

**SANTA CRUZ COUNTY PLANNING DEPARTMENT POLICY/ORDINANCE
INTERPRETATION**

Interpretation No.: REST-01 (Restaurants - Beer and Wine Service Near Residential Areas)

Effective Date: 1/29/10

Revised:

Questions

- 1) *Is a separate Level 5 Use Approval required for new restaurants located less than 200 feet from a residential zone district to serve beer and wine incidentally to food service?*
- 2) *What are the permit requirements for existing restaurants located less than 200 feet from a residential zone district to add beer and wine to their menu?*

Applicable Ordinance Section(s)

13.10.654

18.10.134

Department of Alcoholic Beverage Control Forms ABC-616 and ABC-608

INTERPRETATION:

1) A separate Level 5 Use Approval is not required under Section 13.10.654 for new restaurants located less than 200 feet from a residential or recreational zone district (“PR” District) to serve beer and wine, where the beer and wine is served incidentally to food. Restaurants located less than 200 feet from a residential zone district intending to serve liquor in addition to beer and wine, or where food is served incidentally to beer and wine, require a separate Level 5 Use Approval. The distance from the restaurant to the residential zone district is measured from the restaurant or the parking area, whichever is closest to the residential area, to the property boundary of the nearest residentially zoned parcel.

In order for a restaurant located less than 200 feet from a residential zone district to serve beer and wine without a separate Level 5 Use Approval, the restaurant must meet the following criteria:

- ✓ Maintain kitchen facilities with working refrigeration and cooking devices sufficient to prepare substantial meals
- ✓ Make actual and substantial sales of meals for consumption on the premises during the normal meal hours they are open

2) An existing restaurant located less than 200 feet from a residential zone district intending to add beer and wine to their menu, where the service of beer and wine was not part of their original use permit, is required to apply for a minor variation or amendment to their use permit, as outlined in County Code Section 18.10.134. The existing restaurant must also comply with the criteria outlined above, or apply for a Level 5 Use Approval.

The Planning Department will review all applications for both new and existing restaurants intending to serve beer and wine. As part of the discretionary review process, staff may add conditions to the project, such as limiting the hours of operation, to ensure that the establishment will not disrupt the surrounding residential neighborhood. In addition to

County requirements, the State requires any establishment intending to serve alcohol to first secure a license from the Department of Alcoholic Beverage Control (ABC).

Reason

Section 13.10.654 states in part, “No dance hall, road house, night club, commercial club, or any establishment where liquor is served... shall be established in any district closer than 200 feet to the boundary of any residential or recreational district, unless a Level V Use Approval is first secured.”

Section 13.10.654 does not include restaurants in the list of examples of establishments that require a Level 5 Use Approval to serve liquor within 200 feet of a residential zone district, since restaurants typically serve beer and wine with meals rather than liquor. Restaurants that serve beer and wine incidentally to food service are regulated differently than establishments such as “nightclubs” or “commercial places of amusement or recreation” that serve liquor, since restaurants serving beer and wine with meals are more likely to be compatible uses adjacent to residential areas. In establishments such as nightclubs where the focus is on serving alcohol, including liquor, patrons are likely to generate more noise that can be disruptive to surrounding residential properties.

In order to ensure that a restaurant serving beer and wine is compatible with any residential properties located within 200 feet of the establishment, the County requires that the service of beer and wine must be incidental to the service of food. The criteria established by ABC (Form ABC-608) for “bona fide eating places” which are listed under “Interpretation” above, apply to such restaurants to ensure that the focus remains on serving food rather than on alcoholic beverages. The County also reviews the request to serve beer and wine as part of the discretionary review for the restaurant, adding conditions to the project as needed to ensure that the service of beer and wine will not be disruptive to the surrounding neighborhood.

An existing restaurant located less than 200 feet from a residential zone district that intends to add beer and wine to their menu must apply for a minor variation or amendment, so that planning staff may review the request to serve beer and wine as they would for a new restaurant and add any necessary conditions to ensure that the service of beer and wine is compatible with nearby residences.

In addition to all County requirements, the State requires the owner of any new or existing establishment intending to serve alcohol to secure a license from ABC. ABC has specific criteria that apply, with additional requirements for a restaurant located less than 100 feet from a residence, requiring the applicant to establish that “the operation of the business would not interfere with the quiet enjoyment of the property by residents” (California Code of Regulations Title 4 Section 61.4).

Tom Burns, Planning Director

Date