




Agenda Item No: 5.a
Meeting Date: August 1, 2022

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development

Prepared by: Ali Giudice, CDD Director
 Leslie Mendez, Planning Director
 Jayni Allsep, Contract Planner

City Manager Approval:  _____

TOPIC: AMENDMENT TO ZONING ORDINANCE TO ALLOW ANIMAL CARE FACILITIES AS A CONDITIONALLY PERMITTED USE IN THE OFFICE (O) ZONING DISTRICT

SUBJECT: INTRODUCTION OF AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING THE TEXT OF THE SAN RAFAEL MUNICIPAL CODE, TABLE 14.05.020 UNDER SECTION 14.05.020, LAND USE REGULATIONS (GC, NC, O, C/O, R/O, FBWC) TO ALLOW ANIMAL CARE FACILITIES AS A CONDITIONALLY PERMITTED USE IN THE OFFICE (O) DISTRICT SUBJECT TO PERFORMANCE STANDARDS; AMENDING THE TEXT OF TABLE 14.06.020 UNDER SECTION 14.06.020, LAND USE REGULATIONS (I, LI/O, CCI/O, LMU) TO SUBJECT ANIMAL CARE FACILITIES TO PERFORMANCE STANDARDS; AND AMENDING TEXT OF CHAPTER 14.17 TO ESTABLISH PERFORMANCE STANDARDS FOR ANIMAL CARE FACILITIES

RECOMMENDATION:

Waive further reading and introduce the Ordinance of the City of San Rafael amending Title 14 (Zoning Ordinance) to allow “animal care facilities” excluding exterior kennels, pens or runs, as a conditionally permitted use in the Office (O) District and to establish performance standards for animal care facilities.

BACKGROUND:

On [June 28, 2022](#), the Planning Commission considered a draft ordinance, proposed by applicant Peter Spoerl, to amend the Zoning Ordinance to allow animal care facilities in the Office (“O”) District subject to zoning administrator level use permit approval. During the [June 28th hearing](#), the Planning Commission received all public comments, deliberated, and unanimously recommended that the City Council adopt the Ordinance with the recommendation that Council also adopt performance standards or best practices—similar to those codified for [Animal Keeping \(SRMC §14.17.020\)](#) that would apply to animal care facilities throughout the City to help minimize potential nuisance factors. The attached ordinance (Attachment 1) includes both the text amendment as reviewed by the Planning Commission with the added recommended performance standards discussed below.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

ANALYSIS:

Chapter 14.05 - COMMERCIAL AND OFFICE DISTRICTS of the City's Municipal Code contains land use regulations for commercial and office districts. As shown in Table 14.05.020, animal care facilities, excluding exterior kennels, pens, or runs, are currently permitted in the General Commercial (GC), Neighborhood Commercial (NC), and Commercial Office (C/O) Districts, subject to approval of a use permit by the zoning administrator. Animal care facilities are currently not permitted in the Office (O) District.

The proposed zoning text amendment would allow animal care facilities in the O District, subject to the approval of a use permit by the zoning administrator, and consistent with what is allowed in other Commercial Districts within the City. In response to the Planning Commission's recommendation, staff is recommending a text amendment to Chapter 14.17 to include performance standards that would apply to all animal care facilities proposed within the City. The proposed performance standards are contained in Attachment 1. Even with the adoption of the proposed performance standards, a use permit approved by the zoning administrator would still be required. Additional information (e.g. noise attenuation study) may be required and additional conditions may be imposed as deemed necessary to ensure the permit complies with the findings required by Section 14.22.080, in particular, that the proposed use would "not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the city."

Based on the analysis above and the analysis contained in the [June 28th Planning Commission staff report](#), staff believes that the proposed zoning ordinance amendments would be consistent in principle with General Plan 2040 in that it would expand the variety of commercial uses allowed in the Office District, which would contribute to a "complete community" with a diversity of land uses in locations that conveniently serve and benefit the community. Animal care facilities are consistent with the wide range of uses already allowed within the Office District, including residential uses, and they are already conditionally permitted in the General Commercial (GC), Neighborhood Commercial (NC), and Commercial Office (C/O) Districts. The public health, safety and general welfare would be served by the proposed amendment because the proposed performance standards would minimize potential nuisance factors that could result from animal care facilities. Proposed performance standards would address sanitary conditions, and sound attenuation.

ENVIRONMENTAL DETERMINATION:

The project is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this zoning amendment or its implementation would have a significant effect on the environment.

COMMUNITY OUTREACH:

On June 28, 2022, the Planning Commission of the City of San Rafael held a duly noticed public hearing at which the Planning Commission received all public comments and a report provided by the Community Development Department and approved Resolution 22-13 recommending the City Council amend the Municipal Code related to animal care facilities in commercial zoning districts.

A public hearing notice was mailed to interested parties and was published in the Marin Independent Journal on July 16, 2022, for the City Council to receive public comments and consider an ordinance amending the San Rafael Municipal Code.

FISCAL IMPACT:

There is no direct fiscal impact to the City in connection with the action requested in this report.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Introduce the ordinance,
2. Continue action for additional information and response to Council comments and concerns; or
3. Deny the proposed zoning text amendment

RECOMMENDED ACTION:

Waive further reading and introduce the Ordinance of the City of San Rafael amending Title 14 (Zoning Ordinance) to allow “animal care facilities” excluding exterior kennels, pens or runs, as a conditionally permitted use in the Office (O) District and to establish performance standards for animal care facilities.

ATTACHMENTS:

1. Draft Ordinance
2. Planning Commission Resolution (without attachments)
3. [Report to the Planning Commission, dated June 28, 2022](#)

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING THE TEXT OF THE SAN RAFAEL MUNICIPAL CODE, TABLE 14.05.020 UNDER SECTION 14.05.020, LAND USE REGULATIONS (GC, NC, O, C/O, R/O, FBWC) TO ALLOW ANIMAL CARE FACILITIES AS A CONDITIONALLY PERMITTED USE IN THE OFFICE (O) DISTRICT SUBJECT TO PERFORMANCE STANDARDS; AMENDING THE TEXT OF TABLE 14.06.020 UNDER SECTION 14.06.020, LAND USE REGULATIONS (I, LI/O, CCI/O, LMU) TO SUBJECT ANIMAL CARE FACILITIES TO PERFORMANCE STANDARDS; AND AMENDING TEXT OF CHAPTER 14.17 TO ESTABLISH PERFORMANCE STANDARDS FOR ANIMAL CARE FACILITIES

WHEREAS, the City of San Rafael Community Development Department has received an application requesting a zoning text amendment; and

WHEREAS, on June 28, 2022, the Planning Commission held a duly-noticed public hearing on the proposed amendment to the San Rafael Municipal Code, accepting all public testimony and the written report of the Department of Community Development, and recommended to the City Council the approval of the amendment; and

WHEREAS, on August 1, 2022, the San Rafael City Council held a duly-noticed public hearing on the proposed zoning text amendment, as required by State law, accepting all oral and written public testimony and the written report of the Community Development Department staff reports relevant to the proposal; and

WHEREAS, the City's police power allows it to regulate animals and animal care in accordance with the health, safety, and welfare of the general public (Cal. Const., Art. XI, § 7); and

WHEREAS, the City has determined that amending the City's Zoning Code to allow for animal care facilities, as defined, as a conditionally permitted use in the Office District and to establish performance standards for animal care facilities in the City further the health, safety, and welfare of the general public; and

WHEREAS, upon review of the application, the City Council finds that this project is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that adoption of this zoning text amendment or its implementation would have a significant effect on the environment; and

WHEREAS, the Community Development Department of the City of San Rafael is the custodian of documents which constitute the record of proceedings upon which this decision is based.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

Section 1. Findings.

The City Council of the City of San Rafael hereby determines and finds that all of the facts and statements contained in the recitals herein and findings of the Planning Commission Resolution 22-13 recommending to the Council adoption of this ordinance, are true and correct.

Section 2. Amendment of Table 14.05.020 of the San Rafael Municipal Code.

Table 14.05.020, in Section 14.05.020 (“Land Use Regulations (GC, NC, O, C/O, R/O, FBWC)”) of Chapter 14.05 (“Commercial and Office Districts”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in strikethrough, and additions are in **bold and underline**. Unless indicated below, no other cells or rows within Table 14.05.020 shall be modified by this amendment.

Table 14.05.020

Type of Land Use		GC	NC	O	C/O	R/O	FBWC *	Additional Use Regulations
Commercial Uses								
Animal sales and service, excluding exterior kennels, pens								See Chapter 10.24
Animal care facilities		CZ	CZ	<u>CZ</u>	CZ			<u>See Chapter 14.17 standards.</u>
Animal retail sales		P	P		P			

Section 3. Amendment of Table 14.06.020 of the San Rafael Municipal Code.

Table 14.06.020, in Section 14.06.020 (“Land Use Regulations (I, LI/O, CCI/O, LMU)”) of Chapter 14.06 (“Industrial Districts (I, LI/O, CCI/O, LMU)”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in strikethrough, and additions are in **bold and underline**. Unless indicated below, no other cells or rows within Table 14.06.020 shall be modified by this amendment.

Table 14.06.020

Type of Land Use	I	LI/O	CCI/O	LMU	Additional Use Regulations
Commercial Uses					

Animal care facilities (with or without exterior kennels, pens or runs)	CZ	CZ	CZ	CZ	See Chapter 14.17 standards. *Without exterior kennels, pens or runs (See Chapter 10.24).
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Section 4. Addition of Chapter 14.17.040 – “Animal Care Facilities” to the San Rafael Municipal Code.

Section 14.17.040 (“Animal care facilities”) is hereby added to Chapter 14.17 (“Performance Standards”) of Division IV (“Regulations Applying in All or Several Districts”) of Title 14 (“Zoning”) of the San Rafael Municipal Code as set forth below.

Section 14.17.040 - Animal care facilities.

- A. Purpose. Performance standards related to animal care facilities protect the public health, safety and general welfare by minimizing potential nuisance factors that may result from the caring of animals.
- B. Applicability. Performance standards for animal care facilities, unless specifically exempted by this subsection shall apply throughout the City of San Rafael. A use permit approved by the zoning administrator, issued pursuant to Chapter 14.22 of this Division, shall be required for animal care facilities within the City of San Rafael.
- C. Findings. In order to grant a use permit for animal care facilities in an office/commercial district, the following findings shall be made:
 - 1. Compliance with Applicable Laws. The animal care facility will not violate any provision of the San Rafael Municipal Code or any other applicable provision of law. The animal care facility shall maintain an employee handbook outlining best management practices for handling of animals, handling medical waste and disposal of animal waste.
 - 2. Sound Attenuation. The animal care facility shall not result in sound levels that exceed the noise levels established under Chapter 8.13 for any adjacent tenant spaces or properties.
 - 3. Waste. The animal care facility shall include and maintain adequate waste and hazardous waste facilities at all times.
 - 4. Nuisances. The animal care facility will not result in other public or private nuisances.

Section 5. Severability.

If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 6. Compliance with CEQA.

The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3)

of the CEQA Guidelines, because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment, and pursuant to CEQA Guidelines section 15183 (consistent with the general plan and zoning).

Section 7. Publication; Effective Date.

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for or against the Ordinance.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the ___ day of _____ 2022, and was passed and adopted at a regular meeting of the San Rafael City Council on the ___ day of ____ 2022 by the following vote, to wit:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

KATE COLIN, Mayor

Attest:

LINDSAY LARA, City Clerk

RESOLUTION NO. 22-13

RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN AMENDMENT TO TITLE 14 OF THE SAN RAFAEL MUNICIPAL CODE (ZONING), TABLE 14.05.020 UNDER SECTION 14.05.020, LAND USE REGULATIONS (GC, NC, O, C/O, R/O, FBWC) TO ALLOW “ANIMAL CARE FACILITIES” EXCLUDING EXTERIOR KENNELS, PENS OR RUNS, AS A CONDITIONALLY PERMITTED USE IN THE OFFICE (O) DISTRICT (ZO22-002)

WHEREAS, the City of San Rafael Community Development Department has received an application requesting a Zoning Text Amendment (ZO22-002); and

WHEREAS, this zoning text amendment to Title 14 of The San Rafael Municipal Code (Zoning), Table 14.05.020 Under Section 14.05.020, Land Use Regulations (GC, NC O, C/O, R/O, FBWC) would allow “Animal Care Facilities” excluding exterior kennels, pens or runs, as a conditionally permitted use in the Office (O) District, subject to approval of a Use Permit by the Zoning Administrator; and

WHEREAS, on June 28, 2022, the Planning Commission held a duly noticed public hearing on the proposed amendment to the San Rafael Municipal Code, Title 14, accepting all oral and written public testimony and the written report of the Community Development Department staff; and

WHEREAS, upon review of the application, the Planning Commission finds that this project qualifies for a Categorical Exemption from the California Environmental Quality Act (“CEQA”) pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this zoning amendment or its implementation would have a significant effect on the environment.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends to the City Council adoption of the amendment to the San Rafael Municipal Code as outlined in Attachment A of this resolution, based on the following findings as required under Zoning Code Section 14.27.060:

1. The amendment to San Rafael Municipal Code Title 14 – Zoning Ordinance is consistent with the guiding principles that underpin the San Rafael General Plan 2040 in that it would expand the variety of commercial uses allowed in the Office District, and would contribute to a “complete community” with a diversity of land uses in locations that conveniently serve and benefit the community. The amendment is consistent with the following specific and applicable policies:
 - a. **Policy LU-2.1: Land Use Map and Categories** in that the distribution of land use categories within the San Rafael Planning Area, as shown on the General Plan 2040 Land Use Map, was considered in staff’s analysis of the amendment’s conformance with General Plan 2040;
 - b. **Policy LU-2.13: Odor Impacts** and **Program LU-2.13A: Evaluation of Odor Impacts** in that the potential for odor impacts was considered in staff’s analysis of the amendment’s conformance with General Plan 2040;

EXHIBIT 1

c. **General Plan Policies N-1.2: Maintaining Acceptable Levels of Noise and N-1.9 (Maintaining Peace and Quiet)**, and which aims to minimize noise conflicts resulting from everyday activities, including business operations; and **Program N-1.9A: Noise Ordinance** which calls to maintain and enforce the noise ordinance by including “Additional Use Regulations” as reflected in Exhibit A of Draft Resolution, which require that applicants submit documentation that demonstrates adequate sound attenuation improvements within the facility in order to fully comply with the general noise limits contained in Section 8.13.040(B) of the SRMC. These restrictions and requirements would mitigate potential noise impacts associated with animal care facilities on adjacent land uses.

2. The public health, safety and general welfare are served by adoption of the proposed amendment to the SRMC in that all animal care facilities located within the Office District would be required to be located entirely within the interior of a building, overnight boarding of animals would be limited to only that which is strictly necessary for medical purposes, and appropriate sanitation, odor control, and sound attenuation would be required.


The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 28th day of June 2022 with the recommendation to adopt broader standards/best practices for animal care services throughout the City.

Moved by Commissioner Samudzi and seconded by Commissioner Harris.

AYES: Commissioners Harris, Haveman, Mercado, Samudzi, and Chair
Previtali
NOES: None
ABSENT: Vice-Chair Saude and Commissioner Shalk
ABSTAIN: None

SAN RAFAEL PLANNING COMMISSION

ATTEST: 
Leslie Mendez, Secretary

BY: 
Jon Previtali, Chair

Attachment A: Amendment to San Rafael Municipal Code Title 14 (Zoning),
Table 14.05.020 of Section 14.05.020

Attachment 3 – Report to the Planning Commission,
dated June 28, 2022

<https://storage.googleapis.com/proudcity/sanrafaelca/uploads/2022/06/3.-Animal-Care-Facilities-Staff-Report.pdf>