



Sonoma County Planning Commission STAFF REPORT

FILE: Zoning Code Modernization ORD17-0002
DATE: August 20, 2020
TIME: At or after 1:10 p.m.
STAFF: Doug Bush, Project Planner

A Board of Supervisors hearing on the project will be held at a later date and will be noticed at that time.

SUMMARY

Applicant: County of Sonoma
Supervisory District(s): All
Description: Staff-prepared Zoning Code Amendment to reorganize and reformat Chapter 26 of the Sonoma County Code and make updates to comply with state and federal law.
CEQA Review: Exempt from the California Environmental Quality Act pursuant to Cal. Code Regulations, Title 14, § 15061(b)(3), exempting activities where it can be seen with certainty that there is no possibility that the activity may have an adverse effect on the environment.
Ordinance Reference: Sonoma County Code Chapter 26 – Sonoma County Zoning Regulations

RECOMMENDATION

Approve a resolution recommending that the Sonoma County Board of Supervisors adopt the draft Sonoma County Zoning Code sections.

EXECUTIVE SUMMARY

Permit Sonoma staff utilize the Zoning Code (henceforth the “Code”) every day and receive daily land use and zoning inquiries from the public to clarify and interpret the Code. The questions typically relate to permitted land uses or applicable development standards on an individual parcel – i.e., whether a hair salon can be operated in a vacant building. With today’s Code, this question is difficult to answer without the assistance of a planner. The Code defines the standards and regulations governing land uses within defined Zoning Districts, development standards, as well as standards and procedures for application review. The Zoning Code is one of 58 chapters of the Sonoma County Code; it is over 550 pages long and has 55 sub-sections (“Articles”).



The Code has not been comprehensively updated since the 1960s; incremental changes and updates over time have created a repetitive and cumbersome regulatory document that lacks basic diagrams, contains outdated planning terminology, has a complicated document structure, and has internal inconsistencies.

The Zoning Code Modernization project is a phased approach intended to address these issues while also creating a document that will better facilitate policy implementation in decades to come. This report focuses on the first of these phases: Phases 1 (reformatting and reorganization) and 2 (changes necessary to comply with state and federal law). With the assistance of a code consultant, Permit Sonoma prepared draft code Articles that reformat and reorganize the land use and development standards in the Zoning Code to create a user-friendly format. Substantive changes were made only where necessary to maintain consistency with new state and federal law (Phase 2; see below). To summarize, the proposed amendments to the Code:

1. Create a more functional organization of base zoning district sections, using a tabular format.
2. Eliminate unnecessary text repetition through land use and development standards for each zone.
3. Improve navigation with cross-referencing.
4. Update regulations for consistency with state and federal law, as detailed in the analysis section below.

Attachment 2 contains all draft articles that are the focus of this report. Attachment 3 contains “dispensation tables” that clarify the connections between existing and draft articles. Attachment 3 is intended to facilitate review of the draft articles, while also carrying forward references to ordinance history.

PROJECT CONTEXT

REVIEW

The table below summarizes prior actions undertaken for the Project and tentative dates of future hearings.

| Date | Review Body | Action Taken |
|--------------------|----------------------|--|
| 1999 | Board of Supervisors | Directs staff to complete a comprehensive zoning code update. |
| 1999-2017 | Permit Sonoma | Permit Sonoma explored several iterations of an updated zoning code format that were not ultimately completed. |
| July-December 2019 | Staff Review | Planning staff reviewed and tested land use tables through daily use. Tables were updated as needed based on staff feedback. |
| 05/30/2019 | Planning Agency | Scope of project introduced in public meeting. No action taken. |
| 8/20/2020 | Planning Commission | TBD |
| TBD | Board of Supervisors | TBD |

BACKGROUND

The General Plan dictates overarching policy on how and where the County will accommodate physical growth and change. The Zoning Code is the primary tool for implementing the General Plan and for regulating land use and development. The Zoning Code applies General Plan policies on a parcel-specific scale, regulating land uses, site planning, and design. The Zoning Code also specifies the type of permits required for various projects and the responsible review authority. The Zoning Code regulates development in several ways, including by identifying allowable land uses by zoning district and specifying development standards.



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PROJECT DESCRIPTION

The code is over 550 pages long and has not been comprehensively updated since it was originally drafted in 1968. Multiple amendments and new ordinance language have been added over time, resulting in redundancies and poor readability. In addition, the Code has become outdated in its lack of basic graphics and document structure. The code is difficult to decipher and use, resulting in significant inefficiencies during project review.

To address these issues, planning staff was directed by the Board of Supervisors to initiate a comprehensive overhaul of the Code in 1999. Staff initially attempted to update the entire Code through a single draft document that included reorganization and policy changes. A draft was not adopted because of the multitude of policy issues that are affected by a wholesale update to the code. In 2017, staff revived the code update effort with a revised incremental approach that segmented the process into phases with the support of a code consultant. The Zoning Code Modernization Project is structured as follows:

- Phase 1 – Organization/formatting
- Phase 2 – State and Federal law consistency clarifications and policy updates
- Phase 3 – Code streamlining to create ministerial review programs
- Phase 4 – Broader policy updates

This item presents a proposed code update covering Phases 1 and 2.

PHASE 1: REFORMAT, REORGANIZE, AND MODERNIZE. NO POLICY CHANGES.

Phase 1 reorganizes existing information about allowable uses and development standards for each base zoning district into tables. A tabular model is consistent with best practices and modernized code structure, and is already implemented in Santa Rosa, Windsor, Sonoma, Petaluma, and most other California jurisdictions. Tables create a clear, readable format and significantly reduce redundancy.

Article Consolidation

The proposed tabular format organizes information on allowable uses and development standards by broad land use categories that represent all zoning districts. For instance, all commercial zoning district Articles are proposed as a consolidated “Commercial Zones” Article. The proposed code thus consolidates articles 2 through 52 (26 articles in total) into 15 new articles (4 through 30). Figure 1 provides an example of the consolidation and Attachment 3 provides disposition tables tracking connections between existing and proposed code sections.

Figure 1 - Example of Article Consolidation (See Attachment 4 for full chart)

| Existing Article | Phase 1 Article |
|------------------------------------|-----------------------------------|
| Sec. 26-02-140 Definitions | 4 Glossary |
| 4 Land Intensive Agriculture | 6 Agricultural and Resource Zones |
| 6 Land Extensive Agriculture | |
| 8 Diverse Agriculture | |
| 10 Resources and Rural Development | |
| 14 Timberland Production | |



Land Use Tables

Sonoma County regulates land use through zoning districts. Each district is assigned “permitted uses” (those that are wholly consistent with the intent of the zoning district), “conditionally permitted uses” (uses that may be compatible with the intent of the district but may need to be carefully “conditioned” to ensure compatibility), and unpermitted uses, which by exclusion, are inappropriate and therefore not allowed in the district. The Zoning Code is a “permissive code” meaning that a use is considered to be prohibited unless it is specifically listed as permitted, conditionally permitted, or is determined to be substantially consistent with a listed use. Each zoning districts ultimately implements a General Plan land use designation and must be consistent with the General Plan.

For example, the code contains eight commercial zones, each with a list of permitted uses and another list of conditional uses. To identify where a particular commercial use can be developed, a planner or member of the public must review approximately 40 pages of lists to evaluate whether the desired use is listed, and if so, whether it is permitted or conditionally permitted.

The proposed tabular format simplifies this process by unifying all eight commercial districts into one article with a land use table that identifies whether a use is prohibited, permitted, or conditionally permitted (Figure 2). Using these land use tables, Phase 1 consolidates the permitted and conditional use lists from 26 land use articles into six simple tables. Permit Sonoma staff has tested the tables to validate information and vet the procedural steps necessary for looking up that information. The tables are the preferred method of quickly identifying permitted and conditional uses.

The tables use the following symbols to clarify the permitting and review criteria for each land use:

- “P” indicates the use is a “permitted” use for the district, subject to standard review criteria.
- “C” indicates a “conditionally permitted” use subject to standard review criteria and use permit criteria.
- “-” indicates a prohibited use.

The land use tables include direct links to other code articles that may further regulate a land use. This includes references to general development standards by zone (as discussed below), and special use standards that may be listed in Chapter 88 of the code, titled “General Exceptions and Specific Use Standards”.

Figure 2 - Example of Land Use Table Format (Portion of Commercial Land Use Table)

| Table 10-1: Allowed Land Uses in Commercial Zones | | | | | | | | | |
|---|-------|----|----|----|----|----|----|---|-----------------|
| Land Use | Zones | | | | | | | | Use Regulations |
| | CO | C1 | C2 | C3 | LC | CR | AS | K | |
| Maintenance and Repair Service, Non-Vehicular | - | - | P | P | - | - | - | - | 26-28-140 |
| Medical Services | | | | | | | | | |
| Hospitals | C | C | - | - | - | - | - | - | 26-28-150 |
| Offices and Outpatient Care | P | - | - | - | P | C | - | - | 26-28-160 |
| Personal Services | - | P | P | - | P | P | - | C | 26-28-170 |
| Professional Office | P | P | P | - | P | - | - | P | 26-28-180 |

Development Standards Tables

Like land uses, general development standards by zoning district (e.g., setbacks, height limits) are currently distributed throughout 26 land use articles for each zoning district. The proposed code reorganization consolidates these general standards into clear tables, also grouped by land use category (Figure 3).

Figure 3 Example Development Standards Table (Residential)

| Standard | Zones | | | | | Supplemental Standards |
|------------------------------|----------------|------|-------|-------|-------|------------------------|
| | AR | RR | R1 | R2 | R3 | |
| Residential Density | | | | | | 26-8-040.G; 26-20-020 |
| Min. Acres per Dwelling Unit | 1-20 | 1-20 | N/A | N/A | N/A | |
| Max. Dwelling Units per Acre | N/A | N/A | 1-6 | 6-12 | 12-20 | |
| Lot Size (min. sq. ft.) | See 26-8-040.H | | 6,000 | 6,000 | 6,000 | 26-8-040.H; 26-20-030 |
| Lot Width (min. ft.) | 80 | 80 | 60 | 60 | 80 | |

PHASE 2: MAINTAINING LEGAL CONSISTENCY

State law changes regularly and these changes often affect local land use. Because the Zoning Code is the primary document for implementing land use regulations, changes at the State level often require code updates. While Permit Sonoma prepares code updates regularly to maintain consistency with State and Federal regulations, the Phase 1 review of the code revealed several opportunities to improve consistency with state and federal law. Phase 2 includes code amendments to resolve consistency issues involving large family



daycares, manufactured homes, and cultural events as described below. These changes are made to reflect state law that preempts conflicting local ordinances or otherwise limits local discretion to regulate.

1. Large Family Daycare

Under the California Child Day Care Facilities Act (Cal. Health & Safety Code, §§1596.70 et seq.), a small family daycare home, which may provide care for up to eight children, is considered a residential use. This means that a jurisdiction may not apply standards to small family daycares that do not otherwise apply to the dwelling housing the daycare. Prior to January 1, 2020, State law allowed the County to treat large family daycare homes (up to 14 children) differently, including requiring public notice, providing a right to appeal approvals, and other standards (see code Section 26-88-080 for other standards). With the passage of Senate Bill No. 234, effective January 1, 2020, large family day care homes must also be treated as a residential use of the property.

The proposed code update categorizes small and large family day care homes as residential uses and repeals the standards for large family day care homes contained in Section 26-88-080.

2. Manufactured homes

The existing Zoning Code imposes standards on manufactured homes that do not apply to dwellings built by other construction methods. For example, in the Diverse Agricultural Zone, a manufactured home without a permanent foundation is required to be occupied by the owner of the property or a relative of the owner. This requirement does not otherwise apply to a dwelling of conventional construction. Government Code 65852.3-65852.5 limits the requirements that may be imposed on most manufactured homes to roof overhang, roofing material, and siding material. Phase 2 code updates eliminate manufactured home standards to bring them into compliance with State law.

3. Cultural Events

“Occasional cultural events” are a permitted use in most zoning districts. Occasional cultural events are defined by the Code as, “Periodic special events such as parades, concerts, festivals, races and gatherings which attract, either by direct participation, or as spectators, a large gathering of people.” The Board of Zoning Adjustments, in its February 28, 2008 resolution clarified that a “large gathering” means 35 people or more, and defined “occasional” to mean no more than four events in any two-year period.

The following events are not considered “occasional cultural events”:

- An event conducted on a lot where a use permit has been obtained, provided that the outdoor event is within the scope of that permit
- An event conducted entirely within a building for which all necessary permits were received, provided that the events are within the scope of the use for which the building was permitted
- An event which has all of the following characteristics:
 - o No live amplified music
 - o No admission fee
 - o One day event, between 7am and 11pm
 - o Does not involve overnight sleeping
 - o Is not conducted more than one day in a thirty day period
 - o Is not advertised to the public at large



- Does not involve the sale of food or beverages

Where permitted, occasional cultural event applications are reviewed by County staff. If approved, the permits typically provide applicants with an advisory list of applicable Sonoma County Code standards concerning safety, sanitation, noise, parking, and other topics. In an effort to highlight these standards, facilitate consistent application and compliance, these standards are now written into the draft articles (Periodic Events 26-22-170). “Occasional cultural events” are now called “Periodic Events” and the definition expands the list above to include the longstanding 35-person trigger, and to specify that such events shall not occur more frequently than four times over a two-year period. Examples of Periodic Event frequencies within any 5-year period are provided below to illustrate the proposed code language (the list is not exhaustive):

| Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | 2-Year Average |
|--------|--------|--------|--------|--------|----------------|
| 2 | 2 | 2 | 2 | 2 | 2 |
| 1 | 3 | 1 | 3 | 1 | 2 |
| 4 | 0 | 4 | 0 | 4 | 2 |
| 0 | 0 | 4 | 0 | 1 | 2 |

FUTURE PHASES

Future phases will propose substantive changes to the Zoning Code, including permitting and review procedures, administration of the code, and implementation of future General Plan policies that may be necessary to implement a new General Plan. These potential changes have not been drafted and their content will be determined by future public processes. These future phases are currently referred to as Phase 3 and Phase 4 and are described below.

Phase 3: Streamlining and Process Improvements

The Zoning Code addresses the preparation, filing, processing, and evaluation of land use permit applications by County staff. The Code also identifies the appropriate decision-making authorities (e.g. Planning Director or Planning Commission) and sets criteria for the approval or denial of permit applications. Phase 3 is projected to address these processes and is anticipated to include more substantive changes to the code, such as measures to simplify application processes and streamline permit processing. Examples of issues that may be addressed in Phase 3 may include:

- Permit levels for different project types
- Scope of public noticing
- Clarity of findings and review criteria for project approvals
- Process for modification of previously approved projects
- Temporary use permit requirements and standards
- Clarity of residential design review processes
- Objective design review criteria
- Clarity of appeals processes



Phase 4: General Plan Implementation

Phase 4 of the Zoning Code Update will consider broad policy updates and may include integration of new policies and implementation programs in the future General Plan Update.

ATTACHMENTS

1. Draft Resolution
2. Draft Articles
3. Disposition Tables
4. Overview Disposition Table