

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.

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