
Chapter 20.12 – Interpretation of Zoning Code Provisions

Sections:

- 20.12.010 – Purpose
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- 20.12.030 – Procedures for Official Interpretations/Determinations

20.12.010 – Purpose

This Chapter provides rules for resolving questions about the meaning or applicability of any part of this Zoning Code. The provisions of this Chapter are intended to ensure the consistent interpretation and application of the requirements of this Zoning Code.

20.12.020 – Rules of Interpretation

- A. Authority.** The Director has the authority to interpret provisions of this Zoning Code. Whenever the Director determines that the meaning or applicability of a Zoning Code requirement is subject to interpretation, the Director shall issue a written interpretation. The Director may also refer any issue of interpretation to the Commission for a determination. A decision of the Director may be appealed to the Commission in compliance with Chapter 20.78 (Appeals).
- B. Language.** When used in this Zoning Code, the words "shall," "must," "will," "is to," and "are to" are always mandatory. "Should" is not mandatory but is strongly recommended; and "may" is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the common meaning of the word indicates otherwise. The words "includes" and "including" shall mean "including, but not limited to."
- C. Calculations.**
 - 1. Residential density.** When the number of dwelling units allowed on a site is calculated based on the minimum site area per dwelling unit, any fraction of a unit shall be rounded down to the next lowest whole number. For example, where a residential zoning district requires a minimum site area per dwelling unit of 1,500 square feet; a site of 10,000 square feet would be allowed 6 dwelling units.

Example: 10,000 sq. ft. site area / 1,500 sq. ft. per unit = 6.66 dwelling units
 This would be rounded down to 6 dwelling units
 - 2. Other calculations.** For calculations other than residential density, the fractional/decimal results of calculations shall be rounded to the next highest whole number unless otherwise specified.

3. **Time limits.** Whenever a number of days is specified in this Zoning Code, or in a permit, condition of approval, or notice provided in compliance with this Zoning Code, the number of days shall be construed as calendar days unless otherwise specified. Where the last of the specified number of days falls on a weekend, holiday, or other day the City is not open for business, the time limit shall extend to 5:00 p.m. on the following business day.

D. Conflicting requirements.

1. **Zoning Code and Municipal Code provisions.** If conflicts occur between requirements of this Zoning Code, or between this Zoning Code and the Newport Beach Municipal Code, or other regulations of the City, the more restrictive shall prevail.
2. **Development agreements or specific plans.** If conflicts occur between the requirements of this Zoning Code and standards adopted as part of a planned community development plan, development agreement, specific plan, or annexation agreement, the requirements of the planned community development plan, development agreement, specific plan, or annexation agreement shall prevail.

E. Unlisted uses of land. If a proposed use of land is not specifically listed in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards), the use shall not be allowed, except as provided below.

1. **Director's determination.** The Director may determine that a proposed land use that is not listed in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) may be allowed in compliance with Section 20.12.030 (Procedures for Official Interpretations/Determinations), below. In making this determination, the Director shall first make all of the following findings:
 - a. The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the uses listed in the zoning district as allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the zoning district;
 - b. The proposed use will meet the purpose/intent of the zoning district that is applied to the location of the use;
 - c. The proposed use will be consistent with the goals, objectives, and policies of the General Plan, certified Local Coastal Plan, or any applicable specific plan; and
 - d. The proposed use is not listed as allowable in another zoning district.
2. **Applicable standards and permit requirements.** When the Director determines that a proposed but unlisted land use is equivalent to a listed use, the proposed use will be treated in the same manner as the listed use in determining where the use is allowed, what permits are required, and what other standards and requirements of this Zoning Code apply.

F. Zoning Map boundaries. If there is uncertainty about the location of a zoning district boundary shown on the official Zoning Map, the Director shall determine the location of the boundary in the following manner, except as provided in Subsection G, below:

1. Where a district or area boundary approximately follows a lot line, street or alley line, the lot line, street centerline, or alley centerline shall be construed as the district boundary;
2. Where a district or area boundary divides a lot and the boundary line location is not specified by distances indicated on the subject map, the location of the boundary shall be determined by using the scale appearing on the map;
3. Where a public street or alley, or a portion thereof, is officially vacated or abandoned, the property that was formerly in the street or alley shall be included within the zoning district of the adjoining property on either side of the vacated or abandoned street or alley;
4. Where a district or area boundary approximately follows the shoreline of the Pacific Ocean, the boundary shall be construed to follow the mean high tide line; or
5. Where a district or area boundary approximately follows the waterfront of Newport Bay, the boundary shall be construed to follow the bulkhead line.

G. Coastal Zone Permit and Appeal Jurisdiction Map boundaries. If there is uncertainty about the location of a boundary shown on the Coastal Zone Permit and Appeal Jurisdiction Map, or if the boundary bisects a lot, the Director shall proceed as follows:

1. If the uncertainty involves the specific location of a boundary line, the Director shall use any of the methods provided in Subsection F, above, provided the determination would not adjust the boundary line onto or out of any portion of an existing lot;
2. If a boundary line bisects any portion of a lot, the entire lot shall be determined to be within the boundary of the mapped area; or
3. In order to avoid bisecting a lot or to conform a boundary to readily identifiable natural or manmade features, the City may request the Coastal Commission to adjust the boundary of the Coastal Zone up to a maximum of 100 yards inland, or a maximum of 200 yards seaward. Where an inland adjustment is requested by the City and agreed to by the property owner, the maximum distance shall be 200 yards.

H. Illustrations. In case of a conflict between the Zoning Code text and any diagram, illustration, or image contained in the Zoning Code, the text shall control.

I. Use of headings. The headings of the Chapters, Sections, and Subsections of this Zoning Code, together with the accompanying examples and explanatory notes, are inserted as a matter of convenience and are not intended to define, limit, or enlarge the scope or meaning of this Zoning Code or its provisions.

20.12.030 – Procedures for Official Interpretations/Determinations

- A. Request for interpretation/determination.** A request for an interpretation or determination shall be made in writing to the Department and shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's Master Fee Schedule.
- B. Basis for interpretation/determination.** The issuance of an interpretation or determination by the Director shall state the basis for the interpretation or determination. The basis for an interpretation or determination may include any relevant facts, including technological changes or new industry standards to support the interpretation or determination. The issuance of an interpretation or determination shall also include a finding documenting the consistency of the interpretation or determination with the General Plan and certified Coastal Land Use Plan.
- C. Record of interpretations/determinations.** Official interpretations or determinations shall be written and shall quote the provisions of this Zoning Code being interpreted and the circumstances that caused the need for the interpretation or determination.