
Prepared by
Community Development Department
Planning Division

October 2008
Purpose and Intent

The City of Yorba Linda adopted a comprehensive update to the Zoning Code on October 5, 2004. As part of our continuing effort to enhance customer service and assist residents and the development community, this manual has been prepared to provide consistent and uniform interpretations of the Zoning Code by Planning Division staff.

Additionally, there are a variety of non-Zoning Code related matters that the Community Development Department administers. Examples include State law mandates, internal policies and procedures, etc., that require standardized treatment by Planning Division staff to ensure consistent application. Therefore, a second component of this manual sets out the methods, policies and procedures for addressing such matters.

This manual is a commentary that should be used as a supplement to the Zoning Code and not as a substitute for it. A final decision regarding a particular zoning issue will be made only after due consideration has been given to all other applicable Zoning Code provisions.

In addition, this manual intends to serve as a tool for assisting the City in preparing future formal updates and revisions to the text of the Zoning Code. Thus, over time, certain of these interpretations may become codified sections within the Municipal Code itself.

Finally, it is noted that pursuant to Section 18.36.800 et seq of the Zoning Code, any Zoning Code determination or interpretation contained herein may be appealed to the Planning Commission and City Council for concurrence or modification. Interpretations that have been approved on appeal by the City Council shall be deemed final. In such cases, the interpretation shall include a notation that it is a final interpretation.
TABLE OF CONTENTS

Section I - Zoning Code Interpretations

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>ZCI-001</td>
<td>Outdoor Fireplaces</td>
<td>5</td>
</tr>
<tr>
<td>ZCI-002</td>
<td>Front Yard Arbors</td>
<td>6</td>
</tr>
<tr>
<td>ZCI-003</td>
<td>Return Wall/Fence Height</td>
<td>7</td>
</tr>
<tr>
<td>ZCI-004</td>
<td>Single-Family Residential Driveway Width</td>
<td>8</td>
</tr>
<tr>
<td>ZCI-005</td>
<td>Waterfalls and Slides</td>
<td>9</td>
</tr>
<tr>
<td>ZCI-006</td>
<td>Artificial Grass in Front Yard and Street Side Yards</td>
<td>10</td>
</tr>
<tr>
<td>ZCI-007</td>
<td>Children's Play Structures and Forts</td>
<td>12</td>
</tr>
<tr>
<td>ZCI-008</td>
<td>ABC License for Instructional Tasting Events</td>
<td>15</td>
</tr>
<tr>
<td>ZCI-009</td>
<td>Building Separation for Small Accessory Structures</td>
<td>20</td>
</tr>
<tr>
<td>ZCI-010</td>
<td>Determination of Wall Weights</td>
<td>21</td>
</tr>
<tr>
<td>ZCI-011</td>
<td>Additions to Nonconforming Residential Properties</td>
<td>23</td>
</tr>
<tr>
<td>ZCI-012</td>
<td>Landscape Requirement for MFR Zones (RM 10, 20, 30)</td>
<td>26</td>
</tr>
</tbody>
</table>

Section II - Policies and Procedures

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>P/P-001</td>
<td>Materials distributed less than 72-hours prior to meeting</td>
<td>2</td>
</tr>
</tbody>
</table>
Section I
Zoning Code Interpretations
Zoning Code Interpretation Number (ZCI): ZCI-001

Subject: Outdoor Fireplaces

Zoning Code Section(s) Affected: Sec. 18.10.120.B and C

Date of Approval: 06/07/2007

Background

Per Section 18.10.120.B of the Code, small accessory structures not more than 120 square feet in area or 8 feet in height may locate 3 feet from an interior side or rear property line. Section 18.10.120.C of the Code requires larger accessory structures not greater than 1,000 square feet in area, nor greater than 15 feet in height, to be set back a minimum of 5 feet from interior side or rear property lines. Outdoor Fireplaces are accessory structures that usually are no larger than small tool sheds in terms of footprint, i.e., less than 120 square feet in area. The “stack portion” of the fireplace structure, however, usually is taller than the 8-foot height maximum necessary to qualify for small accessory structure setbacks (i.e., 3 feet). Therefore, staff has categorized such structures as “Large accessory structures” for setback purposes. However, in recognition of homeowners’ desire to locate such structures as close to property lines as possible in order to utilize valuable rear yard area more efficiently, and since the stack portion of the structure typically is the only portion of the structure visible above a property line wall or fence, staff has used the stack portion of the structure as the reference point for measuring the required 5-foot minimum setback dimension.

Code Interpretation

The required 5-foot setback dimension for outdoor fireplaces shall be measured from the nearest edge of the stack portion of the structure to the nearest portion of the property line.

Other Comments/Recommendations

Application of the above interpretation may vary based on the type of property line wall/fence (i.e., whether or not it is solid or open), and based on the design of the fireplace structure (i.e., size, height, freestanding vs. part of a larger structure, etc.), at the discretion of the Community Development Director.

Approved by:

Community Development Director, or

Chair, Planning Commission
Zoning Code Interpretation Number (ZCI): ZCI-002

Subject: Front Yard Arbors

Zoning Code Section(s) Affected: 18.10.120.B

Date of Approval: 06/08/2007

Background

Per Section 18.10.120.B of the Code, small accessory structures are required to maintain the required setback for the main building within the front yard. Certain small accessory structures have become commonplace within typical front yard landscape developments, however. These include such decorative elements as small benches or statues, light posts, birdbaths, fountains, and arbors. These structures contribute in a positive way to the street scene and do not engender the building mass impacts associated with larger structures (i.e., buildings) targeted by the Code requirement. In keeping with the spirit and intent of the Code with respect to front setback requirements for accessory structures, therefore, staff has not applied main building front yard setback to such structures.

Code Interpretation

On a case-by-case basis, staff shall determine whether or not minor decorative landscape features and structures, such as those described above, shall be subject to the front yard setbacks required for main buildings. Staff shall base its determination on the size and type of structure taking into account whether a particular structure falls within the category of structures that generally are considered customary or appropriate within a typical residential front yard landscape/hardscape design.

Approved by:

Community Development Director, or

Chair, Planning Commission
Zoning Code Interpretation Number (ZCI): ZCI-003

<table>
<thead>
<tr>
<th>Subject:</th>
<th>Return Wall/Fence Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning Code Section(s) Affected:</td>
<td>18.10.130.B</td>
</tr>
<tr>
<td>Date of Approval:</td>
<td>06/08/2007</td>
</tr>
</tbody>
</table>

### Background

Yorba Linda has an abundance of terraced residential properties where one side yard (or sometimes both side yards) contains an upslope to the side property line. Oftentimes, the side yard is created (or widened) by cutting a portion of the toe-of-slope and installing a 2' to 3' high retaining wall. In order to enclose the property, return fencing is normally erected between the side property line and the side of the house. Because the 2' to 3' high retaining wall creates a “step up,” a small segment (i.e., a 3-foot wide section of fencing on each side of the retaining wall, must be increased in height to comply with the pool-safe barrier requirement of the California Building Code. As measured from the top of the retaining wall, the fence height must be a minimum of 45 inches. Thus, as measured from the lower grade at the bottom of the retaining wall, the wall/fence may achieve a combined height of 7 to 8 feet. Given the health and safety urgency associated with the need to secure properties with Code-compliant pool-safe fencing, staff has allowed minor increases in wall/fence height in appropriate cases.

### Code Interpretation

Minor adjustments to return wall/fence height to ensure pool-safe barrier compliance shall be permitted without need for formal review of an administrative adjustment or variance application. The Community Development Director shall review all such applications for minor increase in wall/fence height for pool safety reasons.

Approved by:

[Signature]

Community Development Director, or

[Signature]

Chair, Planning Commission
Zoning Code Interpretation Number (ZCI): ZCI-004

Subject: Single-Family Residential Driveway Width

Zoning Code Section(s) Affected: 18.22.040.C.1

Date of Approval: 06/11/2007

Background

Section 18.22.040.C.1 pertains to parking lot design requirements for residential uses, and requires a minimum 20-foot wide driveway for residential uses. This section applies to residential uses that rely on parking lots for provision of on-site parking (i.e., multi-family residential, or cluster residential with a motor court, etc.), and is not intended to apply to standard, center-plotted single-family residential lots. Single-family residential lots typically have minimum driveway widths equal to the standard two-car garage door width, or 16 feet. However, to ensure that single-family residential “flag lots” maintain adequate access for fire safety reasons, a minimum driveway width of 20 feet shall apply to flag lots, unless secondary access is provided, or other mitigating factor, that makes 20 feet unnecessary or undesirable.

Code Interpretation

Section 18.22.040.C.1 applies to parking lots for multi-family, cluster, and similar residential uses and shall not necessarily apply to standard single-family residential lots. However, to ensure that single-family residential “flag lots” maintain adequate access for fire safety reasons, a minimum driveway width of 20 feet shall apply to flag lots, unless secondary access is provided, or other mitigating factor, that makes 20 feet unnecessary. The determination of necessity for 20-foot driveway widths shall be at the discretion of the Community Development Director in consultation with the Fire Marshall.

Other Comments/Recommendations

Planning staff should consider any proposed landscaping within the driveway portion of flag lots to ensure that, upon maturity, plant materials (i.e., large trees with overhanging branches) will not obstruct fire truck access to the dwelling.

Approved by:

Community Development Director, or

Chair, Planning Commission
Zoning Code Interpretation Number (ZCI): ZCI-005

Subject: Waterfalls and Slides

Zoning Code Section(s) Affected: Sec. 18.10.120.B and C

Date of Approval: 06/07/2007

Background

Per Section 18.10.120.B of the Code, small accessory structures not more than 120 square feet in area or 8 feet in height may locate 3 feet from an interior side or rear property line. Section 18.10.120.C of the Code requires larger accessory structures not greater than 1,000 square feet in area, nor greater than 15 feet in height, to be set back a minimum of 5 feet from interior side or rear property lines. Rock waterfalls and pool slides are common elements in Yorba Linda rear yards. In most cases, these structures are taller than 8 feet in height, and are thus subject to the setback requirements of Sec. 18.10.120.C, i.e., 5 foot side and rear setbacks. However, waterfalls and slides are usually sloping in their architectural massing, similar to a small hill, with the portion of the waterfall or slide that exceeds eight feet (8') in height usually being set back from property lines the minimum required distance of 5 feet. Consequently, in recognition of homeowners’ desire to locate such structures as close to property lines as possible in order to utilize valuable rear yard area more efficiently, and since the portion of the slide or waterfall that exceeds the 8-foot height limit usually is set back a minimum of 5 feet, staff has used the nearest edge of the slide/waterfall at the point in line with the top of the property line wall or fence as the reference point for measuring the required 5-foot minimum setback dimension.

Code Interpretation

The required 5-foot setback dimension for slides and waterfalls shall be measured from the nearest edge of the slide/waterfall at the height of the property line wall or fence to the nearest portion of the property line.

Other Comments/Recommendations

Application of the above interpretation may vary based on the type of property line wall/fence (i.e., whether or not it is solid or open), and based on the design of the slide/waterfall structure (i.e., size, height, slope of structure, etc.), at the discretion of the Community Development Director.

Approved by:

[Signature]

Community Development Director, or

Chair, Planning Commission
Zoning Code Interpretation Number (ZCI): ZCI-006

Subject: Artificial Grass in Front and Street Side Yards


Date of Approval: 09/29/2008

Background

In several Sections of the Zoning Code (i.e., as cited above), there are references to landscaping requirements within front and street side yard areas. Landscaping is defined variously throughout these Sections as “plant materials,” “trees, groundcover, turf, shrubbery, and/or approved alternative landscape materials,” and “healthy and growing cultivated vegetation common to most residential and commercial property, and/or planned drought tolerant schemes.” However, the Code is silent in terms of whether artificial plant materials intended to mimic the appearance of real, live plant materials are consistent with the purpose and intent of the aforementioned Code Sections. As water supply constraints in Southern California become more critical, many homeowners are considering the installation of artificial turf as an alternative to irrigation-intensive live turf as a component of their front (and street side) yard landscape designs. Water districts and local municipal agencies also encourage the use of artificial turf in order to reduce regional water demands. Additionally, the artificial turf manufacturing industry has responded to consumer demand for a product with a more realistic appearance. Many of the commercially available artificial products on the market today closely mimic the appearance of real turf. In light of this trend, staff has interpreted the above Code Sections in a manner that allows high quality artificial turf to be used in lieu of real turf within front and street side yard landscapes. The intent of this Code Interpretation, therefore, is to formalize current practice relative to the use of artificial plant materials within the required front and street side yard.

Code Interpretation

The requirement for front and street side yard landscaping, as expressed throughout the Zoning Code, shall be interpreted to allow high-quality artificial turf in lieu of live turf, at the discretion of the Community Development Director. The Community Development Director shall exercise discretion based on the type and quality of artificial turf proposed (i.e., nylon outdoor carpeting shall not be construed as meeting artificial turf quality standards). Qualifying artificial turf shall mimic the appearance of real, live turf, consistent with the purpose and intent of the aforementioned Zoning Code Sections. In addition, any approved artificial turf installation shall meet the following additional standards:
1) Artificial turf shall be installed by a licensed professional in accordance with the manufacturer's instructions/recommendations, including ground preparation and substrate requirements.

2) Artificial turf shall be maintained on an on-going basis to ensure an appearance that mimics real, live turf to the greatest extent feasible. The artificial turf area also shall be kept free of weeds, debris, tears, holes and impressions.

3) Artificial turf shall have a minimum 8-year “No Fade” warranty.

4) Artificial shrubs, flowers, trees, and vines in lieu of living plant material shall be prohibited.

5) Areas of living plant material (i.e., flower beds, tree wells, groundcover beds, etc.) shall be included in any overall front or street side yard landscape design scheme that includes areas of artificial turf. Living plant material shall include shrubs, vines, trees and flowering groundcovers and shall incorporate at least 25% of the landscape area.

6) The use of indoor/outdoor plastic or nylon carpeting is prohibited.

7) Artificial turf shall be separated from other planting areas by concrete mow strips to prevent intrusion of living plant material into the area of artificial turf.

8) Installation of artificial turf may only be permitted with prior authorization of the Community Development Director.

Other Comments/Recommendations

Application for artificial turf installation shall be made in writing to the Community Development Director. The application shall include a detailed description of the project, consisting of the manufacturer’s brochure, site photographs of the area of installation, a sample of the proposed turf material to be used, a site plan showing the area of installation, and information regarding the contractor who will be installing the product. Based on review of the submitted application materials, the Community Development Director shall determine if the proposed artificial turf meets the minimum performance standards outlined above. Upon completion of application review, the Community Development Director shall render a decision in writing and forward it to the applicant. Such decision shall be appealable to the Planning Commission pursuant to the requirements of Section 18.36.810 of the Zoning Code.

Approved by:

Community Development Director, or

Chair, Planning Commission
Zoning Code Interpretation Number (ZCI):

<table>
<thead>
<tr>
<th>Subject:</th>
<th>Children’s Play Structures, Treehouses and Forts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning Code Section(s) Affected:</td>
<td>Secs. 18.10.120; 18.10.100.B</td>
</tr>
<tr>
<td>Date of Approval:</td>
<td>10/13/2009</td>
</tr>
</tbody>
</table>

**Background**

Section 18.10.120 of the Zoning Code contains development regulations applicable to various types of residential accessory structures, although the section is silent in terms of providing regulatory guidance for children’s backyard recreational apparatus, such as treehouses, forts, playhouses, swing sets and jungle gyms, etc. Historically, the City has not regulated accessory structures intended to serve as children’s recreational apparatus, since the majority of the most common of these structures are manufactured products, certified by the Consumer Products Safety Division, and which are limited in size and height. Nevertheless, a small percentage of these structures are much larger in bulk and height, and thus have the potential to negatively impact neighboring properties. Therefore, the intent of this Zoning Code Interpretation is to formalize current practice relative to children’s play structures, yet establish reasonable restrictions on certain structures (based on size and height) in order to balance neighbors’ interests, while continuing to preserve significant latitude to erect the majority of children’s play apparatus and other informal recreational structures with a minimum of restriction.

Section 18.10.100.B of the Zoning Code requires two-story buildings and room additions to be subject to review and approval of a conditional use permit by the Planning Commission when such construction is located within 70 feet of another single-family residence. By their very nature, most of the aforementioned children’s play structures are elevated above grade to some degree. Some of these structures also include multiple levels or floors. However, the City has not interpreted this Code section (Section 18.10.100.B ) as applying to multi-level or otherwise elevated children’s play apparatus in most instances due to their minimal size/bulk, their unique status as “children’s play structures,” as well as the fact that they are usually temporary and/or portable in nature. The additional purpose of this Zoning Code Interpretation, therefore, is to more clearly define the parameters under which such structures, despite being multi-level in their configurations, would be exempt from the conditional use permit requirement of Section 18.10.100.B of the Zoning Code.

**Zoning Code Interpretation**

**Definitions**

The following definitions shall be used in evaluating compliance with Section 18.10.120 and Section 18.10.100.B requirements for children’s play structures:
Children’s Play Structure – a children’s play structure shall be defined as any type of manufactured or constructed non-habitable enclosed room, small building, or apparatus that is erected in a side or rear yard for children’s recreational/exercise purposes. Such structures shall include, but not necessarily be limited to, manufactured or constructed swing sets and jungle gyms, forts, playhouses, treehouses, and similar structures, as determined by the Community Development Director.

Manufactured Children’s Play Structure - a manufactured children’s play structure shall be defined as a manufactured play apparatus located within a side or rear yard that consists of wood, metal or plastic, which is available for retail purchase, including swing sets, slides, jungle gyms, or multi-station play structures that include one or more of the foregoing components, and which may also include accessory enclosed space or a tunnel as a part of their configuration, as determined by the Community Development Director.

Commercially available kits or architectural plans for the construction of large playhouses or forts shall not be considered a manufactured play structure for the purposes of this section.

Treehouse – a treehouse is a type of children’s play structure defined as a building, room or fort constructed among the branches, around or next to the trunk of one or more mature trees, and which is raised above the ground. Treehouses are supported by the branches and/or trunk of a tree only.

Exemptions

The following structures shall be exempt from the Zoning Code:

1) Manufactured Children’s Play Structures.
2) Treehouses.

Section 18.10.120 of the Zoning Code

Unless exempt per the above section, children’s play structures shall adhere to the requirements of Section 18.10.120 of the Zoning Code, with the following exceptions:

Section 18.10.120.D – Two-story and one-story children’s play structures that are elevated above grade (i.e., on stilts) shall not be considered a two-story structure for the purposes of this section when the elevated floor or story is not more than 60 square feet in area (including any uncovered deck area) and the finish floor height does not exceed six feet (6’), and the overall maximum height of the structure does not exceed fifteen feet (15’). Such structures shall be subject to the setback requirements of Sections 18.10.120.B or C, as applicable, depending on their floor area and height.

Section 18.10.120.E – Children’s play structures shall not be subject to the architectural design standards contained in Section 18.10.120.E.
Section 18.10.100.B of the Zoning Code

The conditional use permit requirement of Section 18.10.100.B of the Zoning Code shall not apply to two-story children's play structures or one-story structures elevated above grade (i.e., on stilts) that do not exceed an elevated (second) floor area of 120 square feet and a finish floor height of nine feet (9') above grade.

Elevated decks associated with a children's play structure shall be construed as second floor area for the purposes of this Zoning Code Interpretation. However, roof access shall not be construed as floor area for the purposes of this Zoning Code Interpretation.

Other Comments/Recommendations

Approved by:  

[Signature]

Community Development Director, or

[Signature]

Chair, Planning Commission
Background

Section 18.08.070 and Table 18.08-1 (Land Use Matrix) of the Zoning Code list Alcoholic beverages, accessory as a conditionally permitted land use in the CG Commercial General, CN Commercial Neighborhood and M-1 Light Industrial zones. Accordingly, prior to conduct of alcoholic beverages sales as an accessory use to any business establishment, a conditional use permit approved by the Planning Commission is required.

Recently enacted state legislation (Assembly Bill 605) provides for the creation of a new alcoholic beverage control license (Type 86) to be issued for “instructional tasting events” to holders of certain off-sale retail licensed businesses. Off-sale premises where motor vehicle fuel is sold or that have less than 5,000 square feet of interior retail floor area generally are not eligible to apply for a Type 86 license. It is important to emphasize that the new license may only be issued to a business establishment that already holds an off-sale retail alcoholic beverage license. Prior to issuance of an off-sale license by ABC, conditional use permit approval from the City is required.

The Type 86 license is intended to allow for manufacturers and distributors (i.e., authorized licensees) of alcoholic beverages to engage in a new form of marketing for their products (i.e., product tasting events) at their retail distributors’ premises. Qualifying suppliers or their designated agents may conduct “instructional tasting events” at off-sale retail locations holding the Type 86 license, where tastes of alcoholic beverage may be provided to consumers under very specific conditions, restrictions and limitations. Among some of the unique aspects and restrictions associated with the Type 86 license and instructional tasting events are the following (as published in ABC Industry Advisory of December 1, 2010):
• Type 86 licenses shall not be issued to off-sale licensees at locations where motor vehicle fuel is sold, unless the licensee operates a fully enclosed off-sale retail area encompassing at least 10,000 square feet, nor to off-sale licensees at locations with a total of less than 5,000 square feet of interior retail space, unless the calendar quarterly gross sales of alcoholic beverages at the licensed location comprise at least 75 percent of the total gross sales of all products sold at the licensed premises. A licenseholder that is issued an instructional tasting license pursuant to this paragraph shall maintain records that separately reflect the gross sales of alcoholic beverages and the gross sales of all other products sold on the licensed premises.

• “Authorized licensee” means a winegrower, California winegrower’s agent, beer and wine importer general, beer and wine wholesaler, wine rectifier, distilled spirits manufacturer, distilled spirits manufacturer’s agent, distilled spirits importer, distilled spirits importer general, distilled spirits rectifier, distilled spirits general rectifier, out-of-state distilled spirits shipper’s certificate holder, distilled spirits wholesaler, brandy manufacturer, brandy importer, California brandy wholesaler, beer manufacturer, or an out-of-state beer manufacturer certificate holder.

• “Authorized licensee” shall not include an entity that solely holds a combination of a beer and wine wholesale license and an off-sale beer and wine retail license or holds those licenses solely in combination with any license not listed in this paragraph.

• No charge of any sort shall be made for tastings at an instructional tasting event.

• A person under 21 years of age shall not serve, or be served, wine, beer, or distilled spirits at the instructional tasting event.

• Unless otherwise restricted, an instructional tasting event may only take place between the hours of 10 a.m. and 9 p.m.

• The type 86 license shall not authorize any on-sale retail sales to consumers attending the instructional tasting event.

• The type 86 licenseholder shall not permit any consumer to leave the instructional tasting area with an open container of alcohol.
• A type 86 licensee that permits a person under 21 years of age to enter and remain in the instructional tasting event area during an instructional tasting event is guilty of a misdemeanor. Any person under 21 years of age who enters and remains in the instructional tasting area during an instructional tasting event is guilty of a misdemeanor and shall be punished by a fine of not less than $200.00, no part of which shall be suspended.

• At all times during an instructional tasting event, the instructional tasting event area shall be separated from the remainder of the off-sale licensed premises by a wall, rope, cable, cord, chain, fence, or other permanent or temporary barrier. The type 86 licensee shall prominently display signage prohibiting persons under 21 years of age from entering the instructional tasting event area.

• An instructional tasting event shall be limited to a single type of alcoholic beverage. “Type of alcoholic beverage” means distilled spirits, wine, or beer.

• A single tasting of distilled spirits shall not exceed one-fourth of one ounce and a single tasting of wine shall not exceed one ounce. No more than three tastings of distilled spirits or wine shall be provided to any person on any day. The tasting of beer is limited to eight ounces of beer per person per day. The wine, beer, or distilled spirits tasted shall be limited to the products that are authorized to be sold by the holder of the type 86 license under its requisite off-sale license.

• No more than one “authorized licensee” or its designated representative may conduct an instructional tasting event that includes the serving of tastes of wine, beer, or distilled spirits at any individual type 86 licensed premises per day.

• All tastes shall be served by an employee or the designated representative of the “authorized licensee.”

• The “authorized licensee” or its designated representative shall either supply the wine or distilled spirits to be tasted during the instructional event or purchase the wine or distilled spirits from the holder of the type 86 at the original invoiced cost.

• The “authorized licensee” or its designated representative shall purchase beer to be tasted during the instructional event from the holder of the type 86 at the original invoiced cost.

• Any unused wine, beer, or distilled spirits remaining from the tasting shall be removed from the off-sale license licensed premises by the “authorized licensee” or its designated representative.

• If the instructional tasting event is conducted by a designated representative, the designated representative shall not be owned, controlled, or employed directly or indirectly by the holder of the type 86 on whose premises the instructional tasting event is held.
• A beer and wine wholesaler may conduct an instructional tasting event but shall not serve tastes of beer unless the beer and wine wholesaler also holds a beer manufacturer’s license, an out-of-state beer manufacturer’s certificate, or not more than six distilled spirits wholesaler’s licenses.

• The holder of the type 86 may conduct an instructional tasting event that includes the serving of tastings only when an “authorized licensee” or its designated representative is unable to conduct an instructional tasting event previously advertised pursuant to Section 25503.56 and scheduled by the authorized licensee or its designated representative, provided the holder of the type 86 supplies the wine, beer, or distilled spirits in the instructional tasting event and provides or pays for a person to serve the wine, beer, or distilled spirits. Instructional tasting events conducted by the holder of the type 86 pursuant to the applicable subdivision of Section 25503.56 are subject to the provisions of Sections 25503.56 and 23396.6.

• A holder of a type 86 license that also holds an on-sale beer and wine license, an on-sale beer and wine eating place license, or an on-sale general license shall not allow an “authorized licensee” or its designated representative, to conduct an instructional tasting event on the same day and at the same location as any instructional tasting event held pursuant to subdivision (b) of Section 23386, Section 25503.4, subdivision (c) of Section 25503.5, or Section 25503.55.

• A holder of a type 86 license shall not condition the allowance of an instructional tasting event upon the use of a particular designated representative of an “authorized licensee”.

• An “authorized licensee” or its designated representative, in his or her absolute discretion and with permission of the holder of the type 86 license where the instructional tasting event will be held, may list in an advertisement to the general public the name and address of the type 86 licensee, the names of the alcoholic beverages being featured at the instructional tasting event, and the time, date, and location of, and other information about, the instructional tasting event, provided that BOTH of the following apply:
  1. The advertisement does not contain the retail price of the alcoholic beverages.
  2. The listing of the type 86 licensee’s name and address is the only reference to the type 86 licensee in the advertisement.

NOTE: Pictures or illustrations of the type 86’s licensed premises and laudatory references to the type 86 licensee in these advertisements are not authorized. An “authorized licensee” or its designated representative cannot share in the costs, if any, of the type 86 licensee.

• A type 86 licensee may advertise an instructional tasting event to the general public. The costs of this advertising shall be borne solely by the type 86 licensee. Permitted advertising includes flyers, newspaper ads, Internet communications, and interior signage.

In that the Type 86 license extends only an incremental additional privilege to existing holders of off-sale retail alcoholic beverage licenses, and only under the very narrow constraints listed above (among certain others), to require an additional or amended conditional use permit for such licenses would not serve the public interest, and would instead create an additional, unnecessary layer of governmental approval and associated
expense for alcoholic beverage retailers. The end result of such review would be the placement of time, place and manner restrictions on such activities that mirror those restrictions already contained in the ABC license requirements.

**Zoning Code Interpretation**

An additional or amended conditional use permit for alcoholic beverage "instructional tasting events" under the provisions of ABC License No. 86 (Instructional Tasting) shall not be required.

In order to process approvals for new Type 86 ABC licenses, Community Development Department/Planning Division staff shall adhere to the following procedure:

1) Follow same protocol as outlined in Administrative Order No 68 as far as City review/comment of any ABC license application, which includes transmittal of standard memorandum of approval by City Clerk to Community Development and Police for review/comment/approval. Community Development will review and approve these when the original (existing) off-sale conditional use permit (CUP) is in "good-standing." In "comments" section of response to City Clerk, Community Development will note the original off-sale CUP number.

2) Planning staff will prepare and send a zoning verification letter to the Type 86 ABC license applicant indicating that the City has verified that they have an existing CUP approval for off-sale alcoholic beverages. The letter shall include reference to the original CUP number, and shall indicate that the proposed "instructional tasting" (additional) license does not require further discretionary review. The letter shall also include a proviso that the City's approval of the requested Type 86 license without further discretionary review is contingent upon compliance with all of the ABC's regulations/restrictions for a Type 86 ABC "instructional tasting" license.

3) Attach a copy of the zoning verification letter to the memorandum of approval that is returned to City Clerk, and place a copy in the Planning Division's file for the original CUP for off-sale alcoholic beverages.

**Other Comments/Recommendations**

Approved by: [Signature]

Community Development Director, or

Chair, Planning Commission

[Date] 8-30-11
Zoning Code Interpretation Number (ZCI): ZCI-009

Subject: Building Separation for Small Accessory Structures

Zoning Code Section(s) Affected: Sec. 18.10.090

Date of Approval: 10/27/2011

**Background**

Per Section 18.10.090 of the Code, all residential zones require building separation between non-attached structures to be a minimum of 10 feet. However, it is common and desirable for property owners to locate small accessory structures such as "pre-manufactured" garden sheds, or other similar structures that are not more than 120 square feet in area or 8 feet in height, within the property side yard between the main residential structure and side property line, which in most cases is less than 20 feet in width. Therefore, given the limited available space between the main residence and side property line it would be impossible for these property owners to locate a small accessory structure within the side yard area adjacent to the house, while at the same time meeting the 3 foot side yard setback requirement and the 10 foot building separation requirement. In recognition of homeowners' desire to locate such structures within the side yard adjacent to the house, staff historically has not applied the 10-foot building separation requirement as it relates to small accessory structures.

**Code Interpretation**

The required 10-foot building separation standard, pursuant to Section 18.10.090 of the Yorba Linda Municipal Code, shall not apply to small accessory structures as defined in Section 18.10.120.B of the Code.

**Other Comments/Recommendations**

Typically accessory structures less than 120 square feet are exempt from obtaining a building permit. However, it should be noted that when multiple structures are located within 3 feet of each other the combined floor area of all structures shall be calculated, and if the combined area of the structures (those with less than 3 feet building separation) exceeds 120 square feet, one-hour fire rated walls and building permits may be required for each structure.

Approved by:

[Signature]

Community Development Director, or

[Signature]

Chair, Planning Commission
Zoning Code Interpretation Number (ZCI):

ZCI-010

Subject: Determination of Wall Height

Zoning Code Section(s) Affected: Sec. 18.10.130.A and B

Date of Approval: 10/27/2011

Background

Per Section 18.10.130 of the Code, walls and fences within the front yard are limited to 3 feet in height for any portion of the required front yard located directly in front of the dwelling, and are limited to 6 feet in height for all other portions of the property. Retaining walls or combination retaining/garden walls may be allowed up to a maximum height of 9 feet on any side or rear portions of the property, with approval of an administrative adjustment. However, the code is silent on where or how wall heights are measured; especially in the case when multiple retaining walls abut each other and/or when a garden wall/fence abuts a retaining wall.

Code Interpretation

The height of any wall and/or fence shall be measured from the lowest side of the wall/fence, from finished grade to the top of said wall/fence at the point of measurement. Further, when you have a wall and/or fence immediately abutting another wall/fence, the measurement for determining wall height shall be measured from the lowest side of the wall/fence, from finished grade to the top of the highest abutting wall/fence at the point of measurement. When a wall and/or fence is separated by at least 3 feet (please refer to the attached diagram “Figure 1” for specifications) then each wall/fence shall be considered an independent structure and the measurement for determining wall/fence height shall be from finished grade to the top of each respective wall/fence at the point of measurement.
Figure 1 - ZCI-010

Terraced Retaining Walls/Fences
3'-0" Separation Standard Exhibit
Zoning Code Interpretation Number (ZCI):

<table>
<thead>
<tr>
<th>Subject:</th>
<th>Additions to Nonconforming Residential Properties for property line setback only</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning Code Section(s) Affected:</td>
<td>Section 18.34.030.C</td>
</tr>
<tr>
<td>Date of Approval:</td>
<td>11/17/2011</td>
</tr>
</tbody>
</table>

Background

Section 18.34.020.B of the Code defines a nonconforming structure as lawfully occupying a site that does not conform with, and which pre-existed the standards for front yard, side yard, rear yard, height, coverage, or distance between structures for the zone in which the structure is located.

Section 18.34.030.C of the Code further states that no nonconforming structure shall be altered or reconstructed so as to increase the discrepancy between existing conditions and the standards for front yard, side yard, rear yard, height of structures, or distances between structures, or usable open space prescribed in the regulations for the zone in which the structure is located. Additions to existing nonconforming structures, including second story additions, may be permitted provided the new addition does not further encroach into the setbacks, or exceed the height limitation for the zone in which the structure is located. However, the code is silent in terms of size limitations for enlargement or expansion of residential nonconforming structures.

Historically, staff has approved subsequent additions to non-conforming structures at a ministerial level, provided the new addition is built along an established setback line, and does not project beyond the existing building envelope. There are limitations to this general allowance, however. In reference to Variance 2004-02-Pillai, the proposed additions were substantial (i.e. greater than 50% of the main building), triggering formal review of a variance to allow the additions to maintain the non-conforming setback. The intent of Chapter 18.34 of the Code is to limit the extent of nonconforming uses in terms of enlargements, alterations, etc. Consequently, the purpose of this Zoning Code Interpretation is to establish a threshold size for enlargements to a nonconforming structure that may be considered for approval at staff level, without triggering discretionary review through a variance process.

Code Interpretation

ADDITIONS TO EXISTING RESIDENTIAL STRUCTURES WITH LEGAL NON-CONFORMING SIDE, REAR, OR FRONT YARD SETBACKS MAY BE PERMITTED AS FOLLOWS:

Building additions up to the established, legal non-conforming setback line may be permitted to an extent equal to or less than one-half (50%) of the length of the portion (including 1st plus 2nd floors, if applicable) of the existing structure that projects into the required setback (i.e., the non-conforming portion of the structure). Said addition shall comply with all other requirements of the Municipal Code. See below diagram for example.
HYPOTHETICAL DIAGRAM
FOR PROPERTY WITHIN THE RESIDENTIAL SUBURBAN (RS) ZONE

- Property Lines
- *Typical Building Envelope for Residential Suburban Zone (RS Zone)
  Residential Development Standards for RS Zone (see Residential Zones 18.10, Table 18.10-2)
  25' front yard, 10' side yard for interior, 10' side yard for street, 25' rear yard
- Existing Structure
- Proposed Addition

---

1. If existing, legal non-conforming encroachment is two-story and the proposed addition is single-story, then the 50% allowance shall be calculated based on the combined length of the existing 1st and 2nd floor encroachment.

2. If existing, legal non-conforming encroachment is single-story and the proposed addition is two-story, then the 50% allowance shall be distributed between the proposed 1st and 2nd floors of the room addition.

3. If existing, legal non-conforming encroachment is single-story and the proposed addition is single-story, then the 50% allowance shall be calculated based on the length of the existing 1st floor encroachment.

4. If existing, legal non-conforming encroachment is two-story and the proposed addition is two-story, then the 50% allowance shall be calculated based on the combined length of the existing 1st and 2nd floor encroachment.

*Note: The above diagram is hypothetical in order to gain visual clarification. This Code Interpretation is applicable towards any residential development standards as applied by Chapter 18.10 Residential Zones of the Municipal Code.*
Other Comments/Recommendations

The diagram above is intended to provide guidance for administrative approval of the majority of room additions to legal non-conforming structures, in accordance with Section 18.34.030.C of the Zoning Code. However, projects will be evaluated on a case-by-case basis.

Depending on specific circumstances related to lot topography, existing building design/footprint configuration, or other factors, a deviation of up to twenty percent (20%) of the calculated 50% allowable encroachment may be considered, subject to the granting of an administrative adjustment in accordance with the provisions of Chapter 18.38 of this Title.

At the discretion of the Director of Community Development, any proposed addition to a legal non-conforming structure may be referred to the Planning Commission for determination of compliance with Section 18.34.030.C.

Approved by:

Community Development Director, or

Chair, Planning Commission
Policy/Procedure Number (P/P): ZCI-012
Subject: Landscaping Requirement for Multi-Family Zones (R-M, R-M-20, R-M-30)
Date of Approval: 12/28/2012

Background

To ensure high quality site planning and amenities for development projects in Multi-Family Zones (R-M, R-M-20, R-M-30), Section 18.10.110.C of the Code specifies the following performance standards.

- In the R-M, R-M-20, and R-M-30 zones, a minimum fifty (50) percent of the building site area, exclusive of private patio yards and building footprints, shall be landscaped and provided with an adequate underground irrigation system. (Section 18.10.110.C.2)
- Fifty (50%) percent of the landscaped area shall accommodate active uses such as BBQs, playgrounds, hardscape features, and outdoor seating areas. (Section 18.10.110.C.3)

In recognition that these standards may cause difficulties in developments with surface parking, or sites with topographical constraints, it is the City's intent to provide a more clear and flexible interpretation with this Zoning Code Interpretation.

Code Interpretation

Section 18.10.110.C.2

The “building site area” is defined as the entire project site, inclusive of all slopes, private streets, easements, and driveways. All areas of land bounded by the property lines of the project site are to be included in the building site area.

As such, the amount of landscaped area required is the net of the building site area after subtracting all private patio yards and building footprints. Qualifying building footprints include the footprints of any dwellings, garages, clubhouses, management offices, community buildings, laundry rooms, mailrooms, or any other buildings enclosed by full height walls and solid roofs. Carports, storage sheds, and trash enclosures do not count in building footprint calculation. Landscaped areas include both softscape and other common area amenities on the site such as seating areas, greenbelts with paseos, tot lots, swimming pools and other water features, BBQ's, etc.
Example:

Suppose if the building site area of a development project in a multi-family zone is 100,000 s.f., and 25,000 s.f. of it is dedicated to building footprints and private patio yards, the required landscaped area of the project is derived from the following calculation.

Building site area: 100,000 s.f. (2.29 acres)
Total building footprint plus patio yards area: 25,000 s.f.
Balance of site: 100,000 s.f. - 25,000 s.f. = 75,000 s.f.
50% of balance of site = 75,000 s.f. * 0.5 = 37,500 s.f.

Required Landscaped Area: 37,500 s.f. (minimum)

Section 18.10.110.C.3

Of the required landscaped area, at least 50% of it shall be dedicated to outdoor active uses. Qualifying areas for active uses include, but are not limited to, BBQ areas, playgrounds, tot lots, swimming pools, sports courts, outdoor seating areas, picnic areas, fountains, ponds, community gardens, walking paths, trails, and any other lawn area accessible to all residents of the development project.

Example:

Continuing with the previous example, the required active use area for the development project is derived from the following calculation.

Required landscaped area: 37,500 s.f.
Required active use area: 37,500 s.f. * 0.5 = 18,750 s.f.

Required Active Use Area: 18,750 s.f. (minimum) of the 37,500 s.f. landscaped area

Carports, entryways, driveways, parking spaces, and any other areas such as internal drives that are dedicated to vehicular access do not count as landscaped or active use areas. In addition, areas landscaped with shrubs, sloped areas with no walking paths, or any other landscaped area that is inaccessible to all residents of the development, may not be construed as an active use area.

As an incentive to encourage permeable surfaces in multi-family developments, in addition to fulfilling the active use area requirement, walkways and other qualifying active use areas that combine turf block or other permeable paving can obtain up to 10% credit towards the landscaped area requirement stated in Section 18.10.110.C.2 of the code, as determined appropriate by the Community Development Director.
Example:

Suppose if in the same development, the developer provides 5,000 s.f. of permeable paving in walkways, the amount of credit that could be obtained to deduct from the required landscape area is derived from the following calculation.

Permeable paving provided: 5,000 s.f.
10% credit: 5,000 s.f. x 10% = 500 s.f.
Deduction from required landscaped area requirement:
37,500 s.f. – 500 s.f. = 37,000 s.f.

**Required Landscaped Area after deduction: 37,000 s.f.**

In this example, although the policy requirement of required landscaped area remains at 37,500 s.f., the physical landscaped area provided may be reduced if the developer seeks flexibility by utilizing permeable paving or turf block in qualifying active use areas.

**Procedure**

When submitting plans for discretionary review, developers shall demonstrate compliance with Section 18.10.110.C.2 and Section 18.10.110.C.3 of the Zoning Code by providing tabulation of landscaped and active use area calculations on the plans. If the developer is seeking flexibility in landscaped area requirement through obtaining credit with permeable paving or turf block, the developer must also provide tabulation of eligible areas on the plans.

---

Approved by:

Community Development Director, or

Chair, Planning Commission