



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
December 20, 2022

TOPIC: Urgency Ordinance to Amend various sections of Chapter 41 (Zoning) of the Santa Ana Municipal Code (SAMC) Pertaining to Regulating Noxious Uses, Medical Offices Operated by Government, Government-Subsidized, Not-for-Profit, or Philanthropic Entities, Electric Fences, and Various Use Definitions

AGENDA TITLE:

Zoning Ordinance Amendment No. 2022-07 – An Urgency Ordinance of the City Council of the City of Santa Ana Amending Various Sections of Chapter 41 (Zoning) of the Santa Ana Municipal Code (SAMC) Related to Noxious Uses, Medical Offices Operated by Government, Government-Subsidized, Not-for-Profit, or Philanthropic Entities, Electric Fences, and Various Use Definitions

RECOMMENDED ACTION

Approve Zoning Ordinance Amendment No. 2022-07 and adopt the Urgency Ordinance by two-thirds (2/3) vote to amend various sections of Chapter 41 (Zoning) of the Santa Ana Municipal Code (SAMC).

EXECUTIVE SUMMARY

Staff is proposing to amend several sections of Chapter 41 (Zoning) of the SAMC to accomplish the following: address current and immediate threats to the public health, safety, or welfare due to the absence of regulations on noxious uses in close proximity to schools, parks, and residences; the absence of clear definitions defining and characterizing the various professional and administrative, and medical and non-medical land uses and a conditional use permit (CUP) requirement for medical offices operated by government, government-subsidized, not-for-profit, or philanthropic entities; standards for construction of electric fences; and various use definitions to effectively carry out regulations. The proposed amendments are described in further detail in the Discussion section of this report.

DISCUSSION

Pursuant to SB 1000, the City was required to address Environmental Justice in the General Plan Update. The General Plan includes numerous goals, policies, and implementation actions that were developed in collaboration with the community to address environmental issues that Santa Ana residents face on a daily basis. Staff is proposing to amend several sections of Chapter 41 (Zoning) of the SAMC to address current and immediate threats to the public health, safety, or welfare due to the absence of regulations on noxious uses in close proximity to schools, parks, and residences. In addition, the absence of clear definitions defining and characterizing the various professional and administrative, and medical and non-medical land uses and a conditional use permit requirement for medical

offices operated by government, government-subsidized, not-for-profit, or philanthropic entities in the Professional (P) zoning district hinder the City’s ability to meet the goals expressed in SAMC Section 41-1 (Purpose) to implement a regulatory land use and development framework to promote the health, safety, and the general welfare of the residents of Santa Ana. The proposed ordinance establishes a decision making process for the City to identify, evaluate, regulate, address, and reduce the potential impact to the built environment stemming from these land uses. The need is urgent as the City has and will continue to receive a higher rate of appeals of the City’s permitting process pertaining to these land uses within the P zoning district. Lastly, there have been near daily police and/or code enforcement-related incidents regarding transient populations trespassing on and causing damage to private, non-residential properties abutting railroad rights-of-way in Santa Ana. Options and development standards for the installation of electric fencing types on private property to deter this type of activity are needed. Table 1 below and on the following pages illustrates the existing and proposed regulations to address these immediate needs and issues affecting the community.

Table 1: ZOA No. 2022-07 Current and Proposed Text Regulations

Topic	Existing Zoning Code Regulations	Proposed Zoning Code Regulations
Noxious Uses	The SAMC regulates industrial and noxious land uses through permitting them in industrial zoning districts. However, the SAMC does not provide additional regulation for uses that have a regional, state, or federal permit to emit or store or process hazardous waste that are in close proximity to sensitive land uses.	<ol style="list-style-type: none"> 1. Create new “noxious uses” section to require approval of a conditional use permit for industrial type uses located within 500 feet of a sensitive land use that requires a permit to discharge air contaminants or process or store regulated chemicals or substances (Sec. 41-199.4). 2. Update the Non-Conforming section of the Zoning Code to require a conditional use permit for noxious uses whenever an existing non-conforming business changes ownership and requires a new certificate of occupancy. Additionally, require businesses with these type of permits to remain in compliance with applicable laws or lose their nonconforming status (Sec. 41-683 and Sec. 41-683.6).
Medical Offices in the Professional Zoning District	The Professional (P) zoning district permits medical and dental offices by right. However, the zoning district does not currently permit medical uses operated by government, government-subsidized, not-for-profit, or philanthropic entities.	Revise the uses permitted subject to a conditional use permit section of the Professional (P) zoning district to require a conditional use permit for medical offices operated by government, government-subsidized.
Counseling Services - Definition	The SAMC does not currently define counseling services.	Create “counseling services” definition in Division 2 (Definitions), Article I of the Zoning Code (Sec. 41-44.6).

Medical Office - Definition	The SAMC does not currently define medical office.	<ol style="list-style-type: none"> 1. Create “medical office” definition in Division 2 (Definitions), Article I of the Zoning Code (Sec. 41-121). 2. Update the permitted uses sections of the Professional (P), Community Commercial (C1), Community Commercial—Museum District (C1-MD), Arterial Commercial (C5), and South Main Street Commercial District (C-SM) to consistently use “medical office.”
Professional, Business, and Administrative Office - Definition	The SAMC does not currently define professional, business, and administrative office.	<ol style="list-style-type: none"> 1. Create “professional, business, and administrative office” definition in Division 2 (Definitions), Article I of the Zoning Code (Sec.41-127.5) 2. Update the permitted uses sections of the Professional (P), Community Commercial (C1), Community Commercial—Museum District (C1-MD), Arterial Commercial (C5), and South Main Street Commercial District (C-SM) to consistently use “professional, business, and administrative office.”
Electric Fences	The SAMC is currently silent on electric fences. The SAMC neither defines nor regulates electric fences, which have become more widely used as a means to secure property from theft and/or vandalism.	<ol style="list-style-type: none"> 1. Create “electric fence” definition in Division 2 (Definitions), Article I of the Zoning Code (Sec. 41-54.5) 2. Add new section to regulate zones and properties where electric fences are permitted (only in M1 and M2, and only where abutting a rail right-of-way) subject to a minor exception (Sec. 41-610.5).

Noxious Uses

In response to community concerns related to environmental pollution and the proximity of certain industrial uses in relation to homes, schools, and parks, the City adopted numerous environmental justice policies and actions in its General Plan to amend use regulations and development standards in the Zoning Code. A majority of the actions in the General Plan related to use, buffers, and development standards will be analyzed and addressed through the comprehensive Zoning Code Update. However, noxious businesses in close proximity to parks, schools, and residences is of immediate concern as they pose an immediate threat to the health and safety of those recreating, attending school, or residing in their proximity. Additionally, federal, state, and regional permitting agency requirements alone are insufficient to properly protect the health and safety of residents as has been proven through the numerous businesses that continue to be licensed in close proximity to sensitive receptors even when they violate applicable federal and state laws. Staff is proposing to create a new Section 41-199.4 (Noxious uses) to require a CUP for industrial uses that require a permit to handle, store, emit or discharge regulated compounds, materials, chemicals, or substances from a regional,

state, or federal agency when located within 500 feet of a public park, school, or a property used or zoned for residential purposes.

To buttress this new amendment, staff also proposes to create a new Section 41-683.6 (Discontinuance of nonconforming noxious use) to require these types of businesses that do not have a CUP and are nonconforming to comply with development standards and CUP requirements when a business changes ownership, requires a new Certificate of Occupancy, or is in violation of any applicable federal, state, or local regulation for a period of sixty (60) consecutive days, receives three noncompliant notices, or is in violation for a total of ninety (90) days in a one year period.

Professional, Business, and Administrative Office; Counseling Services; Medical Offices
Chapter 41 of the SAMC currently does not provide a definition for “professional, business, and administrative office,” and zoning districts where the use is permitted utilize inconsistent terminology. Staff is proposing to create a new Section 41-127.5 to define “professional, business, and administrative office” and to amend the uses permitted sections of various zoning districts where the use is permitted to utilize consistent terminology and provide clarity.

Chapter 41 of the SAMC currently permits “counseling services” in the General Commercial (C2) zoning district subject to a CUP, but Chapter 41 does not provide a definition for the use. As such, businesses offering counseling services have attempted to operate in zoning districts where the use is not permitted under the impression that the use could be classified as a “professional, business, and administrative office” or a “medical office.” To provide clarity to prospective businesses, staff is proposing to create a new Section 41-44.6 to define “counseling services.”

Chapter 41 of the SAMC currently does not provide a definition for “medical office,” and zoning districts where the use is permitted utilize inconsistent terminology. The lack of a definition and utilization of inconsistent terminology, staff spends an inordinate amount of time providing members of the public and prospective business operators clarification on what business uses are categorized as a medical office and where the use is permitted. Staff is proposing to create a new Section 41-121 to define “medical office” and to amend the uses permitted sections of various zoning districts where the use is permitted to provide consistency in terminology and clarity. The amendments would also permit medical offices operated by government, government-subsidized, not-for-profit, or philanthropic entities subject to approval of a CUP.

The above referenced definitions and amendment are needed to effectively carry out regulations and provide for their enforcement, without which the City would be in a precarious and untenable position when reviewing applications and making determinations to approve or deny a land use.

Electrified Security Fences

There have been near daily police and/or code enforcement-related incidents regarding transient populations trespassing on and causing damage to private, non-residential properties abutting railroad rights-of-way in Santa Ana. To address this pressing security matter, provide property and business owners another option to protect property from theft or vandalism, staff is proposing to amend Section 41-610.5 (Walls and fences) of the SAMC to permit electric fences only in the Light Industrial (M1) and Heavy Industrial (M2) zoning districts, respectively, on properties that abut a railroad right-of-way subject to the issuance of a minor exception. Additionally, staff is proposing a number of development standards such as minimum distance from residential properties, screening requirements, and accessibility requirements to ensure community compatibility, aesthetic considerations, and emergency responder access are addressed and maintained.

ENVIRONMENTAL IMPACT

Pursuant to the California Environmental Quality Act (“CEQA”) and the CEQA Guidelines, the adoption of this Ordinance is exempt from CEQA review pursuant to sections 15061(b)(3) and 15061(b)(5) of the CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, as there is no possibility it will have a significant effect on the environment. As a result Environmental Review No. 2022-123 will be filed upon adoption of this ordinance.

FISCAL IMPACT

There is no direct fiscal impact associated with this action.

EXHIBIT(S)

1. Ordinance for ZOA No. 2022-07

Submitted By:

Minh Thai, Executive Director of the Planning and Building Agency

Approved By: Kristine Ridge, City Manager