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**Title:** Consideration of Amendments to the City of San Leandro Zoning Code related to Residential, Commercial and Industrial Uses; Brewpubs; Consignment Stores; Day Care Facilities; Parking; Wireless Telecommunications Facilities; Supportive and Transitional Housing; Warehouse/Storage Facilities; and General Text Updates.

**Sponsors:** Cynthia Battenberg

**Indexes:**

**Code sections:**

**Attachments:** 1. Proposed Amended Article 3 Definitions (excerpts only), 2. Proposed Amended Article 5 Resid Districts (excerpts only), 3. Proposed Amended Article 6 Comm & Prof Districts (excerpts only), 4. Proposed Amended Article 7 Industr Districts (excerpts only), 5. Proposed Amended Article 8 Open Sp District (excerpts only), 6. Proposed Amended Article 16 Developmt Regs, 7. Proposed Amended Article 17 Parking (excerpts only)

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Consideration of Amendments to the City of San Leandro Zoning Code related to Residential, Commercial and Industrial Uses; Brewpubs; Consignment Stores; Day Care Facilities; Parking; Wireless Telecommunications Facilities; Supportive and Transitional Housing; Warehouse/Storage Facilities; and General Text Updates.

**SUMMARY**

Staff has developed a set of proposed revisions to the various sections of the San Leandro Zoning Code in an effort to update it in response to recent changes in State and Federal legislation, and to continue the ongoing effort to modernize the Code and increase its flexibility in response to technological advancements and changing market demands. The proposed changes include new definitions for Consignment, Supportive Housing, Target Population, and Transitional Housing. Changes will also be made to existing definitions for Brewpub, Domestic Violence Safe House, Family, Group Housing, Homeless Shelters, Single Housekeeping Unit, and Warehousing - Wholesale/Retail Distribution Facilities and Warehousing-Storage Facilities. Changes are also proposed to the discretionary review process for Day Care Facilities; Home Improvement and Interior Décor; Industry, Custom; Supportive Housing; Transitional Housing; and Warehouse -Storage Facilities.

Additionally, several implementation actions are included to meet statutory definitions for Emergency, Supportive and Transitional Housing pursuant to the recently adopted Housing Element Update of

the City's General Plan, as well as, State law pursuant to SB745. These changes represent an effort to improve access to housing for all individuals and households, including persons with disabilities. Zoning Code amendments are also proposed in response to changes in Federal legislation regarding wireless telecommunications facilities and the timeframes under which they are required to be processed by local jurisdictions and the permitting process for certain types of wireless facilities. Minor changes are proposed to parking standards for Guest Parking, Multi-Family Residential, and Shared Parking. And finally, minor clean-up items are also included as part of this effort.

Proposed amendments to Zoning Code Articles 3, 5, 6, 7, 8, 16 and 17 are attached. Please note that the changes proposed follow the protocol for formal ordinance changes, i.e., **underlined and bolded** text represents new text proposed to the Zoning Code; ~~strike through~~ text represents text that is proposed to be eliminated.

This item is for information and comment only, and no formal action is required. Comments made will be forwarded to the Planning Commission for consideration at its August 20, 2015 public hearing, and also to the City Council, which is tentatively scheduled to hear this matter in September.

## **BACKGROUND & ANALYSIS**

### **Proposed Amendments**

The summaries below outline the proposed amendments to Articles 3, 5, 6, 7, 8, 16 and 17 of the San Leandro Zoning Code. The full set of proposed changes can be found in each of the attached exhibits. Only the affected portions of the Zoning Code were attached, wherever possible.

### **Proposed Amendments to Article 3, Definitions**

#### **Brewpub**

Staff is proposing to amend the definition for Brewpub in Section 1-304, Definitions in order to allow for more flexibility in the Code and to eliminate the requirement that they be attached to a restaurant. As brewpubs continue to experience a surge in popularity, these types of uses are deemed to be compatible as permitted uses in certain commercial districts, and as conditional uses in others - particularly when they have a primary retail presence, with their manufacturing component as a secondary use. The proposed change to the Brewpub definition is outlined below.

**Brewpub.** A small brewery **that includes food service** ~~attached to a restaurant~~ **or on-site tasting room** and producing **a limited amount of** beer ~~that is sold for consumption~~ **premises at a bona fide eating place,** ~~plus a limited amount of brewing of beer for consumption on the premises.~~ Additionally, the sale of beer for consumption off the premises where sold is also allowed.

#### **Consignment**

Staff has noted that consignment stores are not clearly defined in the Code. This change would provide a separate definition for consignment stores in Section 1-304 rather than grouping them in with "secondhand sales," as they are currently, in order to distinguish them from "thrift stores" and by more specifically defining that they involve the sale of gently-used, related items, such as clothing

and accessories or household furnishings and home decor.

**Consignment.** A retail establishment that accepts upscale merchandise and gently-used, related items, such as clothing and accessories, or home furnishings and household goods on a consignment basis, paying the owners of the merchandise a percentage when and if the items are sold. Related items means a clothing store that also sells accessories, such as belts and shoes or a home furnishings store that also sells home décor, and does not include donated items, drop-off bins or outdoor storage or sales (See also “Secondhand Sales.”)

## **Domestic Violence Safe House**

Staff has revised the definition of “Domestic Violence Safe House” in Section 1-304 to clarify that eligible residents of a domestic violence safe house may or may not have children. The existing law indicates that the safe house is exclusive to domestic abuse victims and their children, whereas in some instances a safe house may only be occupied by adult victims of domestic abuse.

**Domestic Violence Safe House.** A single housekeeping unit that exclusively houses survivors of domestic abuse, and, **if applicable**, their children. The adult house members are to be within a program that counteracts the impacts of domestic violence and may receive Federal, State or City funding. House members agree to a program that maintains strict confidentiality of the safe houses’ location, with unpublished phone and address numbers, a prohibition on mail deliveries, and limitations or prohibition of visits from friends or family.

## **Emergency Shelters, Family, Group Housing, Single Housekeeping Unit, Supportive Housing, Target Population, and Transitional Housing**

Staff is responding to changes in State law triggered by SB 745 that requires local jurisdictions to remove any special requirements for housing types that contain supportive services (State Government Code, Section 65582). SB 745 also changes the entitlement process local jurisdictions can apply to these housing types to ensure that they are treated the same as other residential housing types in the same, applicable zoning district. As a result of these changes, the definition of Group Housing needs to be amended in Section 1-304 to remove reference to “homeless shelters” which have been renamed “emergency shelters” and to amend the definition for “single housekeeping unit.” New definitions have been added for “supportive housing,” “target population,” and “transitional housing,” so that the Zoning Code will be more consistent with the 2015 - 2023 Housing Element of the General Plan and with State law. The proposed changes are shown below:

**Emergency Homeless Shelters.** Facility limited to twenty-five (25) beds and subject to the following requirements: the facility has an adopted management plan that includes hours and staffing; the facility provides sufficient waiting room, parking and loading facilities; and that twenty-four (24) hour male and female toilets, showers and private lockers are provided.

**Family.** A person or a group of persons living together and maintaining a common household. (~~See “Single Housekeeping Unit.”~~)

**Group Housing.** Shared living quarters, with a congregate arrangement, where meals are provided in a

common dining area, and either no or limited cooking facilities are provided within the individual rooms or units. This classification includes rooming or boarding houses, private residential clubs, congregate and/or assisted care facilities for the elderly or persons with disabilities, handicapped, shelters for the homeless, and housing for individuals requiring court ordered supervision, but excludes “residential hotels,” “motels,” “convalescent facilities,” and “residential congregate care facilities” use classifications.

**Single Housekeeping Unit.** An individual, family, or two (2) or more unrelated persons living together in a dwelling unit, in compliance with the provisions of the California Uniform Housing Code, and in which responsibilities for rent/mortgage, expenses, housekeeping, cooking, and other household maintenance chores are shared among the adult non-transient occupants. The definition of a “Single Housekeeping Unit” includes a “Domestic Violence Safe House,” but excludes Residential Congregate Care Facilities and Group Housing use classifications (e.g. homeless shelters and assisted living facilities). A single housekeeping unit is allowed to occupy any legal dwelling unit subject to the requirements of Section 2-520: Maximum Dwelling Unit Occupancy (i.e. occupancy by more than ten (10) adults requires a zoning permit).

**Supportive Housing.** Housing with no limit on length of stay, that is occupied by the target population as defined in subdivision (f) of Section 65582 of the California Government Code, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. See also “Target Population” definition. Under California Government Code Section 65583(a)(5), “supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwelling units of the same type in the same zone.” See development regulations in Article 16 for supportive housing.

**Target Population.** As defined in subdivision (g) of Section 65582 of the California Government Code, persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans and homeless people.

**Transitional Housing.** As defined in subdivision (h) of California Government Code Section 65582, buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six (6) months. Under California Government Code Section 65583(a)(5), transitional housing “shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwelling units of the same type in the same zone.” See development regulations in Article 16 for transitional housing.

## Proposed Amendments to Article 5, Residential Districts

### Day Care, General

Staff proposes to change the discretionary approval process for “Day Care, General” from a Conditional Use Permit to Administrative Review in the RO, RS, RD, and RM Districts (Sections 2-504, 2-506, 2-508, and 2-510) to reduce the amount of local regulation that these types of uses are subject to, since they serve an important community need. The Administrative Review process will still provide staff with a sufficient amount of review to ensure land use compatibility with these types of uses in residential districts.

### **Home Occupations**

Staff proposes to add wording to Section 2-514 C.1 of Article 5 of the Code to clarify that persons are not allowed to come to the applicant’s address in conjunction with a home occupation in order to reduce traffic and other potential impacts to a residential neighborhood.

### **Proposed Amendments to Article 6, Commercial and Professional Districts**

#### **Day Care, Limited**

Staff proposes to change the discretionary approval process for “Day Care, Limited” from a Conditional Use Permit to Administrative Review in the SA-2 District (Section 2-630) to reduce the amount of local regulation that these types of uses are subject to, since they serve an important community need. The Administrative Review process will still provide staff with a sufficient amount of review to ensure land use compatibility with these types of uses in the affected commercial district.

#### **Day Care, General**

Staff proposes to change the discretionary approval process for “Day Care, General” from a Conditional Use Permit to Administrative Review in the CN, CC, CR, P, SA-1, SA-2, DA-1, DA-2, DA-3, DA-4, DA-5, and DA-6 Districts (Sections 2-604, 2-606, 2-614, 2-618, 2-628, 2-630, 2-636, 2-638, 2-640, 2-642, 2-644, and 2-646) to reduce the amount of local regulation that these types of uses are subject to, since they serve an important community need. The Administrative Review process will still provide staff with a sufficient amount of review to ensure land use compatibility with these types of uses in the affected commercial districts.

#### **Industry, Custom**

Staff proposes to add Industry, Custom as a conditionally-permitted use in the DA-2, DA-3, DA-4, DA-5 and DA-6 Districts (Sections 2-638, 2-640, 2-642, 2-644, and 2-646) to keep up with technological advancements, such as light- industrial applications like 3-D printing that have few land use impacts and could be appropriate in certain commercial districts. The Conditional Use Permit process will provide staff with a sufficient amount of review to ensure land use compatibility with these types of uses in the affected commercial districts.

#### **Home Improvement and Interior Decoration**

Staff proposes to add Home Improvement and Interior Decoration as a conditionally-permitted use in

the DA-3, DA-4, DA-5 and DA-6 Districts (Sections 2-640, 2-642, 2-644 and 2-646) to allow more flexibility in the code for small design studios, hardware stores, lighting and fixture stores and paint stores that could serve higher density uses. The Conditional Use Permit process will provide staff with a sufficient amount of review to ensure land use compatibility with these types of uses in the affected commercial district.

## **Proposed Amendments to Article 7, Industrial Districts**

### **Day Care, General**

Staff proposes to change the discretionary approval process for “Day Care, General” from a Conditional Use Permit to Administrative Review in the IL, IG, IP, and IL(AU), IG(AU), and IP(AU) Districts (Sections 2-704, 2-706, 2-708, 2-710, 2-712, and 2-714) of Article 7 to reduce the amount of local regulation that these types of uses are subject to, since they serve an important community need. The Administrative Review process will still provide staff with a sufficient amount of review to ensure land use compatibility with these types of uses in the affected industrial districts.

### **Emergency Shelters**

Staff proposes to rename homeless shelters to “emergency shelters” in the IL and IL(AU) Districts (Sections 2-704 and 2-710) since the City had intended previously for them to be one and the same. Additionally, emergency shelters are proposed to be added as a permitted use in the IL and IL(AU) Districts to be consistent with the wording in the 2015 - 2023 Housing Element and with State law.

### **Warehouse/Storage Facilities**

Currently, the Code allows for Warehouse - Storage Facilities as a permitted use in all industrial districts. However, if the use is proposed to occupy a building constructed after August 15, 2001 (the date of the previous Code amendment), or an existing building will be expanded 10,000 square feet or more, a conditional use permit is required. Affected sections of Article 7 include Sections 2-704, 2-706, 2-708, 2-710, 2-712, and 2-714.

Staff proposes to add clarifying language to the Warehouse - Storage Facilities use in all industrial districts to remove outdated language referring to the date of the previous text amendment (“August 15, 2001”) and to add new language that clarifies that if a new building is proposed to accommodate this type of use, then a conditional use permit will be required.

These proposed Code amendments serve to implement Strategy 3.1.1 of the *2013 Next Generation Workplace Districts Study* by boosting the attraction of value-added companies on vacant industrial parcels and developing industrial properties to their fullest potential with land uses that enhance the economic base of the City. This Code amendment would serve to encourage smaller, advanced manufacturing uses that would increase the quality as well as the quantity of employment opportunities in the industrial districts. Existing or proposed uses that continue a similar type of business with no expansion of an existing building would not be impacted by this Code amendment.

## **Warehouse - Wholesale/Retail Distribution Facilities**

Currently, the Code allows for Warehouse - Wholesale / Retail Distribution Facilities as a permitted use in the IL, IG, IL(AU), and IG(AU) Districts. They are also allowed as a permitted use in the IP and IP(AU) if the proposed use is within an enclosed structure. Affected sections of Article 7 include Sections 2-704, 2-706, 2-708, 2-710, 2-712, and 2-714.

Staff proposes adding clarifying language to Warehouse - Wholesale / Retail Distribution Facilities in all industrial districts to require a conditional use permit if an existing building will be expanded more than 10,000 square feet or if a new building is proposed to accommodate the use. The proposed Code amendments serve to implement Strategy 3.1.1 of the *2013 Next Generation Workplace Districts Study* by boosting the attraction of value-added companies on vacant industrial parcels and developing industrial properties to their fullest potential with land uses that enhance the economic base of the City.

Smaller industrial buildings under 10,000 square feet in size tend to be desirable for reuse for niche-type manufacturing businesses, such as metals and machining, instruments and process controls, research and development, and food and beverage processing, and the City wants to encourage these types of uses in the industrial districts. Existing or proposed uses that continue a similar type of business would not be impacted by this Code amendment.

The *2013 Next Generation Workplace Districts Study* suggested that given the current, large square footages of low-density, low value-added uses in the industrial districts, even a small shift in the percentage of that space to advanced manufacturing and related industrial uses - particularly by building on the specializations still found in the districts - would increase the quality as well as quantity of employment. Currently, there are over twenty, large vacant parcels - parcels with more than 100,000 square feet of undeveloped space - that are potentially vulnerable to development. These currently allowable warehouse and distribution uses tend to have low employment density per square foot. The proposed Code amendments will facilitate the move towards higher value-added uses in the industrial areas.

## **Proposed Amendments to Article 8, Open Space District**

As a result of changes to Article 16, Section 4-1686 (as discussed below), staff proposes changing the wording in Article 8, Open Space District to reflect that the permitting process for architecturally-integrated antennas and co-locations and modifications have been changed from a Conditional Use Permit to an Administrative Review process in Section 2-806, and as also shown in Table 1 of Article 16, Section 4-1686.

## **Proposed Amendments to Article 16**

### **Wireless Telecommunications Facilities**

Staff has included language in Section 4-1686 to be consistent with recent changes in Federal

legislation regarding how wireless telecommunications facilities are required to be processed and the timeframes under which they are required to be processed by local jurisdictions. For example, according to the new federal regulations, certain types of co-locations or modifications require that the City issue a building permit within sixty (60) days of an application. These changes will bring the City's ordinance in compliance with Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 {47 C.F.R. 1.40001(b)(4)}. Additionally, for clarification purposes, new definitions are proposed to be added for "base station," "eligible facilities request," and "maintenance." Existing definitions for "alternative tower structure," "substantial modification," and "tower" are proposed to be amended to respond to these legislative changes. Additionally, the permitting process for architecturally-integrated antennas and co-locations and modifications have been changed from a Conditional Use Permit to an Administrative Review process in the RO, RS, RD, DA-3, DA-4 and OS Districts (Sections 2-504, 2-506, 2-508, 2-640, and 2-642) as shown in the modifications in Table 1 of Article 16, Section 4-1686.

### **Supportive and Transitional Housing**

Staff proposes to add a new section under "All Districts" in Article 16 (Section 4-1656) to address development regulations for supportive and transitional housing in compliance with State law. This Code amendment would remove any special requirement which applies to supportive and transitional housing and would specify that they are subject to the same requirements as other residential uses of the same type in the same zone in order to be consistent with the City's 2015 - 2023 Housing Element Update of the General Plan and State law. Senate Bill (SB) 745 changed the entitlement process that local jurisdictions can apply to housing types such as supportive and transitional housing to ensure that they are treated the same as other residential housing types.

### **Proposed Amendments to Article 17, Parking**

In Section 4-1702.K of Article 17, staff has eliminated reference to "Davis, Carpentier and Thornton Streets" in the TOD Strategy Parking Requirements, since the term "adjacent" has now been clarified to mean "within ¼ mile" of the BART Station to allow for a broader interpretation. Staff proposes to add parking standards to Section 4-1704 for "Supportive Housing" and "Transitional Housing" to comply with State law. Additionally, staff is clarifying the term "adjacent" in the DA Districts to mean "within ¼ mile," due to the need for more specific criteria for proposed development projects. Parking standards for the SA and DA Districts have been grouped together in the parking table for ease of interpretation. Guest parking ratios have been added into the existing parking ratios for Residential, Mixed Use and Multi-Family use classifications for ease in interpretation. Also, the requirement for guest parking has been removed for buildings with 4 or fewer units. The parking ratio for "Vehicle / Equipment Repair" has been changed to "1 space per 400 square feet" to be consistent with similar, automotive uses in the Industrial zones. Wording has also been added to Section 4-1708 to encourage shared parking in mixed-use districts. With these proposed changes, it is believed that Action 59.02 in the 2015 - 2023 Housing Element Update of the General Plan will be implemented.

### **Proposed General Text Updates**



Part of the proposed amendments will include several, minor text clean-up items that staff identified, as shown below.

1. Article 3, Definitions: “Warehousing - Storage Facilities” and “Warehousing - Wholesale / Retail Distribution Facilities” are proposed to be changed to “Warehousing~~e~~ - Storage Facilities” and “Warehousing~~e~~ - Wholesale / Retail Distribution Facilities” for language consistency.
2. Article 6, Commercial and Professional Districts, Section 612 B.2: A remnant land use classification exists called “Warehouse - Storage and Shipping Facilities” which will be amended to “Warehouse - Storage ~~and Shipping~~ Facilities” for consistency throughout the Code.
3. Article 6, Commercial and Professional Districts, Section 2-686 staff will remove duplicate wording for the Maximum Retail FAR, as shown on Page53.

And, other minor corrections, such as typos have also been included as part of this effort.

#### **ATTACHMENTS**

- Proposed Amended Article 3 Definitions (excerpts only)
- Proposed Amended Article 5 Residential Districts (excerpts only)
- Proposed Amended Article 6 Commercial and Professional Districts (excerpts only)
- Proposed Amended Article 7 Industrial Districts (excerpts only)
- Proposed Amended Article 8 Open Space District (excerpt only)
- Proposed Amended Article 16, Development Regulations (Section 4-1656, Supportive and Transitional Housing and 4-1686, Wireless Telecommunications Facilities, only)
- Proposed Amended Article 17, Parking (excerpts only)

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