proposed development within commercially or industrially zoned sites that are adjacent to any residential zoning district shall provide screening between districts, subject to Design Review.”

Pursuant to Zoning Code Section 20-52.030, Design Review, multi-family residential and non-residential uses are subject to the Design Review process.

As identified above, Zoning Code Section 20-30.060(C), Height Limits, references fences in “residential zoning districts”, but does not distinguish between single-family residential and multi-family residential zones. However, given the fence height limitations outlined in 20-30.060(C), which are typical of single-family residential uses, and the associated diagram in Figure 3-4, which depicts detached single-family residences, it is determined that the intent of Section 20-30.060(C) and (D) is that it applies to single-family residential uses only.

Based on Section 20-30.060(C) and 20-30.060(H)(1), it is further determined that Design Review is required for the construction of fences, walls and screening on multi-family residential and non-residential properties. As such, the associated Design Review findings, as well as the Design Review fees identified in the Planning and Economic Development Department’s Fee Schedule would apply.

This determination is consistent with the General Plan.

Date: 6-7-17


Jessica Jones
Zoning Administrator

OFFICIAL ZONING CODE INTERPRETATION (No. 15)
(Zoning Code Section 20-36.070)

ZONING CODE PROVISION INTERPRETED:
Section 20-36.070, Parking Design Standards

At issue is, when a single-family residential two-car garage is converted into a single-car garage and living space, can both driveway spaces be counted toward the required on-site parking, including the space left in front of the newly converted living area.

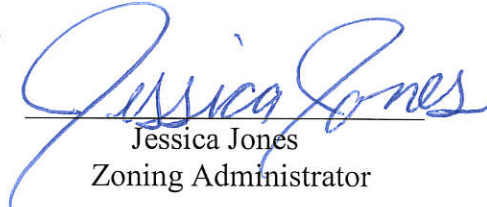
Zoning Code Section 20-36.070(A)(2) states “parking facilities other than driveways shall not be located in a required front or street side setback.”

Zoning Code Section 20-36.080(B), Single-Family Uses, states “each single-family dwelling shall provide a continuous paved driveway from the street to the required parking area.”

Pursuant to Zoning Code Section 20-36.070(A)(2), a two-car driveway would not be permitted in front of a newly constructed single-car garage. However, it is determined that, for an existing two-car garage, with an existing two-car driveway, if a portion of the garage is converted into living space, the existing two car driveway can be retained and used for vehicular parking.

This determination is consistent with the General Plan.

Date: 6-7-17


Jessica Jones
Zoning Administrator

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.”

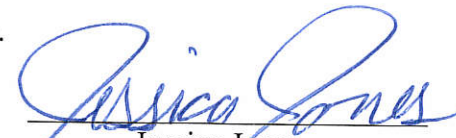
Zoning Code Section 20-52.030(B)(2), Design Review – City Projects, states that “the Design Review Board shall review each Building Permit application for a development project by any City agency or department, for which review is required by Subsection B (Applicability), above. Notwithstanding other 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

OFFICIAL ZONING CODE INTERPRETATION (No. 17) **(Zoning Code Section 20-30.040)**

ZONING CODE PROVISION INTERPRETED:
Section 20-30.040, Creekside Development

At issue is whether or not the following elements can be located within a required creekside setback: (1) a pathway, either public or private, with a paved or unpaved surface; (2) an overhanging/cantilevered portion of a structure; (3) a second story addition to a single-story, single-family residence that is located within the required setback.

Zoning Code Section 20-30.040(B), Applicability, states the following: “No structure, including buildings of any type, swimming pools, including prefabricated swimming pools, driveways, streets, parking areas, patios, platforms, decks, fences, liquid storage tanks, mobile homes, broken concrete rubble, earth fill or other structural debris fill, or retaining walls, shall be placed within the creekside setbacks required by this Section.”

Citywide Creek Master Plan Section 1.3, Creeks in Santa Rosa, refers to access roads that occur along most of the approximately 35 miles of creeks, many of which are open to the public and serve as pathways for pedestrians and bicyclists. Figures 3-3 (Modified Natural Channel) and 3-4 (Modified Channel) in Chapter 3, Plan Concepts, also illustrate both paved and unpaved access road/trails within the creekside setback.

The following goals, policies and objectives of the Santa Rosa General Plan, Citywide Creek Master Plan and Design Guidelines speak to pathways along creeks:

General Plan:

- OSC-B-3 Require that new subdivisions, multifamily, and non-residential development abutting creek corridors are appropriately designed with respect to the creek. Development may orient toward the creek as an amenity, but adequate setbacks shall be used to ensure riparian habitat is protected.

- OSC-D-9 Ensure that construction adjacent to creek channels is sensitive to the natural environment. Ensure that natural topography and vegetation is preserved along the creek, and that construction activities do not disrupt or pollute the waterway.

- OSC-D-10 Orient development and buildings toward creeks, while providing privacy, security, and an open transition between public and private open spaces.

- OSC-D-11 New development along channelized waterways should allow for an ecological buffer zone between the waterway and development. This buffer zone should also provide opportunities for multi-use trails and recreation.

- OSC-D-12 New development should maintain an adequate setback from channelized waterways to recognize the 100-year flood elevation, and allow for stream corridor restoration. Setbacks identified in the Zoning Code should serve as minimum setbacks. Larger setbacks are encouraged in accordance with Restoration Concept Plans to meet restoration and enhancement goals.

- OSC-F Construct trail corridors and other recreational opportunities along local waterways.
- OSC-F-1 Accommodate connections to regional trail systems that enhance or support the creek trail systems network.
- OSC-F-2 Cooperate with various public and private entities to create new public access trails along creeks to parks and open spaces within the Urban Growth Boundary, as well as connections to regional trail systems.

Citywide Creek Master Plan:

- HA-1-2 Meet or exceed the required creek setback distance to provide ecological buffers, recognize the 100 year floodplain, and allow for stream corridor restoration. Development shall locate outside the creek setback, as defined within the Santa Rosa Zoning Code.
- EC-1 Implement policies for development adjacent to waterways as stated in the City’s General Plan, Zoning Code, Design Guidelines, Santa Rosa Creek Design Guidelines Manual, and the Citywide Creek Master Plan.

Required improvements by developers of public pathways and related amenities shall be considered by the Waterways Advisory Committee and decision-making bodies. The proportionate share of the cost of such improvements may reflect the benefit to the development of immediate access to the creek trail system, the number of dwelling units in a residential project or the size of an industrial or commercial project, regardless of the length of property frontage along the creek.
- EC-1-3 The design of new development adjacent to the creek shall, to the extent possible, allow for future public improvements consistent with the Master Plan.
- RT-1 Develop multi-use paths.

“Soft” and “hard” refer to the surface of the path, suitable for different intended users. While new pathways must comply with Americans with Disabilities Act (ADA requirements for accessibility, which typically involves a hard paved surface, soft paths adjacent to or near ADA-compliant paths provide an additional amenity favored by equestrians, all-terrain bicyclists, and pedestrians.

Design Guidelines:

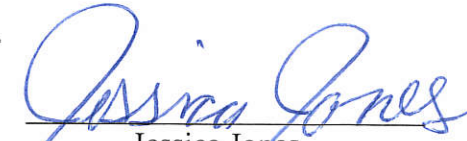
- 4.4.I.H. To coordinate development with approved creek plans and provide pedestrian and bike paths along creeks when called for in approved plans.
- 4.4.I.I. To incorporate pedestrian/bike paths as an ancillary use on existing vehicle service roads along creeks.

Although Zoning Code Section 20-30.040(B) could be interpreted to include trails in the list of items that must comply with the creekside setback, the goals, policies and objectives of the General Plan, Citywide Creek Master Plan and Design Guidelines speak to allowing trails within the creek setback. Therefore, it is determined that trails, both public and private, paved or unpaved, are allowed within the creekside setback.

Zoning Code Section 20-30.040(B) clearly states that all private development shall comply with the creekside setbacks required by this Section. Therefore, it is determined that overhangs/cantilevered portions of structures and second story additions to single-story, single-family structures that are located within the required setback shall also comply with the creekside setbacks.

This determination is consistent with the General Plan.

Date: 6-7-17



Jessica Jones
Zoning Administrator

OFFICIAL ZONING CODE INTERPRETATION (No. 18)
(Zoning Code Section 20-23.030, Table 2-6, and Section 20-24.030, Table 2-10)

ZONING CODE PROVISION INTERPRETED:

Section 20-23.030, Table 2-6, Allowed Land Uses and Permit Requirements for Commercial Zoning Districts, Note 4; and Section 20-24.030, Table 2-10, Allowed Land Uses and Permit Requirements for Industrial Zoning Districts, Note 3

At issue is what is meant by the term “abut” in Zoning Code Table 2-6, Note 4, and Zoning Code Table 2-10, Note 3, and whether it includes properties located across a creek or highway. Also at issue is what is meant by “the use, specific suite, or its associated operations” in Table 2-10, Note 3.

Zoning Code Table 2-6, Note 4, states the following: “Minor Conditional Use Permit required when site abuts residential zoning district or parcel with residential use.”

Zoning Code Table 2-10, Note 3, states the following: “Minor Conditional Use Permit required if the use, specific suite, or its associated operations abuts a residential zoning district or parcel with a residential use.”

Zoning Code Chapter 20-70, Definitions, defines the term “abut” as “having property lines, street lines, or zoning district lines in common.”

The phrase “the use, specific suite, or its associated operations” was added to the Zoning Code to address large, multi-tenant industrial sites, where a residential property may only abut a portion of the site. The intent was that if a proposed use would be located on a portion of a site, or in a specific suite, that is not directly abutting a residential property, then the impacts would be reduced and a Minor Conditional Use Permit (MUP) would not be necessary.

Based on the Zoning Code definition of “abut”, it is determined that a property, use, specific suite, or its associated operations that is directly adjacent to and sharing a property line, street line or a zoning district line to a residential property would be abutting.


The intent of requiring an MUP is to provide discretionary review for proposed uses that could have a potentially negative impact on a residential use or zone, such as noise or glare from lights.

Due to the varying widths of creeks within Santa Rosa, as well as their low impact use, the presence of a creek located between two properties that abut would not necessarily negate the potential negative impacts. Therefore, it is determined that a property, use, specific suite, or its associated operations that abuts a residence or residential zone, but is separated by a creek, shall require an MUP.

However, given the width of both Highway 101 and 12, as well as the higher impact use and related light and noise, the presence of a highway located between two properties that abut would likely reduce the potential negative impacts. Therefore, it is determined that a property, use, specific suite, or its associated operations that abuts a residence or residential zone, but is separated by Highways 101 or 12, does not require an MUP.

This determination is consistent with the General Plan.

Date: 6-7-17


Jessica Jones
Zoning Administrator

OFFICIAL ZONING CODE INTERPRETATION (No. 19)
(Zoning Code Sections 20-24.030, Table 2-10, and 20-70.020)

ZONING CODE PROVISION INTERPRETED:

Section 20-24.030, Table 2-10, Allowed Land Uses and Permit Requirements for Industrial Districts, and Section 20-70.020(M), Definitions of Specialized Terms and Phrases

At issue is what activities are permitted for the **Distilled Spirits - Production** land use, specifically in regards to on-site tasting and retail sales. Zoning Code Interpretation No. 5, dated December 4, 2014, determined that distilled spirits production shall be included in the definition of “Manufacturing/Processing – Light: Food and Beverage Product Manufacturing”. Zoning Code Section 20-70.020 defines that use as follows:

“Manufacturing/Processing - Light. A facility accommodating manufacturing processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. Examples of light manufacturing uses include the following: *(note: only “food and beverage product manufacturing” definition has been included as it is the only relevant category)*

3. Food and Beverage Product Manufacturing. Manufacturing establishments producing or processing foods and beverages for human consumption, and certain related products. Examples of these uses include:

- Bottling plants
- Bred factories
- Candy, sugar and confectionery products manufacturing
- Catering services separate from stores or restaurants
- Coffee roasting
- Dairy products manufacturing
- Fats and oil product manufacturing
- Fruit and vegetable canning, preserving, related processing
- Grain mill products and by-products
- Meat, poultry, and seafood canning, curing, byproduct processing
- Soft drink production
- Miscellaneous food item preparation from raw products

Does not include: bakeries (see ‘Restaurant, Café, Coffee Shop’ – 1. ‘Counter Ordering’); beer brewing (see ‘Brewery’); or wine production (see ‘Winery’).”

While the definition lists examples of the land uses that fall within this category, it does not provide direction on the types of activities that could occur on premises. For example, the definition of **Brewery – Production** includes the statement that, “Breweries may also serve beverages on-site, and sell beverages for off-site consumption in keeping with the regulations of the Alcoholic Beverage Control (ABC) and Bureau of Alcohol, Tobacco, and Firearms (ATF).” The definition of **Winery – Production** states that “Use includes fruit processing, fermentation, pressing, barrel and bottle storage, bottling, wine tasting, and direct retail sale of wine.”

Because the business model and operational activities of distilled spirits production facilities are similar to those of brewery and winery production facilities, is determined that on-site tasting of spirits and direct retail sale of spirits in keeping with the regulations of the Alcoholic Beverage Control (ABC) and Bureau of Alcohol, Tobacco, and Firearms (ATF) are acceptable on-site activities for the **Distilled Spirits – Production** land use.

This determination is consistent with the General Plan.

Date: 6.7.2017



Patrick Streeter
Zoning Administrator

OFFICIAL ZONING CODE INTERPRETATION (No. 22) **(Zoning Code Section 20-44.060. F.19, Habitable Structure Setback)**

ZONING CODE PROVISION INTERPRETED: Section 20-44.060. F.19 Design guidelines for major commercial telecommunication facilities, habitable structure setback.

Issue

At issue is (1) how the 75-foot habitable structure setback is measured from a major commercial telecommunications facility and (2) what is meant by “habitable structure” in the context of Section 20-44.060F.19.

Section 20-44.060. F.19 of the Telecommunications Chapter of the Zoning Code requires that:

“All major commercial telecommunication facilities shall be located at least 75 feet from any habitable structure, except for a habitable structure on the property in which the facility is located.”

Background

This requirement is one of 19 design guidelines listed in Section 20-44.060 of the Telecommunications Chapter of the Zoning Code, which states all commercial telecommunications facilities “...to the greatest extent possible ... shall be sensitively designed and located to be compatible with and minimize visual impacts to surrounding areas.” The design guidelines, including the subject habitable structure setback, govern the location and design of commercial telecommunication facility site improvements to accomplish this goal.

Chapter 7 (Glossary) of the Zoning Code defines the following relevant terms.

Dwelling, Dwelling Unit, or Housing Unit. A room or group of internally connected rooms that have sleeping, cooking, eating, and sanitation facilities, but not more than one kitchen, which constitute an independent housekeeping unit, occupied by or intended for one household on a long-term basis.

Guest House. A detached structure accessory to a single-family dwelling, accommodating living/sleeping quarters, but without kitchen or cooking facilities. A guest house does not constitute an independent housekeeping unit, occupied by or intended for one household, on a long term basis.

Habitable Space. Space within a dwelling unit for living, sleeping, eating, or cooking. Space within a guest house for living/sleeping but no cooking.

Residential Accessory Use or Structure. Any use and/or structure that is customarily a part of, and clearly incidental and secondary to a residence, and does not change the character of the residential use. This definition includes the following detached accessory structures, and other similar structures normally associated with a residential use of property. See also “Agricultural Accessory Structure.”

- garages and carports
- greenhouses (non-commercial)
- guesthouses
- gazebos
- spas and hot tubs

- storage sheds
- studios
- swimming pools
- tennis and other on-site sport courts
- workshops

Also includes the indoor storage of automobiles (including their incidental restoration and repair), personal recreational vehicles and other personal property, accessory to a residential use. Does not include: second units, which are separately defined; or home satellite dish and other receiving antennas for earth-based TV and radio broadcasts (see “Telecommunications Facilities”).

Telecommunications. The following terms are defined for use with Chapter 20-44 (Telecommunications Facilities).

3. Telecommunications Antennas. Broadcast and receiving antennas for radio, television, telegraph, telephone, wireless data network, and other wireless communications, including earth stations for satellite-based communications. Includes support structures and ancillary equipment buildings. Does not include telephone, telegraph and cable television transmission facilities utilizing hard-wired or direct cable connections.

4. Telecommunications Facilities. Structures other than telecommunications antenna equipment buildings that are primarily for accommodating equipment for any of the following or similar services.

- a. A telephone service provider, whether wireless or non-wireless, digital or analog, or otherwise where customer or subscriber lines are joined or connected to switching equipment that connects customers or subscribers to each other. Includes telephone switching facilities.
- b. A data center housing one or more large computer systems and related equipment for collecting, maintaining, and/or processing data, and providing other data processing services.
- c. A “server farm,” or group of computer network servers that are housed in one location.

Includes equipment facilities for Internet service providers.

5. Telecommunication Tower. A mast, pole, monopole, guyed tower, lattice tower, freestanding tower, or other structure designed and primarily used to support antennas. A ground or building mounted mast no more than 12 feet in height and six inches in diameter shall not be considered a telecommunication tower.

Interpretation

Habitable Structure. Habitable structure is an undefined term that is only used in Chapter 20-44 (Telecommunications Facilities) of the Zoning Code. “Habitable space” is the term defined by the Zoning Code that best corresponds with habitable structure. The habitable space definition includes “dwelling”, which is also defined by the Zoning Code. Using these two defined terms together, habitable structure is interpreted to mean a structure on a permanent foundation with connected living, sleeping, eating, or cooking spaces occupied by one household or family on a long-term basis (i.e., more than 30-days). Examples include but are not limited to a Single-Family Dwelling, Multi-Family Dwelling, Second Units (aka accessory dwelling unit or junior accessory dwelling unit), Supportive Housing, Transitional Housing, etc. Habitable structure does not include “garage, or carport” or “guest house” as these uses are defined by the Zoning Code as a type of “residential accessory use or structure” and they do not provide housekeeping space necessary for long-term residential occupancy. Nor does Habitable Structure include any transient residential occupancy of structure or use (i.e., 30 consecutive days or less) including but not limited to “hotel or motel”, “recreational vehicle”, and “recreational vehicle park”.

Habitable Structure Setback. The 75-foot Habitable Structure Setback is measured as the shortest distance from a major commercial telecommunications facility to the nearest exterior wall of the closest habitable structure. Based on the above Zoning Code definitions, the measurement is taken from any of the following structures and equipment that is closest to the nearest habitable structure: telecommunications tower, mounted antenna, and any supporting antenna equipment building. Structures not subject to this setback requirement include the fencing enclosing the facility, and any buildings containing equipment serving telephone service providers, data centers, and server farms.

General Plan Consistency

This determination is consistent with the General Plan including the following policy.

UD-A Preserve and enhance Santa Rosa’s scenic character, including its natural waterways, hillsides, and distinctive districts.

UD-A-5 Require superior site and architectural design of new development projects to improve visual quality in the city.

Date: December 18, 2018

Andy Gustavson

Andy Gustavson
Zoning Administrator



OFFICIAL ZONING CODE INTERPRETATION (No. 24)
LED Display Menu Boards

ZONING CODE PROVISION INTERPRETED:
Section 20-38.080(C), Prohibited Signs

Purpose: Exempt LED menu boards at drive-thru restaurants from Zoning Code Section 20-38.080(C).

Zoning Code Section 20-38.080(C) currently reads: *“Moving, flashing, electronic/digital and windblown signs. No moving, rotating, flashing, or changing of color intensity or signs with electronic/digitally created content (i.e., electronic reader board signs), and no windblown signs, such as posters, pennants, streamers, or strings of light bulbs, balloons, or other inflated objects are permitted. The only exceptions to these requirements are time and temperature devices and signs installed by a governmental agency in carrying out its responsibility to protect public health, safety and general welfare.”*

Discussion: The above Zoning Code Section is intended to prohibit moving signs that have animated advertising content. These signs are located and designed to communicate about a business or solicit business activity by attracting the general public’s attention from the public right of way. As noted above, exceptions to this prohibition are certain moving signs that display non-advertising information, such as time and/or temperature, or government warning messages.

LED menu boards at drive-thru restaurants are unlike prohibited moving signs in that they are neither located at nor designed to be highly visible to the general public within the public right of way. They are located at the point-of-sale alongside the restaurant drive-through lane and are directed towards the patron who has already decided to purchase a meal at the restaurant. While in some cases these signs can be seen from a public right of way, information on a menu board is intended to be read by the restaurant patron. LED menu boards are similar to exempted moving LED time and temperature devices in that they also display changing information, this case menu items and pricing. The ease of changing this information, without have to physically expand or replace the sign face, has made the LED menu board the drive-thru restaurant industry standard. The LED menu boards may be more easily read by patrons; many light-sensitive LED display panels respond to ambient light levels reducing light output in low light and night time environments, which is a superior design when compared to traditional non-digital menu boards.

Determination: LED menu boards at a drive-thru restaurant are a type of non-advertising information sign that is exempt from the Zoning Code Section 20-38.080(C), Prohibited Signs. However, a Sign Permit is required for the installation of LED menu board at drive-thru restaurant to appropriately limit the placement, size, and number of such signs in accordance with Chapter 20-38 (Sign Regulation).

This determination is consistent with the General Plan.

Date: December 18, 2018

A handwritten signature in blue ink that reads "Andy Gustafson".

Zoning Administrator

OFFICIAL ZONING CODE INTERPRETATION (No.26)
(Zoning Code Section 20-24.030, 20-46.080, 80-70.020)

ZONING CODE PROVISION INTERPRETED:

Section 20-24.030, Table 2-6, Allowed Land Uses and Permit Requirements for Commercial Zoning Districts, Table 2-10, Allowed Land Uses and Permit Requirements for Industrial Districts, Section 20-46.080(F)(10) Cannabis Retail (Dispensary) and Delivery, and Section 20-70.020, Definitions of Specialized Terms and Phrases

At issue is what land use classifications and permit regulations apply for industrial hemp supply chain uses and the retail sale of hemp derived CBD products. Industrial hemp has recently been defined in the California Health and Safety Code as *“a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom.”* Therefore, any area of the zoning code that references an agricultural crop, product, processing, production, or the like is interpreted to include industrial hemp.

Industrial Hemp Supply Chain Land Uses

Hemp Processing

Zoning Code Section 20-24.030 provides regulations for the industrial district land uses and permit requirements. As identified in Table 2-10, “agricultural product processing” is interpreted to include the processing of industrial hemp.

Hemp Distribution/Packing

Table 2-10, “warehouse, wholesaling and distribution” also includes the ability to facilitate the distribution and packaging of industrial hemp.

Hemp Manufacturing

Table 2-10, “manufacturing” (including light, medium, heavy) includes the ability to facilitate the manufacturing of industrial hemp.

Industrial Hemp Products and Hemp Derived CBD Products

Zoning Code Section 20-23.030, Commercial District Land Use and Permit Requirements. It is interpreted that retail businesses that sell industrial hemp products and hemp derived CBD products be allowed as “general retail” pursuant to the land use Table 2-6.

Product Types

Businesses that sell food and beverage products that include hemp derived CBD shall be required to obtain a Sonoma County Health Permit.

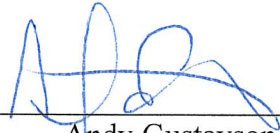
Advertising and Signage

Zoning Code Section 20-46.080(F)(10) regulates cannabis retail and delivery operations. In order to provide consistency in youth protections it is interpreted that businesses that sell hemp derived CBD products adhere to similar requirements as follows:

Business that sell hemp derived CBD products shall not advertise or market hemp or hemp derived CBD products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

This determination is consistent with the General Plan.

Date: 3/2/2020



Andy Gustavson
Zoning Administrator



OFFICIAL ZONING CODE INTERPRETATION (No. 27)

Mobile Food Vending: Concentration

ZONING CODE PROVISION INTERPRETED:

Section 20-42.210(C)(2), Mobile food vending: Concentration

Purpose: Clarify that multiple mobile food vendors are permitted on a single parcel, subject to a Minor Use Permit.

Section 20-42.210(C)(2), Mobile food vending; Concentration, states “no mobile food vendor shall locate within 200 feet of another approved mobile food vending location”.

Discussion: The intent of this section was that “no mobile food vendor shall locate within 200 feet of another approved mobile food vending location” on a separate parcel. The distance shall be measured between the mobile food vendors (not from property lines). Multiple mobile food vendors are permitted on a single parcel, as determined by the Minor Use Permit.

Determination: This determination clarifies that the intent of this section was is to permit multiple mobile food vendors on a single parcel, as determined by the Minor Use Permit.

This determination is consistent with the General Plan.

Date: December 18, 2018

Zoning Administrator



OFFICIAL ZONING CODE INTERPRETATION (No. 31)

Creekside Development: Creekside setback requirements: Channelized waterway

ZONING CODE PROVISION INTERPRETED:

Section 20-30.040(D)(3), Creekside setback requirements: Channelized waterway

Purpose: Clarify that structures may locate closer to the top of a creek than a distance of 2.5 times the depth of the bank plus 50 feet when they are adjacent to a fully channelized waterway within the City that is owned or controlled by the City or by Sonoma Water (formerly called Sonoma Water Agency), subject to approval by the Planning and Economic Development Department, the Water Department, and additionally, by Sonoma Water for projects adjacent to channelized waterways owned or controlled by Sonoma Water.

Section 20-30.040(D)(3), Creekside setback requirements: Channelized waterway, states “Where a fully channelized waterway exists and the channel is owned by, or under the control of the Sonoma County Water Agency, structures may be closer to the top of the bank than a distance of 2.5 times the depth of the bank plus 50 feet, provided that this encroachment into the setback area will not obstruct or impair the channel’s hydraulic functions, impede Water Agency access or maintenance of the channel, or impair the stability of the slope, bank, or maintenance of the channel, or impair the stability of the slope, bank, or creekbed fountain, all as determined by and approved by the Department, the Public Work (sic) Department, and the Sonoma County Water Agency.”

Discussion: The Planning and Economic Development Department, the Water Department, and Sonoma Water agree the intent of Section 20-30.040(D)(3) (1) applies to any channelized waterway in the City owned or controlled by the City of Santa Rosa or by Sonoma Water, and (2) additional approval is required by Sonoma Water when proposed channelized creek setback reduction is adjacent to a fully channelized waterway owned or controlled by Sonoma Water.

Determination: This determination clarifies that: (1) any fully channelized creek within the City that is owned by the City of Santa Rosa or Sonoma Water may be eligible for a creekside setback reduction as set forth in Section 20-30.040(D)(3); and (2) Sonoma Water approval is required in addition to the Planning and Economic Development Department and the Water Department when the channelized creek setback reduction is requested adjacent to a channelized waterway owned or controlled by Sonoma Water. Where the channelized waterway is owned or controlled by the City, approval by the City’s Planning and Economic Development Department and the City’s Water Department is required.

This determination is consistent with the General Plan because the intent of this interpretation is to clarify the setback exception review process for fully channelized waterways which do not have any riparian or biotic function and therefore do not warrant the environmental protections regulated under the General Plan.

Date: December 16, 2020

Andy Gustavson

Zoning Administrator