

1. **How did this come to Council?**

- a. Councilmembers Hinton and Carter requested an agenda item on options for a zoning amendment or rezone for A&M BBQ, at the June Council Meeting, to be returned at the July 7 meeting. On July 7, the City Council voted to direct staff to return with an analysis of the two options.

MOTION:

Councilmember Zollman moved and Councilmember Carter seconded the motion to approve direction to staff as follows: Return to a future City Council meeting with proposed Zoning Code/or Zoning Map amendments (and other options as appropriate) that would allow commercial outdoor barbecue (BBQ) uses within specified zoning districts, subject to approval of a Conditional Use Permit (CUP) or similar discretionary entitlements.

VOTE:

Ayes:	Councilmembers Carter, Hinton, Zollman and Vice Mayor Maurer
Noes:	None
Absent:	Mayor McLewis
Abstain:	None

2. **Where are outdoor commercial barbecues allowed now?**

- a. Under SMC Table 17.25-1, outdoor commercial barbecue is allowed with a Conditional Use Permit in the CG, CD, M and CM districts. It is not allowed in CO (A&M's district) or OLM. SMC 17.300.040 already creates some standards for commercial outdoor BBQs, such as, a 10-foot setback from property lines, a Fire Chief permit, spark arrestors, and compliance with building, fire and air quality rules.

3. **How many parcels are zoned CO, and how many are next to homes?**

- a. About 152 parcels are zoned CO, and about 87 of them are adjacent to residentially zoned parcels. Most are in two areas:

Northwest of Downtown, on both sides of Healdsburg Ave

South of Downtown, on both sides of S. Main St and Petaluma Ave

- b. There are also 7 parcels along Bodega Ave west of Downtown (Dutton Ave to Ragle Rd) and a cluster of 10 along the southeast stretch of Hwy 116, across from Fircrest Ave.

4. **How was the business originally approved?**

- a. The current operation of A&M BBQ has never been approved by the City. The prior business involved the approval of a single small smoker. The site previously housed Lucca Liquors and then Marvin's Deli & BBQ (licensed October 2022, closed February 2025). The former Fire Chief approved a building and fire review for Marvin's on October 12, 2022. A 2023 tenant improvement permit had one inspection and no fire inspection. The Building Official reports the original approval involved one small smoker.

5. **Has A&M passed its inspections?**

- a. See attached report: Per Gold Ridge, no fire inspection records for this business were located during our review. Gold Ridge Fire Protection District can confirm that staff contacted the business via email on March 26, 2026, to coordinate a fire inspection. The Gold Ridge Fire Protection District has not identified any fire or life safety violations and does not consider A&M BBQ to be out of compliance with applicable Municipal Code requirements related to fire prevention and life safety. Determinations regarding compliance with building codes, air quality regulations, or other non-fire-related standards fall within the authority of the respective regulatory agencies.

6. **What has A&M done since March?**

- a. **March:** Staff met with the owner. He stated he changed how he starts the fires (earlier and more gradually). A March 26 letter required removal of the two large smokers and a return to the original small smoker.
- b. **Early May:** One of the two large smokers was gone.

- c. **June 8–12:** Both smokers were reported back on site June 8–9, reported removed June 12, then returned.
 - d. **Ongoing:** A&M has stayed in contact with the City and shared operational and long-term business plans, which include confidential business information. The owner has told staff the business has outgrown the site and he is looking for a new location.
 - e. Council may ask A&M to describe its relocation and mitigation efforts in more detail at the meeting.
7. **What is the difference between Option A and Option B?**
- a. Option A is to rezone A&M's specific parcel to allow outdoor commercial barbecue, but only with an approved use permit. Option B is to rezone the entire district to allow outdoor commercial barbecue, but only with an approved use permit. Both cost about the same and take about the same time. The Agenda Item is for "Zoning Considerations for Outdoor Commercial Barbeques in the CO" so the Council can instruct staff to look into another location. It would already be covered by existing option 1 (district wide rezoning for CO), and Council can direct staff to move forward with a site specific rezoning of any CO parcel.
8. **Why does staff recommend Option B?**
- a. A text amendment creates one uniform, repeatable standard for all CO-zoned parcels. Rezoning a single parcel is generally disfavored and raise concerns for future requests which would need its own rezoning.
9. **Does Option B allow barbecue operations anywhere in the CO district?**
- a. No. The amendment authorizes nothing on its own. Every operator would still need a discretionary conditional use permit, a public hearing before the Planning Commission, and compliance with the adopted performance standards. The Commission may deny a permit, or add conditions where a site is near homes or other sensitive uses.
10. **Could Option B be limited to certain CO areas, or require a minimum distance from homes?**
- a. Yes. Council could direct that the amendment apply only to certain CO areas, or set a minimum separation from residential uses.
11. **Could the performance standards also apply in other commercial zones?**
- a. Any new performance standards for outdoor commercial BBQs would apply City wide to any new outdoor commercial BBQs that obtain a conditional use permit following the ordinances implementation.
 - b. The amendment if approved to move forward would also add air quality and odor standards to the City's existing Outdoor Commercial Barbecue provisions. It could apply to either option; but it wouldn't apply to existing uses which would be legal non-conforming as to the standards
12. **Are we changing the law for one business?**
- a. The issue came up through A&M, but zoning standards apply to every property in a district, not to one business. The policy question is whether outdoor commercial barbecue should ever be allowed in CO, and under what standards. Any business meeting those standards could apply. Option A would only change zoning for a specific parcels not an entire zoning district.
13. **Would either option make A&M a legal nonconforming use?**
- a. No. Under either option, A&M would operate under a new use permit if approved subject to adopted standards or imposed conditions of approval.
14. **How are noise and fire safety addressed?**
- a. Under section 17.300.040 establishes standards that may be amended. The Gold Ridge Fire Protection District is responsible for determining what fire protections are necessary.
15. **Who makes the final decision?**
- a. Normally the Planning Commission is decision-making body for use permits and the City Council is the decision-making body for Zoning Code changes. However, the Municipal Code provides for concurrent

processing of applications (except for Design Review Board approval). This means that if the zoning code amendment and use permit are sought concurrently, the City Council would be the decision-making body for both the Zoning Code change and Use Permit, following a recommendation from the Planning Commission.

16. How long until a final decision, and why so long?

- a. About 120 to 150 days. A code amendment requires drafting, environmental review, a noticed Planning Commission hearing, two Council readings, and 30 days before the ordinance takes effect.

17. Can the decision be reversed later if it does not work?

- a. In general, a pre-existing business would become a legal non confirming use if the code is changed and could continue in existence, subject to its original permit.

18. What happens if Council takes no action?

- a. There would be no legal path for A&M to continue outdoor smoking at its current location, and code enforcement would resume.

19. What are the costs, and who pays?

- a. Unless the City Council decides to initiate the application itself, the applicant is responsible for all City costs. A \$5,000 initial deposit is required. At this time, staff estimates the cost to be \$5,250.

20. How will this affect the Planning Division's workload?

- a. Planning and code enforcement capacity is limited given current planning staffing. Processing and ongoing monitoring would compete with other work unless. City staff has been responding to compliance issues on a complaint driven process.

21. Will A&M keep operating during the 120–150 day process?

- a. The stay on enforcement would be a City policy decision.

22. Can Council attach conditions to the stay now, without waiting for the new standards?

- a. Yes, the Council can identify that Code Enforcement should remain paused only if certain conditions are met.

23. Does the stay have an end date?

- a. If Council continues the stay, it could set a firm end date and a return-to-Council report.

24. Is anything protecting neighbors right now?

- a. In part. SMC 17.300.040(B)(2) lets the Fire Chief order an outdoor commercial barbecue to stop immediately if smoke is, or is likely to be, offensive to occupants of surrounding property or hazardous. Gold Ridge Fire's June 3 review found the smoke not hazardous.

25. What happens if A&M does not apply for a use permit, or the permit is denied?

- a. Code enforcement would resume.

26. Does the City have air-quality data?

- a. **City monitoring (March):** Staff tracked nearby BAAQMD-provided monitors for several weeks. Air was mostly in the healthy range, but nearly every morning from about 5 to 7 AM it reached "moderate" at the closest monitor, a couple hundred feet away.
- b. **Gold Ridge Fire (June 3):** Reviewed EPA AirNow and BAAQMD data and found no hazardous readings.
- c. **Resident sensor (June 9):** A PurpleAir sensor about 50 yards away showed readings up to about 200 when the smokers fired up.
- d. **Historical context:** The Building Official noted a nearby sensor shows similar morning spikes going back six years, before A&M opened.

27. Why does smoke occur on days the restaurant is closed?

- a. Staff attributes this to catering work done outside the city but A&M would need to confirm.

28. Does the Air District regulate this?

- a. Sebastopol is within the Bay Area Air Quality Management District (BAAQMD). Gold Ridge Fire reported BAAQMD received 3–4 complaints over the past two years and took no action.
 - b. City staff received the following information from BAAQMD on Oct 5th 2026:
 - i. Contact Name: Dennis Quach
 - ii. Title: Senior Air Quality Specialist
1. Residents were told BAAQMD regulates only residential sources, not commercial. Is that true? If not, which rules apply to commercial cooking and smoking? If so, who regulates commercial sources?
 - a. Only rule for commercial cooking and smoking applies to char broilers, and the open burn rule exempts wood burning for the cooking of food for human beings. No other agency regulates, unless there is a City ordinance with regulations.
 2. Does A&M's smoker require a BAAQMD permit or registration, or is it exempt? Is anything on file for A&M?
 - a. Exempt. Any files are subject to PRA request.
 3. Does BAAQMD's public nuisance rule apply to smoke and odor from commercial cooking? What is required to establish a violation (e.g., number of verified complaints)?
 - a. Public nuisance rule does apply. No established threshold, subject to situational review by BAAQMD legal counsel.
 4. Can a commercial business continue smoking meat on a Spare the Air day? Residents say A&M was operating during the last coastal fire when Sebastopol was covered in smoke.
 - a. Yes, they are exempt.
 5. How does BAAQMD monitor commercial smoking operations, and what are the requirements for enforcement?
 - a. Open burn rule exempts wood burning for food.
 6. How quickly do they respond to complaints, including evenings and weekends?
 - a. Per agency policy, response within 30 min- 1 hr. Next business day for evenings and weekends.
 7. Can the City request that BAAQMD place a sensor near Walker if Option A or B is chosen?
 - a. No
 8. How many complaints has BAAQMD received about A&M? Get dates and outcomes, including any inspections, warnings, or Notices of Violation.
 - a. PRA request required to obtain this information.
 9. What controls or practices do they recommend for commercial smokers (equipment, stack height or location, fuel type, hours)?
 - a. They recommended reaching out to their Engineering Division for an answer to this question **(waiting for a call back)**.

29. Who handles complaints: the City or the Air District?

- a. The City handles enforcement for its ordinances, regulations, and permits only.

30. How many complaints has the City received?

- a. Residents have raised concerns since at least fall 2025, and the City has received public comment letters on both sides.

31. Has filtration been considered?

- a. A&M will need to address the cost and feasibility of filtration or a smoke-control system, if required by performance standards or a conditional use permit.

32. Was the City's enforcement about smoke or about zoning?

- a. Zoning.

33. Why didn't the City know the business was out of compliance?

- a. The site was approved in 2022 with one small smoker as part of a deli, where bbq was only one portion of the business. The later change to an exclusively bbq restaurant with two large smokers did not go through a permit, so it was never reviewed. The 2023 tenant improvement permit had one inspection and no fire inspection. The City was made aware of the issue in late 2025 but the City has no dedicated code enforcement staff, so enforcement is largely complaint-driven.

34. What notices has the City issued?

- a. **March:** Letters to the owner, including the March 26 letter requiring removal of the two large smokers.
- b. **April 8:** A third notice.
- c. **May 20 (corrected May 28):** A Notice of Violation (NOV) citing Table 17.25-1. It required outdoor commercial barbecue to stop within 10 calendar days and warned of abatement and administrative fines of up to \$500 per violation per day.
- d. **May 29:** The City Manager told the owner the City would not act during the 10-day period as long as progress was being made.

35. If enforcement resumes, what happens next: a notice to correct, fines, or a shutdown of the business?

- a. Notice of violation will be issued if compliance does not occur. The City may impose fines and/or seek a court injunction.

36. Would enforcement close the restaurant?

- a. No. Enforcement targets the outdoor commercial smoking (zoning), not the restaurant.

37. What happens if an operator violates the standards after getting a permit?

- a. The business would be subject to code enforcement or the City could schedule the permit for a revocation hearing before the Planning Commission.

38. Is A&M planning to relocate?

- a. The owner has told staff the business has outgrown the site and he is looking for a new location. Council may ask A&M to address its relocation timeline at the meeting.

39. Is moving smoking off-site feasible for A&M?

- a. A&M will need to address this, including location, cost and timing.

40. Would off-site cooking need separate approvals?

- a. Yes. Offsite cooking would need to comply with applicable zoning code and permits for that site.

41. Can the City require off-site smoking as a condition of the stay?

- a. Yes. The Council can indicate that it only desires a stay of enforcement if certain conditions are met.

42. Have staff met with the neighbors?

- a. Yes. The City Manager and staff met with a group of neighboring residents at City Hall on June 1 to hear their concerns. Staff has corresponded with individual residents since March, and the Fire District's June 3 report was shared with neighbors.

43. Have staff met with A&M?

- a. Yes. Staff met with the owner in March. The City Manager spoke with Mr. Austin on May 28, and on June 8 met with Mr. Austin, the Santa Rosa–Sonoma County NAACP President, and Planning and Building

staff to discuss compliance options. As noted above, A&M has stayed in contact with the City and shared operational and long-term business plans, which include confidential business information.

44. Have the neighbors and A&M met together?

- a. Not that the City is aware of.

45. Do Councilmembers need to recuse themselves if they have been actively involved in helping the business with scrubbers?

- a. Recusal generally turns on two questions: whether a Councilmember has a financial interest in the matter, and whether prior involvement could show bias or prejudgment. The second matters most when Council acts in a quasi-judicial role, such as deciding a use permit or appeal. A zoning text amendment is legislative, where the standard is less strict.

46. Does staying enforcement on a known violation set a precedent?

- a. The City has discretion over enforcement priorities, and a time-limited stay tied to a pending policy decision is a recognized practice.