

**Attachment 2**

**New Zoning Ordinance Errata Sheet (10/7/19)**



## Planning Commission NZO Adoption Recommendation Hearing (10/7/19)

NZO Section	Revision Description
Section 17.01.030	<p>Revise the final sentence of subsection 17.01.030(B)(1) to read in its entirety: Certain regulations applicable in multiple districts and performance standards that govern special uses are in Part IV.</p> <p><u>Revise subsection 17.01.030(B)(3) to replace the word “private” with “all” in order to make the NZO also applicable to City projects.</u></p>
Section 17.01.040	<p><u>Revise subsection 17.01.040(A)(5) to add in “and regulations” to read in its entirety:</u></p> <ul style="list-style-type: none"> <li><u><b>Applicability to the City.</b> The City will ensure that all public buildings and facilities comply with the same development standards and regulations as would be applicable to private development.</u></li> </ul> <p>Revise subsection 17.01.040(E)(4) and (5) to read in their entirety:</p> <ul style="list-style-type: none"> <li><b>Project Applications Deemed Complete.</b> At the Applicant’s election, a project application that is determined to be complete prior to September 1, 2019, shall either: <ul style="list-style-type: none"> <li>a. Be processed under the zoning regulations at the time of the determination; or</li> <li>b. Be processed under this Title.</li> </ul> <p>The allowances under this provision shall sunset on December 31, <del>2023</del><u>2021</u> if a project has not received all required <u>land use</u> entitlements, after which, the project shall be subject to all regulations of this Title.</p> </li> <li><b>Project Applications Not Deemed Complete.</b> Projects for which an application has not been submitted and deemed complete prior to September 1, 2019 shall be subject to the regulations of this Title.</li> </ul>
Section 17.01.070	<p>Revise the introductory sentence of Section 17.01.070 to include “and must be” to read in its entirety:</p> <p>All parcels in the City are and must be classified by districts for the purpose of implementing the regulations set forth in this Title and as follows.</p>
Section 17.03.130	<p>In subsection 17.03.130(B), change the word “lope” to “slope.”</p>
Section 17.07.010	<p>Change:</p> <ul style="list-style-type: none"> <li><b>RS Single-Family Residential to RS Single Family Residential.</b></li> <li><b>RM Medium-Density Residential to RM Residential – Medium -Density.</b></li> <li><b>RH High-Density Residential to RH Residential - High Density.</b></li> <li><b>RMHP Mobile Home Park to RMHP Residential - Mobile Home Park.</b></li> </ul>
Table 17.07.020	<p>Add</p> <ul style="list-style-type: none"> <li><u>A Footnote 1 to the “P” for Accessory Dwelling Unit in RP.</u></li> <li><u>A “CU” for Large Residential Care Facilities in “RS” and “RP.” Recommend initiating a companion General Plan Amendment in the Land Use Element.</u></li> </ul> <p>Change</p> <ul style="list-style-type: none"> <li>Footnote 1 from “Allowed with a single-unit home on-site.” To “Allowed with a single-unit home on-site on the same lot.”</li> </ul>
Section 17.08.010	<p>Change:</p> <ul style="list-style-type: none"> <li><b>OT Old Town to OT Old Town - Commercial.</b></li> <li><b>VS Visitor-Serving Commercial to VS Visitor Serving - Commercial.</b></li> </ul>
Table 17.08.020	<p>Add a “P” in all zones for Small and Large Family Day Care.</p>

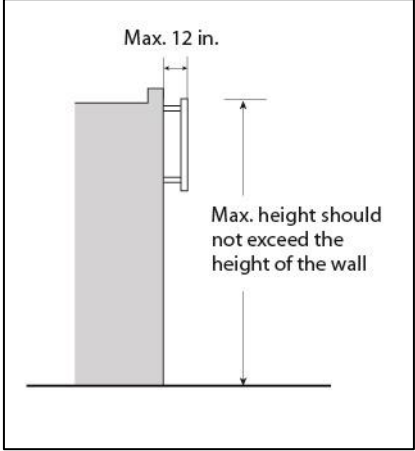
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Table 17.09.020	Add a "P" in both zones for Small and Large Family Day Care.
Table 17.10.020	Add a "P" in both zones for Small and Large Family Day Care.
Table 17.11.020	Add a "P" for Small and Large Family Day Care.
Section 17.12.010	Change: <ul style="list-style-type: none"> <li><b>AG Agriculture to AG Agricultural.</b></li> </ul>
Table 17.12.020	Add a "P" in all zones for Small and Large Family Day Care.
Section 17.24.090	Delete: <ul style="list-style-type: none"> <li>Figure 17.24.090(B): Fence and Wall Height.</li> <li>Delete "if not within 20 feet of any right of way of any street" from subsection 17.24.090(B)(2).</li> <li>Delete "and more than 20 feet from any street right of way line" from subsection 17.24.090(B)(3).</li> </ul>
<a href="#">Chapter 17.28</a>	<ul style="list-style-type: none"> <li><a href="#">Add new sentence at the end of Section 17.28.010 Purpose: "This chapter may be implemented by way of a resolution adopted by the City Council."</a></li> <li><a href="#">Revise Eligibility and Selection for Inclusionary Units Section 17.28.070 and Inclusionary Unit Restrictions Section 17.28.080 as shown in Exhibit 2.</a></li> </ul>
Chapter 17.30	Revise Chapter 17.30, Environmentally Sensitive Habitat Areas as shown in Exhibit 1.  <a href="#">Recommend initiating a companion General Plan Amendment in the Conservation Element.</a>
Section 17.35.050	<ul style="list-style-type: none"> <li>Add "the bottom surface of" to subsection 17.35.050(E)(2) to read in its entirety: "Light fixtures mounted on the bottom surface of canopies must be recessed so that the lens cover is recessed or flush with the bottom surface of the canopy and/or shielded by the fixture or the edge of the canopy."</li> </ul>
Section 17.35.060	<ul style="list-style-type: none"> <li>Add the following sentence to subsection 17.35.060(A)(1): "This information must be shown on a landscape plan to demonstrate coordination of fixtures and tree plantings. The location of light fixtures and landscaping on adjacent properties and on the street right of way that effect lighting/landscaping on the project is also necessary;"</li> <li>Add new subsection 17.35.060(B)(3) that reads in its entirety:  <b>Non-Single Unit Dwellings.</b> For all development except Single Unit Dwellings, the applicant must provide photometric diagrams and data, color rendering index of all lamps, and computer generated photometric grid showing foot-candle readings every 10 feet within the property or site and 10 feet beyond the property lines. The grid should also indicate maximum and minimum uniformity for each specific use area. </li> </ul>
Section 17.36.030	<ul style="list-style-type: none"> <li>Delete subsection (C) Involuntary Nonconformance of a Lot, which is now covered later in Section 17.36.060, and renumber remaining subsections (D) and (E) accordingly.</li> </ul>
Section 17.36.060	Change section title from: <ul style="list-style-type: none"> <li><b>Nonconforming Lots to Involuntary Nonconformities.</b></li> </ul> Revise Section 17.36.060(A) to read in its entirety: <ul style="list-style-type: none"> <li><b>Involuntary Nonconformance of a Lot, Structure, or Use.</b> Notwithstanding any other provision of this Chapter, no lot, structure, or use will be considered nonconforming as a result of a conveyance of any interest in the subject lot to a public entity through</li> </ul>

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	<p>eminent domain proceedings, under threat of eminent domain proceedings, or to meet a requirement of any public entity having jurisdiction.”</p>
<p>Table 17.38.040(A)</p>	<p><u>Revise the parking requirement for Studio and one-bedroom units to read in its entirety:</u></p> <ul style="list-style-type: none"> <li>• <u>2 spaces per unit</u></li> </ul> <p><u>Revise the parking requirement for Multi-Unit Development to require that “One additional guest parking space must be provided for every 2 units.”</u></p> <p>Revise the parking requirement for Large Family Day Care to read in its entirety:</p> <ul style="list-style-type: none"> <li>• None in addition to what is required for the residential use.</li> </ul>
<p><u>Section 17.38.050</u></p>	<p><u>Add new subsection 17.38.050(C)(1) that reads in its entirety:</u></p> <ul style="list-style-type: none"> <li>• <u>In considering a required parking reduction, the Review Authority may consider an approved Transportation Demand Management Program. In determining the parking reduction for a Transportation Demand Management Program, the Review Authority must consider whether the Program includes: promotion of telecommuting, establishment of flexible work schedules, provision of incentives for carpooling, provision of vanpools, support for car sharing/ride sharing, guaranteed ride home programs, provision of pedestrian amenities on site, provision of bicycle facilities and amenities on site, and bus pass programs for employees.</u></li> </ul> <p><u>Add new subsection 17.38.050(D) that reads in its entirety:</u></p> <ul style="list-style-type: none"> <li>• <u><b>C-OT Redevelopment.</b> Where existing development with nonconforming parking is replaced with new development or a change of use, the new development or change of use shall receive a parking credit equal to the number of required automobile parking spaces unmet by the previous development or use.</u></li> </ul>
<p><u>Section 17.38.090</u></p>	<p><u>Add new subsection 17.38.090(C) that reads in its entirety:</u></p> <ul style="list-style-type: none"> <li>• <u><b>Bicycle Charging.</b> One charging electrical outlet for every ten bicycle parking spaces is required</u></li> </ul>
<p><u>Section 17.38.110</u></p>	<p><u>Revise subsection 17.38.110(G) to increase the requirement for electric vehicle (EV) charging stations from five percent to 10 percent and replace “multiple-unit development” with “residential.”</u></p>
<p>Section 17.40.010</p>	<ul style="list-style-type: none"> <li>• Revise subsection 17.40.010(A) to replace the word “aid” with “information”.</li> </ul>
<p>Section 17.40.060</p>	<p>Change:</p> <ul style="list-style-type: none"> <li>• The Multi-Faced Signs Figure citation from 17.41.060(H)(3) to 17.40.060(H)(3).</li> <li>• The Three-Dimensional Signs Figure citation from 17.41.060(H)(4) to 17.40.060(H)(4).</li> </ul>
<p>Section 17.40.080</p>	<p>Replace Figure 17.40.080(C): Freestanding Signs with the following figure:</p> <div style="border: 1px solid black; padding: 10px; margin-top: 10px;"> <p>The diagram illustrates the requirements for freestanding signs. It includes a side view (labeled 'Section') and an elevation view (labeled 'Elevation').</p> <p><b>Side View (Section):</b> Shows a building on the left and a freestanding sign structure on the right. The distance between the building and the sign is labeled 'Min. 20 ft'. The sign structure is labeled 'Max. 4 ft; up to 6 ft. with approval of Overall Sign Plan'. The base of the sign is labeled 'Min. 5 ft'. A dashed line indicates the 'Lot Line'.</p> <p><b>Elevation View:</b> Shows a sign for 'Don's Cafe' with a smaller sign below it that says 'Lunch and Dinner'. The sign is surrounded by landscaping. The text 'Max. total area: 100 sq. ft.' is next to the main sign, and 'Max. area of lower sign: 20 sq. ft.' is next to the smaller sign. Below the sign, it says 'Base landscaping: Min. two times sign copy area'.</p> </div>

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	<p>Replace Figure 17.40.080(F): Wall Signs with the following figure:</p> 
<p>Section 17.41.040</p>	<p>Add “, including but not limited to Family Day Care Facilities,” to subsection 17.41.040(F) to read in its entirety:</p> <ul style="list-style-type: none"> <li>• <b>Exempt Accessory Uses.</b> Any Accessory Uses that are specifically defined and regulated under this Title, including but not limited to Family Day Care facilities, are exempt from this Section.</li> </ul>
<p>New Section 17.41.110</p>	<p>Add new Section 17.41.110, Day Care Facilities (and update other citations within Chapter 17.41 as necessary) to read in its entirety:</p> <p>Day Care Facilities, including nurseries, preschools, and facilities for children or adults, providing supervision and non-medical care for durations of less than 24 hours per day must be located, developed, and operated in compliance with the following standards:</p> <p>A. <b>Permit Required.</b> Day Care Facilities operating as the principal use on a subject parcel shall be subject to the following permit requirements unless a different requirement is required by this Title:</p> <ol style="list-style-type: none"> <li>1. <b>Exempt.</b> Day Care Facilities are allowed and exempt from Zoning Permits and Approvals in the following districts: CC, OT, CG, BP, OI, and PQ.</li> <li>2. <b>Minor Conditional Use Permit.</b> Day Care Facilities are allowed with the approval of a Minor Conditional Use Permit in the following districts: RS, RP, RM, RH, CR, VS, and CI.</li> <li>3. <b>Major Conditional Use Permit.</b> Day Care Facilities are allowed with the approval of a Major Conditional Use Permit in the following districts: IS and IG.</li> <li>4. <b>Not Allowed.</b> Day Care Facilities are not allowed in the following districts: RMHP, OSPR, OSAR, and AG.</li> </ol> <p>B. <b>Accessory Use.</b> Day Care Facilities operating accessory to another Principal Use on a subject parcel shall be exempt from the requirement for a Major Conditional Use Permit where otherwise required pursuant to subsection 17.41.040(C)(4).</p> <p>C. <b>Licensing.</b> In addition to any State licensing requirements, all Day Care Facilities shall require a Business License from the City.</p> <p>D. <b>Required Parking/Loading.</b> One designated parking space for each ten patrons, plus one drop-off/loading space for each ten patrons.</p>

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	<p>E. <b>Contact Person(s).</b> The current name(s) and telephone number(s) of the operator(s) must be on file with the Planning and Environmental Review Department at all times.</p> <p>F. <b>Development Impact Fees.</b> All Day Care Facilities shall be subject to the City's fee reductions program for Beneficial Projects (Day Care and Child Care).</p> <p>G. <b>Incentives.</b></p> <ol style="list-style-type: none"> <li>1. <b>Director.</b> The Director may grant the following incentive to developers for constructing and operating a Day Care Facility. <ol style="list-style-type: none"> <li>a. <b>Processing.</b> Priority processing of applications for Day Care Facilities will be provided.</li> </ol> </li> <li>2. <b>All Review Authorities.</b> The Review Authority may grant one or more of the following incentives to developers for constructing and operating a Day Care Facility. <ol style="list-style-type: none"> <li>a. <b>Parking Reduction.</b> The number of required parking spaces may be reduced up to 20 percent, through the approval of a Land Use Permit, for a Day Care Facility with an approved Transportation Demand Management Program.</li> <li>b. <b>Lot Coverage.</b> <ol style="list-style-type: none"> <li>i. <b>As Accessory Use.</b> Day Care Facilities operating accessory to a Principal Use will not be counted toward the overall Lot Coverage of the site.</li> <li>ii. <b>As Principal Use.</b> Day Care Facilities operating as a Principal Use may increase the maximum allowable Lot Coverage by up to ten percent.</li> </ol> </li> <li>c. <b>Other.</b> The Review Authority may grant up to five percent bonus for up to one requested Modification, pursuant to Chapter 17.62, for a Day Care Facility project.</li> </ol> </li> </ol>
<p>Section 17.41.130</p>	<p>Change the Section title from "Family Day Care Homes, Large" to "Family Day Care" and revise to read in its entirety:</p> <p>A. <b>Applicability.</b> The following standards shall apply to all Family Day Care facilities providing childcare and operating as an accessory use to the principal residential use of a lot, unless otherwise preempted by State law:</p> <ol style="list-style-type: none"> <li>1. <b>Permit Required.</b> No permit is required for Family Day Care Facilities.</li> <li>2. <b>Residency.</b> The operator of a Family Day Care must be a full-time resident of the dwelling unit in which the facility is located.</li> <li>3. <b>Development Impact Fees.</b> Family Day Care Facilities are not subject to Development Impact Fees pursuant to Chapter 17.70.</li> <li>4. <b>Licensing.</b> A Family Day Care facility must obtain a State license, but shall not require a Business License from the City.</li> </ol> <p>B. <b>Small Family Day Care.</b> Small Family Day Care facilities must be located, developed, and operated in compliance with the following, where allowed by Part II, Base Zoning District Standards and Allowed Uses, unless otherwise preempted by State law:</p>

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	<p>1. <b>Number.</b> A Small Family Day Care facility may provide care for more than six and up to eight children, as defined in California Health and Safety Code, Section 1597.44.</p> <p>C. <b>Large Family Day Care.</b> Large Family Day Care must be located, developed, and operated in compliance with the following standards, where allowed by Part II, Base Zoning District Standards and Allowed Uses, unless otherwise preempted by State law:</p> <p>1. <b>Number.</b> A Large Family Day Care facility may provide care for more than 12 children and up to and including 14 children, as defined in California Health and Safety Code, Section 1597.465.</p>
Section 17.41.140	<p>Revise subsection 17.41.140(B) to read in its entirety:</p> <ul style="list-style-type: none"> <li>• <b>Operation Permit.</b> Before commencement of the use, the applicant must have a valid permit to operate from the California Department of Housing and Community Development (HCD).</li> </ul>
Section 17.41.150	<p>Capitalize the “R” in “Group Residential” in the first sentence.</p>
Section 17.41.210	<ul style="list-style-type: none"> <li>• Change the name of the Section from “Residential Care Facilities, Large” to “Residential Care Facilities”.</li> <li>• Add a new subsection (A) that reads in its entirety: <ul style="list-style-type: none"> <li>A. <b>Small Residential Care Facilities.</b> There are not City-specific standards for Small Residential Care Facilities.</li> </ul> </li> <li>• Move existing language regulating Large Residential Care Facilities in Section 17.41.210 into a new subsection (B) entitled “<b>Large Residential Care Facilities.</b>”</li> </ul>
Section 17.41.250	<ul style="list-style-type: none"> <li>• Revise subsection (A) to read in its entirety: <p>A. <b>Exempt Temporary Uses.</b> The following minor and limited duration temporary uses are exempt from the permit requirements of this Section. Other permits, such as Building Permits, may be required.</p> </li> <li>• Delete subsection (C)(1)(a) and renumber the remaining three subsections accordingly.</li> </ul>
Section 17.42.020	<ul style="list-style-type: none"> <li>• Revise subsection 17.42.020(A) to change “exceeding” to “exceed.”</li> </ul>
Section 17.42.030	<p>Add the language “or painted” to subsection 17.42.030(D)(4) to read in its entirety”</p> <ul style="list-style-type: none"> <li>• <b>Camouflage Design.</b> Wireless telecommunication facilities that are mounted on buildings or structures shall be designed to match existing architectural features, incorporated in building design elements, camouflaged, or otherwise screened or painted to minimize their appearance in a manner that is compatible with the architectural design of the building or structure. New facilities must not include the use of faux trees as camouflage.</li> </ul>
Section 17.52.050	<p>Add “Tenants of the subject parcel(s) and” to subsection 17.52.050(C)(1)(b)(iv) to read in its entirety:</p> <ul style="list-style-type: none"> <li>• Tenants of the subject parcel(s) and tenants within 500 feet of the exterior boundaries of the subject parcel(s).</li> </ul> <p>Add “for public hearings” to subsection 17.52.050(C)(4) to read in its entirety:</p> <ul style="list-style-type: none"> <li>• <b>Electronic Notice.</b> Notice shall be provided for public hearings by electronic means, including emailed notice, posted notice on the City’s website, and any other means determined by the Director. Any persons or organizations may request electronic notice.</li> </ul>



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Section 17.52.120	Delete the following two sentences from subsection 17.52.120(D)(5): <ul style="list-style-type: none"> <li>If new or different evidence is presented in the appeal, the appeal body, may, but shall not be required to, refer the matter back to the Review Authority for further consideration. Any new evidence shall relate to the subject of the appeal.</li> </ul>
Section 17.54.020	Add new subsection 17.54.020(A)(6) that reads in its entirety: <ul style="list-style-type: none"> <li>Small habitat restoration or enhancement projects that are exempt from CEQA, pursuant to CEQA §15333.</li> </ul>
Section 17.58.060	Add a sentence to subsection 17.58.060(B) that states: <ul style="list-style-type: none"> <li>“The Review Authority’s decision at Preliminary Review is the formal action for Design Review, which may be appealed.”</li> </ul>
<u>Section 17.62.020</u>	<u>In subsection 17.62.020(A)(1)(b), delete “, except for unenclosed, attached porches or entryways,”.</u>  <u>In subsection 17.62.020(A)(1)(b)(ii), change “three feet” to “five feet.”</u>
Section 17.72.010	Revise the use classification definition for “Group Residential” to read in its entirety: <ul style="list-style-type: none"> <li><b>Group Residential.</b> Shared living quarters without separate kitchen or bathroom facilities for each room or living space, offered for rent for residents on a 30 day or longer basis. This classification includes halfway houses, rooming and boarding houses, dormitories and other types of organizational housing, and private residential clubs. Includes both licensed and unlicensed facilities. It does not include licensed Residential Care Facilities, Employee Housing as set forth in California Health and Safety Code, Sections 17021.5 and 17021.6, and Hotels and Motels.</li> </ul>
Section 17.72.030	Revise the use classification definition for “Professional Services” to read in its entirety: <ul style="list-style-type: none"> <li><b>Professional Services.</b> Offices of firms, organizations, or public agencies providing professional, executive, management, administrative, or design services, such as: accounting; architectural; computer software engineering, design, and development; graphic design; interior design; and legal offices.</li> </ul>
Section 17.72.040	Add the word “tangible” to the use classification definition for “R&D and Technology” to read in its entirety: <ul style="list-style-type: none"> <li><b>R&amp;D and Technology.</b> A facility for scientific research and the design, development, and testing of tangible electrical, electronic, magnetic, optical, pharmaceutical, chemical, and biotechnology components and products in advance of product manufacturing. This classification includes assembly of related products from parts produced off site, where the manufacturing activity is secondary to the research and development activities.</li> </ul>
Chapter 17.73	The following revisions were made to the List of Terms and Definitions: <ul style="list-style-type: none"> <li>Revised the definition for the term “fence” as follows: <b>Fence.</b> A structure serving as an enclosure, a barrier, or a boundary and typically intended to prevent escape or intrusion or to mark a boundary.</li> <li>Revise the definition for the term “wall” as follows: <b>Wall.</b> A vertical masonry structure; or, any vertical exterior surface of building or any part thereof, including windows.</li> </ul>
Throughout	Other clerical, formatting, typographical, or other revisions identified by staff to clarify the meaning of a provision but does not change the meaning or intent of the sentence, paragraph, or Section.

Exhibit 1: Recommended Edits to 2019 Public Hearing Draft - ESHA Chapter 17.30

Exhibit 2: Recommended Edits to 2019 Public Hearing Draft – Eligibility and Selection for Inclusionary Units Section 17.28.070 and Inclusionary Unit Restrictions Section 17.28.080

Attachment 2 Exhibit 1:

Recommended Edits to 2019 Public Hearing Draft - ESHA Chapter 17.30



## Chapter 17.30 Environmentally Sensitive Habitat Areas

### Sections:

17.30.010	Purpose and Intent
17.30.020	Applicability
17.30.030	Application Requirements
17.30.040	<u>Development and</u> Mitigation of Impacts
17.30.050	Development Standards
17.30.060	Management of ESHAs
<del>17.30.070</del>	<del>Changes to Required ESHA Buffers</del>
17.30. <del>080</del> 070	Streamside Protection Areas
17.30. <del>090</del> 080	Dedication of Easements or Other Property Interests
17.30. <del>100</del> 090	Protection of Wetlands Within the Coastal Zone
17.30. <del>110</del> 100	Protection of Wetlands Outside the Coastal Zone
17.30. <del>120</del> 110	Mitigation of Wetland Infill
17.30. <del>130</del> 120	Lagoon Protection
17.30. <del>140</del> 130	Vernal Pool Protection
17.30. <del>150</del> 140	Protection of Coastal Bluff Scrub, Coastal Sage Scrub, and Chaparral
17.30. <del>160</del> 150	Protection of Native Oak Woodlands and Savannas
17.30. <del>170</del> 160	Protection of Native Grasslands
17.30. <del>180</del> 170	Protection of Marine and Beach Habitats
17.30. <del>190</del> 180	Protection of Monarch Butterfly ESHA
17.30. <del>200</del> 190	Protection of Other Areas Designated as Sensitive Habitat

### 17.30.010 Purpose and Intent

The purpose of this Chapter is to establish standards for development that could impact Environmentally Sensitive Habitat Areas (ESHA) that are identified and mapped within the General Plan or meet the criteria for ESHA designation as specified in the General Plan and to describe the permit requirements and the review process for such proposed development. More specifically, this Chapter is intended to:

- A. Protect, maintain, and enhance natural ecosystem processes and functions in Goleta's ESHA in order to maintain their natural ecological diversity.
- B. Preserve, restore, and enhance the physical and biological integrity of Goleta's creeks and natural drainages and their associated riparian and creek-side habitats.
- C. Protect, restore, and enhance coastal bluffs and dune areas.
- D. Identify and protect wetlands, including vernal pools, as highly productive and complex ecosystems that provide special habitats for flora and fauna, as well as for their role in cleansing surface waters and drainages.
- E. Protect and enhance other important aquatic and terrestrial habitats, including those associated with rare, threatened, or endangered species of plants or animals.

- F. Protect marine aquatic habitats.
- G. Protect monarch butterfly habitats.

### 17.30.020 Applicability

This Chapter applies to land use and development with the potential to have a direct or indirect effect on ESHAs that could negatively impact the protected sensitive resource. No new development, except as specifically identified in this Title, is allowed within an ~~un mapped or designated~~ ESHA.

### 17.30.030 Application Requirements

- A. **Initial Site Assessment Screening.** The Applicant must conduct an initial site assessment screening for all development proposals to determine the potential presence of ESHA within 300 feet of the development activity. The initial site assessment screening must include a review of reports, resource maps, aerial photographs, site inspection and additional resources as necessary to determine the presence of ESHA.
- B. **Biological Study.** For any development activity within 300 feet of ESHA, or with the potential to adversely impact ESHA, a site-specific biological study must be prepared. The biological study must address all relevant General Plan policies and may be peer reviewed, at the Director's discretion. All costs of the biological study and any peer review are borne by the applicant.
  - 1. The biological study must contain a topographic map at an appropriate scale and contour interval that adequately delineates the boundaries of creek beds and banks, wetlands, native riparian and upland vegetation, vegetation driplines, and ESHA boundaries. The map must clearly show areas that would be directly impacted by project construction and development footprints.
  - 2. The biological study must confirm the extent of the ESHA, document any site constraints and the presence of other sensitive resources. The study must use all required ESHA buffers, discuss the timing of proposed development, analyze potential impacts to all protected sensitive resources, and provide other information, analysis or potential project revisions or modifications necessary to protect the nearby resources to the maximum extent feasible.
  - 3. The biological study must provide alternatives and mitigation measures to avoid significant impacts to ESHA, and any finding that there is no feasible alternative to avoid ESHA impacts must be supported by substantial evidence in the analysis of the study. Where habitat restoration or mitigation is required to eliminate or offset potential impacts to an ESHA, a detailed Restoration and Monitoring Plan is required, as provided later in this Section.
  - 4. The biological study must also describe the flora and/or fauna known to occur or having the potential to occur on the site, including specific discussion for any sensitive species with protected status.
  - 5. Where trees suitable for nesting, roosting, or significant foraging habitat are present, a formal raptor survey must be conducted as part of the biological study. The study must include an analysis of the potential impacts of the proposed development on the

identified habitat or species, an analysis of project alternatives designed to avoid or minimize those impacts.

6. Where the Initial Site Assessment indicates the presence or potential for wetland species or indicators, the Biological Study must include a wetland delineation of all wetland areas on the project site. A preponderance of hydric soils or preponderance of wetland indicator species will be considered presumptive evidence of wetland conditions. At a minimum, the wetland delineations must contain:
    - a. A map at a scale of 1":200' or larger showing topographic contours.
    - b. An aerial base map.
    - c. A map at a scale of 1":200' or large with polygons delineating all wetland areas, polygons delineating all areas of vegetation with a preponderance of wetland indicator species, and the locations of sampling points.
    - d. All area 100 feet upland of the extent of the wetland.
    - e. A description of the survey methods and surface indicators used for delineating the wetland polygons.
    - f. A statement of the qualifications of the person preparing the wetland delineation.
  7. Where the Initial Site Assessment indicates the presence or potential for monarch butterfly ESHA, the Biological Study must include a Monarch Butterfly Protection Plan. At a minimum, the Plan must contain:
    - a. The mapped location of the cluster of trees where monarchs are known, or have been known, to roost in both autumnal and over-wintering aggregations.
    - b. An estimate of the size of the population within the colony.
    - c. The mapped extent of the entire habitat area.
    - d. The boundaries of the buffer zone around the habitat area.
  8. The research and survey methodology used to complete the study must also be provided.
  9. The biological study must be prepared by a professional biologist and have been completed within two years of the date of submittal of the application.
- C. **Scale of Plans.** The Site Plan and Grading Plan must be of a scale and contour interval to adequately depict the proposed work and delineate environmental features on the site.
- D. **Restoration and Monitoring Plan.** Where required, a Restoration and Monitoring Plan must be prepared by a professional biologist and include the following:
1. A clear statement of the goals for ESHA habitat restoration. Characterization of the desired habitat, including an actual habitat, that can act both as a model for the restoration and as a reference site for developing success criteria must be included.
  2. Sampling of reference habitat using the methods that would be applied to the restoration site with reporting of resultant data.

3. Quantitative description of the chosen restoration site.
4. Requirements for designation of a qualified restoration biologist as the restoration manager who will be responsible for all phases of the restoration. Phases of the restoration may not be assigned to different contractors without on-site supervision by the restoration manager.
5. A specific Grading Plan if the topography is proposed to be altered.
6. A specific Erosion Control plan if soil or other substrate would be significantly disturbed during the course of the restoration.
7. A Weed Eradication Plan designed to eradicate existing weeds and to control future invasion by exotic species that is carried out by hand weeding and supervised by a licensed biologist.
8. A Planting Plan that specifies a detailed plant palette based on the natural habitat type that is the model for the restoration, using local native and non-invasive stock and requiring that if plants, cuttings, or seed are obtained from a nursery, the nursery must certify that they are of local origin and are not cultivars. The Planting Plan should provide specifications for preparation of nursery stock and include technical details of planting methods (e.g., spacing, mycorrhizal inoculation, etc.).
9. An Irrigation Plan that describes the method and timing of watering and ensures removal of watering infrastructure by the end of the monitoring period.
10. An Interim Monitoring Plan that includes maintenance and remediation activities, interim performance goals, assessment methods, and schedule.
11. A Final Monitoring Plan to determine whether the restoration has been successful that specifies all of the following:
  - a. A basis for selection of the performance criteria;
  - b. Types of performance criteria;
  - c. Procedure for judging success;
  - d. Formal sampling design;
  - e. Sample size;
  - f. Approval of a final report; and
  - g. Provision for possible further action if monitoring indicates that initial restoration has failed.

#### **17.30.040 Development and Mitigation of Impacts**

- A. No new development, is allowed within an ~~un-mapped or designated~~ ESHA or ESHA buffer.
  1. **Exception.** New Capital Improvement Program projects, ~~and~~ public accessways and trails, habitat restoration and enhancement projects when consistent with subsections 17.30.060(G) and 17.54.020(A)(6), and nature education and research activities may be

~~allowed within ESHA and ESHA buffers with the approval of a Major Conditional Use Permit.~~

- B. New development must minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation must be provided in buffer areas to serve as transitional habitat. All ESHA buffers must be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect.
- C. Unless stated elsewhere in this Title or in the General Plan, new development must be sited and designed to avoid impacts to ESHAs. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts must be selected. Any impacts that cannot be avoided must be fully mitigated, with priority given to on-site mitigation. Mitigation must be fully mitigated at a 3:1 ratio, unless otherwise specified in this Chapter.
- D. Off-site mitigation measures will only be approved when it is not feasible to fully mitigate impacts on site. If impacts to on-site ESHAs occur in the Coastal Zone, any off-site mitigation area must also be located within the Coastal Zone.
- E. All mitigation sites must be monitored for a minimum period of five years following completion of installation, with changes made as necessary based on annual monitoring reports.
- F. Sites with required mitigation will be subject to deed restrictions and performance securities in a form acceptable to the City (e.g., bonds, letter of credit, etc.), in the amount of 125 percent of the estimated costs of mitigation to guarantee completion. The performance security will be released upon the City's final inspection of the completed mitigation.

### 17.30.050 Development Standards

All development must be designed and located to avoid disruption or degradation of habitat values. This standard requires that any project that has the potential to cause adverse impacts to an ESHA be redesigned, reduced in size, or relocated so as to avoid the impact or reduce the impact where complete avoidance is not possible.

~~A. All new development must be designed to avoid encroaching into the required buffer for any protected ESHA throughout the City. Any request to reduce a required buffer shall require the review and approval of a Major Conditional Use Permit.~~

~~B.A.~~ Proposed site designs must preserve wildlife corridors or habitat networks. Corridors must be of sufficient width to protect habitat and dispersal zones for small mammals, amphibians, reptiles, and birds.

~~C.B.~~ Land divisions are only allowed if each new lot being created, except for open space lots, is capable of being developed without building in any ESHA or ESHA buffer and without any need for impacts to ESHAs related to fuel modification for fire safety purposes.

~~D.C.~~ Site plans and landscaping must be designed to protect ESHAs. Landscaping, screening, or vegetated buffers, must retain, salvage, and/or re-establish vegetation that supports wildlife habitat whenever feasible. New development must incorporate design techniques that protect, support, and enhance wildlife habitat values. Planting of non-native, invasive species within ESHA or ESHA buffers must not be permitted.



- ~~E.D.~~ New development must not degrade water quality, including the ocean, lagoons, creeks, ponds, wetlands, or any other waterbody. Pollutants that could adversely affect protected, sensitive resources shall not be discharged or allowed to flow off site.
- ~~F.E.~~ All new development must be sited and designed to minimize grading, alteration of natural landforms and physical features, and vegetation clearance in order to reduce or avoid soil erosion, creek siltation, increased runoff, and reduced infiltration of stormwater, and to prevent net increases in baseline flows for any receiving water body.
- ~~G.F.~~ Light and glare from new development must be controlled and directed away from wildlife habitats. Exterior night lighting must be minimized, restricted to low-intensity fixtures, shielded, and directed away from ESHAs, consistent with the requirements and standards in Chapter 17.35, Lighting.
- ~~H.G.~~ All new development must minimize potentially significant noise impacts on special-status species, consistent with the requirements of Chapter 17.39, Performance Standards.
- ~~I.H.~~ All new development must be sited and designed to minimize the need for fuel modification or weed abatement for fire safety in order to preserve native and/or non-native supporting habitats. Development must use fire-resistant materials and incorporate alternative measures, such as firewalls and landscaping techniques that will reduce or avoid fuel modification activities.
- ~~J.I.~~ The timing of construction activities must be controlled to minimize potential disruptions or impacts to wildlife during critical time periods, such as nesting or breeding seasons.
- ~~K.J.~~ Grading, earthmoving, and vegetation clearance within or adjacent to ESHA is prohibited during the rainy season, generally from November 1<sup>st</sup> to March 31<sup>st</sup>, except:
1. Where necessary to protect or enhance the ESHA itself; or
  2. Where erosion control measures and best management practices (BMPs), such as sediment basins, silt fencing, sandbagging, or installation of geo-fabrics have been incorporated into the project, approved by the City, and installed prior to any grading operations; or
  3. Where necessary to remediate hazardous flooding or geologic conditions that endanger public health and safety.

### 17.30.060 Management of ESHAs

The following standards apply to the ongoing management of ESHAs:

- A. The use of insecticides, herbicides, artificial fertilizers, or other toxic chemical substances that have the potential to degrade ESHAs ~~is shall be prohibited within and adjacent to ESHA within 100 feet of ESHA~~, except where part of an approved project that protects, restores, or enhances the ESHA itself.
- B. Mosquito abatement must be limited to the implementation of the minimum measures necessary to protect human health and must be undertaken in a manner that minimizes adverse impacts to the ESHAs.

- C. Weed abatement, brush-clearing, and fire fuel reduction activities for fire safety purposes must be the minimum that is necessary to accomplish the intended purpose. Techniques will be limited to mowing and other low-impact methods, such as using hand crews for brushing, tarping, and hot water/foam for weed control. Disking is prohibited.
- D. Where there are feasible alternatives, existing sewer lines and other utilities that are located within an ESHA must be taken out of service, abandoned in place, and replaced by facilities located outside the ESHA to avoid degradation of the ESHA resources.
- E. Removal of non-native, invasive plant species within ESHAs may be allowed and encouraged, unless the non-native plants significantly contribute to habitat values.
- F. The following flood management activities may be allowed in creek and creek protection areas: desilting, obstruction clearance, minor vegetation removal, and similar flood management methods.
- F.G. Habitat restoration or enhancement projects that are not subject to subsection 17.54.020(A)(6), Zoning Clearance, shall be subject to review and approval of a Minor Conditional Use Permit.

#### 17.30.070 Streamside Protection Areas

- A. **Purpose and Applicability.** The purpose of a Streamside Protection Area (SPA) designation in the General Plan is to preserve the SPA in a natural state, in order to protect the associated riparian habitats and ecosystems as well as the water quality of streams. The SPA must include the creek channel, wetlands and/or riparian vegetation related to the creek hydrology, and an adjacent upland buffer area.
- B. **Required ESHA Buffer.** The width of the SPA upland buffer must be at least 100 feet outward on both sides of the creek, measured from the top-of-bank or the outer limit of wetlands and/or riparian vegetation, whichever is greater. The Review Authority may consider increasing or decreasing the width of the SPA upland buffer on a case-by-case basis at the time of environmental review.
  - 1. The ~~Planning Commission~~ Review Authority may allow portions of a SPA upland buffer to be less than 100 feet wide, but not less than 25 feet wide, subject to approval of a Major Conditional Use Permit. Any decision to decrease the 100-foot buffer shall be based on the Initial Assessment and Biological Report, if needed, and a finding that:
    - a. The project's impacts will not have a significant adverse effect on streamside vegetation or the biotic quality of the stream, and
    - There is no feasible alternative siting for development that will avoid the SPA upland buffer.
  - b.
  - 2. A SPA upland buffer must not be adjusted downward unless the Review Authority makes affirmative findings of fact in writing supported by substantial evidence with respect to subsections (a) and (b) above.
    - a. The Review Authority must make one or more written findings for each potentially significant adverse effect on streamside vegetation or the biotic

quality of the stream, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

- i. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect.
- ii. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- b. Any and all findings required by the above sections shall be supported by substantial evidence derived from a City-approved, third-party biologist review and consideration of the application, project plans, Initial Assessment and Biological Report, public testimony, reports, and other relevant materials presented to the Review Authority.
- c. The Review Authority may decrease the 100-foot buffer only if the Review Authority makes the following findings in addition to the findings required in Title V for approval or denial of a project and for the issuance of a Major Conditional Use Permit:
  - i. Based on a City-approved, third-party economic consultant's review and consideration of the economic information provided by the applicant, as well as any other relevant evidence, adherence to the 100-foot SPA upland buffer would not provide an economically viable use of the applicant's property.
  - ii. Application of the 100-foot SPA upland buffer would unreasonably interfere with the applicant's investment-backed expectations.
  - iii. The use proposed by the applicant is consistent with the applicable zoning.
  - iv. The use and project design, siting, and size are the minimum necessary to avoid a taking.
  - v. The project is the least environmentally damaging alternative and is consistent with all provisions of the Zoning Ordinance other than the provision for which the exception is requested.
  - vi. The development will not be a public nuisance or violate other "background principles of the State's law of property," as that phrase was used in the U.S. Supreme Court's decision in *Lucas v. South Carolina Coastal Council*, 505 U.S. 20 1003, 1028-30 (e.g., public trust doctrine). If it would violate any such background principle of property law, the development shall be denied.
  - vii. The project is located on a legally created lot.

- viii. The project is consistent with all other applicable biologic goals, objectives, policies, actions and development standards from the Goleta General Plan, Local Coastal Program, and Zoning Ordinances.
- d. A finding of infeasibility must be supported by substantial evidence based upon a City-approved, third-party biologist and economic consultant's review and consideration of the application, project plans, Initial Assessment and Biological Report, public testimony, reports, and other relevant materials presented to the Review Authority. The applicant shall also provide the following information, unless the Review Authority determines that one or more of the particular categories of information is not relevant to its analysis:
  - i. The date the applicant purchased or otherwise acquired the property, and from whom.
  - ii. The purchase price paid by the applicant for the property.
  - iii. The fair market value of the property at the time the applicant acquired it, describing the basis upon which the fair market value is derived, including any appraisals done at that time.
  - iv. The general plan, local coastal program, zoning or similar land use designations applicable to the property at the time the applicant acquired it, as well as any changes to these designations that occurred after acquisition.
  - v. Any development restrictions or other restrictions on use, other than government regulatory restrictions described in subsection 4 above, that applied to the property at the time the applicant acquired it, or which have been imposed after acquisition.
  - vi. Any change in the size of the property since the time the applicant acquired it, including a discussion of the nature of the change, the circumstances and the relevant dates.
  - vii. A discussion of whether the applicant has sold or leased a portion of, or interest in, the property since the time of purchase, indicating the relevant dates, sales prices, rents, and nature of the portion or interests in the property that were sold or leased.
  - viii. Any title reports, litigation guarantees or similar documents in connection with all or a portion of the property of which the applicant is aware.
  - ix. Any offers to buy all or a portion of the property which the applicant solicited or received, including the approximate date of the offer and offered price.
  - x. The applicant's costs associated with the ownership of the property, annualized for each of the last five calendar years, including property

taxes, property assessments, debt service costs (such as mortgage and interest costs), and operation and management costs.

xi. Apart from any rents received from the leasing of all or a portion of the property, any income generated by the use of all or a portion of the property over the last five calendar years. If there is any such income to report it should be listed on an annualized basis along with a description of the uses that generate or has generated such income.

ixii. Any additional information that the Review Authority requires to make the determination.

2-3. If this provision above would result in any legally created lot being made unusable in its entirety, exceptions to the foregoing may be made to allow a reasonable economic or beneficial use of the lot, subject to the approval of a Major Conditional Use Permit.

C. **Allowable Uses within SPAs.** The following compatible land uses may be allowed within SPAs, subject to certain limitations and permit requirements of this Title:

1. Agricultural operations, provided they are compatible with preservation of riparian resources.
2. Fencing and other access barriers.
3. Low-impact interpretive and public access signage.

### **17.30.080 Dedication of Easements or Other Property Interests**

In new subdivisions of land, SPAs must not be included within developable lots. SPAs must be located within a separate parcel or parcels, unless the subdivider demonstrates that it is not feasible to create a separate open space lot for the SPA. An easement or deed restriction must be required that limits the types of uses allowed within or upon the open space lot to those set forth in subsection 17.30.080(~~DB~~) above.

### **17.30.090 Protection of Wetlands Within the Coastal Zone**

The biological productivity and the quality of wetlands must be protected and, where feasible, restored in accordance with the federal and State regulations that apply to wetlands within the Coastal Zone. Only uses permitted by the regulating agencies are allowed within wetlands.

A. **Filling, Diking, or Dredging.** The filling, diking, or dredging of open coastal waters, wetlands, estuaries, and lakes is prohibited, unless it can be demonstrated that:

1. There is no feasible, environmentally less damaging alternative to wetland fill, as determined through environmental review under CEQA;
2. The extent of the fill is the least amount necessary to allow development of the permitted use;
3. Mitigation measures have been incorporated into the project design or are included in conditions of approval to minimize adverse environmental effects; and

4. The purposes of the fill are limited to: incidental public services (e.g., burying cables or pipes, etc.); restoration of wetlands; and nature study, education, or similar resource-dependent activities.
- B. **Required ESHA Buffer.** A wetland buffer is required to ensure the biological integrity and preservation of the wetland is required. The buffer area must serve as transitional habitat with native vegetation and must provide physical barriers to human intrusion while still allowing wildlife passage.
1. Generally, the required wetland buffer shall be at least 100 feet in width, but in no case shall the wetland buffer be less than 50 feet in width.
  2. The Review Authority must consider the type and size of the development; the sensitivity of the wetland resources to detrimental edge-effects of the development to protected resources; natural features such as topography, the functions and values of the wetland; and the need for upland transitional habitat.
  3. Notwithstanding subsection 17.30.070(A)(1), in no case shall the 100-foot minimum wetland buffer area be reduced in width by the Review Authority when it serves the function of slowing and absorbing water for flood and erosion control, sediment filtration, water purification, and groundwater recharge.

#### 17.30.100 Protection of Wetlands Outside the Coastal Zone

- A. **Filling of Wetlands.** The biological productivity and the quality of inland wetlands must be protected and, where feasible, restored. The filling of ~~inland wetlands located completely~~ outside the Coastal Zone is prohibited, unless it can be demonstrated that:
1. The wetland area is small, isolated, not part of a larger hydrologic system that should be restored, and generally lacks productive or functional habitat value;
  2. The extent of the fill is the least amount necessary to allow reasonable development of a use allowed this Title; and
  3. Mitigation measures are incorporated into the project design, or are included in conditions of approval, to minimize adverse environmental effects, including restoration or enhancement of habitat values of wetlands at another location on the site, or at another appropriate off-site location within the City only if not feasible on site.
- B. **Required ESHA Buffer.** A wetland buffer is required to ensure the biological integrity and preservation of the wetland is required. The buffer area must serve as transitional habitat with native vegetation and must provide physical barriers to human intrusion while still allowing wildlife passage.
1. The required wetland buffer shall be at least be no less than 50 100 feet in width.
  2. The Review Authority must consider the type and size of the development, the sensitivity of the wetland resources to detrimental edge-effects of the development to the resources, natural features such as topography, the functions and values of the wetland, and the need for upland transitional habitat.

### 17.30.110 Mitigation of Wetland Infill

Where any dike or fill development is permitted in a wetland pursuant to this Chapter, creation or substantial restoration of wetlands of a similar type is required to mitigate the loss of wetland area. Impacts must be mitigated at a ratio of 3:1, unless the project applicant provides evidence that the creation or restoration of a lesser area of wetlands will fully mitigate the adverse impacts. However, in no event can the required mitigation ratio be less than 2:1.

### 17.30.120 Lagoon Protection

The lagoon areas at the mouths of Bell Canyon and Tecolote Creeks must be preserved and protected. Lagoon breaching or water level modification is not allowed.

- A. **Required ESHA Buffer.** The required lagoon buffer shall be at least 100 feet in width.

### 17.30.130 Vernal Pool Protection

Vernal pools ~~within the Ellwood Mesa and Santa Barbara Shores Park/Sperling Preserve Open Space area and at Lake Los Carneros Natural and Historical Preserve must~~ shall be preserved and protected. New trails must be sited and constructed in a manner that avoids impacts to vernal pool hydrology and that will allow restoration by removing several informal trail segments that bisect sensitive vernal pool habitats.

### 17.30.140 Protection of Coastal Bluff Scrub, Coastal Sage Scrub, and Chaparral

The following standards apply to any development in an ESHA that would potentially affect coastal bluff scrub, coastal sage scrub, and chaparral:

- A. **Wildlife Corridors.** To the maximum extent feasible, development must avoid impacts to habitat that is part of a wildlife movement corridor and the impact would preclude animal movement or isolate ESHAs previously connected by the corridor, such as (1) disrupting associated bird and animal movement patterns and seed dispersal, and/or (2) increasing erosion and sedimentation impacts to nearby creeks or drainages.
- B. **Required ESHA Buffer.** Impacts to ESHA discussed within this Section ~~must~~ shall be minimized by providing at least a 25 foot buffer ~~of at least 50 feet in width~~ restored with that must also contain planting of additional native species around the perimeter ~~of the existing ESHA to enhance or restore the wildlife habitat.~~
- C. **Vegetation Removal.** The removal of non-native, invasive, or exotic species is allowed; however, any revegetation must be with plants or seeds collected within the same watershed whenever feasible.

### 17.30.150 Protection of Native Oak Woodlands and Savannas.

Native oak woodland and savanna areas must be preserved and protected.

- A. **Required ESHA Buffer.** Development on a site containing native oak woodland or savanna must provide a buffer of no less than 50 feet to ensure the biological integrity and preservation of the native oak woodland and savanna is required.

### 17.30.160 Protection of Native Grasslands

Native grasslands must be preserved and protected.

- A. **Applicability.** This Section applies to areas where native grassland species comprise ten percent or more of the total relative plant cover. Where a high density of separate small patches occurs in an area, the whole area must be delineated as native grasslands.
- B. **Native Grassland Protection Standards.**
  - 1. To the maximum extent feasible, development shall avoid impacts to native grasslands that would destroy, isolate, interrupt, or cause a break in continuous habitat that would:
    - a. Disrupt associated animal movement patterns and seed dispersal, or
    - b. Increase vulnerability to weed invasions.
  - 1. ~~Removal or disturbance to a patch of native grasses less than 0.25 acre that is clearly isolated and is not part of a significant native grassland or an integral component of a larger ecosystem may be allowed. Removal or disturbance to restoration areas shall not be allowed. To the maximum extent feasible, development must avoid impacts to native grasslands that would destroy, isolate, interrupt, or cause a break in continuous habitat that would:~~
  - 2. ~~Disrupt associated wildlife movement patterns;~~
    - ~~Increase vulnerability to invasive weeds or other exotic flora; or~~
    - a. ~~Remove or disrupt a component of larger ecosystem;~~
    - b. ~~Disturb the natural dispersal of seeds;~~
    - c. ~~Increase vulnerability to invasive weeds or other exotic flora; or~~
    - d. ~~Remove or disturb more than 0.25 acre.~~
  - 3.2. ~~Removal of or disturbance to any area used as habitat restoration or mitigation is not allowed.~~
- C. **Required ESHA Buffer.** Impacts to protected native grasslands must be minimized by providing at least a 210-foot buffer that is restored with native grass species around the perimeter of the delineated native grassland area.
- D. **Vegetation Removal.** The removal of non-native, invasive, or exotic species is allowed. Native grassland revegetation must be done with plants or seeds collected within the same watershed whenever feasible.

### 17.30.170 Protection of Marine and Beach Habitats

- A. Any development on the beach or ocean bluff areas adjacent to marine ESHAs must be sited and designed to prevent impacts that could significantly degrade the marine ESHAs. Grading and landform alteration must be limited to minimize impacts from erosion and sedimentation on marine resources.



- B. Marine mammal habitats, including haul-out areas, must not be altered or disturbed by development.
- C. Near-shore, shallow fish habitats and shore fishing areas must be preserved and, where appropriate and feasible, enhanced.
- D. **Beach Activities.** Beaches and shoreline areas shall be limited to coastal-dependent activities that are compatible with preservation of the quality of the resource, including coastal-dependent recreation activities such as swimming, surfing, boating and kayaking, and fishing.
  - 1. **Motorized Vehicles.** The use of motorized vehicles on the beach, including off-road vehicles, is prohibited, except for beach maintenance and emergency response vehicles of public agencies.
  - 2. **Permit Required.** Any commercial coastal-dependent recreation activities that would limit use of beach and shoreline areas to customers and exclude the general public shall be subject to approval of a Major Conditional Use Permit.

#### 17.30.180 Protection of Monarch Butterfly ESHA

All monarch butterfly ESHAs within the City must be protected against significant disruption of habitat values. Only those uses or development that are dependent upon and compatible with maintaining such sensitive habitat must be allowed within these ESHAs or their required buffers.

- A. **Applicability.** Sites that provide the key elements essential for successful monarch butterfly aggregation areas and locations where monarchs have been historically present are both classified as ESHAs. These areas include stands of eucalyptus or other suitable trees that offer shelter from strong winds and storms, provide a microclimate with adequate sunlight, are situated near a source of water or moisture, and provide a source of nectar to nourish the butterflies.
- B. **Monarch Butterfly Protection Standards.**
  - 1. No development, except as otherwise allowed by this Section, is allowed within monarch butterfly ESHAs or ESHA buffers including grading and other activities that could alter or negatively impact the surface and subsurface hydrology that sustains the groves of trees.
  - 2. Since the specific locations of aggregation sites may vary from year to year, the focus of protection must be the entire grove or stand of trees rather than individual trees where aggregation and roosting occurs.
  - 3. Removal of vegetation within monarch butterfly ESHAs is prohibited, except for minor pruning of trees, or removal of dead trees and debris that threaten public safety, private property, or other public facilities.
  - 4. Public accessways are considered resource-dependent uses and may be located within a monarch butterfly ESHA or its buffer; however, such accessways must be sited to avoid or minimize negative impacts to aggregation sites.
  - 5. Interpretative ~~public~~ signage is permitted within a monarch butterfly ESHA or its buffer, but ~~must-shall~~ be designed to be visually unobtrusive.

6. Butterfly research, including tree disturbance or other invasive methods, may be allowed subject to the approval of a Zoning Clearance.
- C. **Required ESHA Buffer.** A buffer of a sufficient size is required to ensure the biological integrity and preservation of the monarch butterfly ESHA, including aggregation sites and surrounding grove of trees.
1. Buffers ~~must~~ shall not be less than 100 feet around existing and historic aggregation and roost sites, as measured from the outer extent of the tree canopy. The required buffer area must include native vegetation and provide physical barriers to human intrusion.
  2. ~~Pursuant to subsection 17.30.070(A)(1), t~~he required buffer may be reduced to 50 feet only in circumstances where the trees contribute to the habitat but are not considered likely to function as an aggregation site, such as along narrow windrows.
- D. **Construction Standards.** A temporary fence must be installed along the outer boundary of the ESHA buffer prior to and during any grading and construction activities on the site. If an active roost or aggregation is present on the project site, any construction grading, or other development within 200 feet will be prohibited between October 1<sup>st</sup> through March 1<sup>st</sup>.

#### 17.30.190 Protection of Other Areas Designated as Sensitive Habitat

- A. **Dunes.** Dunes must be protected and, where feasible, enhanced as ESHAs.
1. Vehicle traffic through dunes is prohibited.
  2. Where pedestrian access through dunes is allowed, well-defined footpaths or other means of directing use and minimizing adverse impacts must be used.
  3. Active nesting areas for sensitive bird species, such as western snowy plovers and least terns, must be protected by fencing, signing, or other means.
- B. **Seabird Nest Areas.** In order to protect seabird nesting areas, new pedestrian access is not permitted on the bluff face, except along existing and planned public trails or stairways shown in the General Plan.
- C. **Buffer Areas for Raptor Species.** Active and historical raptor nests are to be protected.
1. New development must be designed to provide a 100-foot buffer around active and historical nesting sites for protected species of raptors when feasible.
  2. If a biological study determines that an active raptor nest exists on a development site, no vegetation clearing, grading, construction, or other development activity is permitted within a 300 feet of the nest site during the nesting and fledging season to the extent feasible.
- D. **Protection of Special-Status Species.** Habitats for individual occurrences of special-status plants and animals, including candidate species for listing under the State and federal Endangered Species Acts, California species of special concern, California Native Plant Society List of Rare Plant Rank 1B plants, and other species protected under the provisions of the California Fish and Wildlife Code must be protected. All development must be located, designed, constructed, and managed to avoid disturbance of adverse impacts to special-status species and their habitats,

including spawning, nesting, rearing, roosting, foraging, and other elements of the required habitats.



Attachment 2 Exhibit 2:

Recommended Edits to 2019 Public Hearing Draft –  
Eligibility and Selection for Inclusionary Units Section 17.28.070 and  
Inclusionary Unit Restrictions Section 17.28.080



## 17.28.070 Eligibility and Selection for Inclusionary Units

- A. **General Eligibility.** No household may purchase or occupy an inclusionary unit unless the City or City's designee has approved the household's eligibility based on income and affordability levels, as defined in California Health and Safety Code, Section 50105 and California Code of Regulations, Section 6932, and the household and City have executed and recorded an Affordability Control housing cCovenant in the chain of title of the inclusionary unit.
- ~~B.~~ **Owner Occupancy.** A household that purchases an inclusionary unit must occupy that unit as a "principal residence" as that term is defined for federal tax purposes by the United States Internal Revenue Code, unless a hardship exception is approved by the Director.
- ~~C.B.~~ **Changes in Title.** ~~Upon the death of one of the owners, title in the inclusionary unit may transfer to the surviving joint tenant without respect to the income eligibility of the household. Upon the death of a sole owner or all owners and inheritance of the inclusionary unit by a non-income-eligible child or stepchild of one or more owners there will be one-year period between the time when the estate is settled and the time when the inclusionary unit must be sold to an income-eligible household. Inheritance of an inclusionary unit by any other person whose household is not income-eligible will require resale of the unit to an income-eligible household as soon as is feasible, but not more than 180 days from when the estate is settled.~~
- ~~D.C.~~ **Ineligibility.** The following individuals, by virtue of their position or relationship, are ineligible to occupy an affordable housing unit created pursuant to this Section:
1. All employees and officials of the City or its agencies, authorities, or commissions who have, by the authority of their position, policy-making authority or influence over the implementation of this Chapter and the immediate family of such City employees and officials.
  2. The immediate relatives of the developer or owner who sells the homes for initial sale to the first set of income eligible buyers ~~or owner.~~
- ~~E.D.~~ **Selection.** The procedure for selection of eligible households for individual inclusionary units shall be determined by the City.

## 17.28.080 Inclusionary Unit Restrictions

- A. **Initial Sales Price or Rent.** The initial sales price or rent of an inclusionary unit will be set in compliance with any affordable housing policy or resolution adopted by the City Council and/or an the iInclusionary hHousing aPlan and Agreement ~~using the target income requirements specified in this Chapter entered into with the City.~~ The sales price of ~~each an~~ inclusionary unit is determined by the household income of the eligible household meeting the target income requirements specified in this Chapter that offers to purchase ~~that e~~ unit.
- ~~B.~~ **Transfers and Conveyances.** A new aAffordability housingControl cCovenant will be entered into upon each change of ownership of an inclusionary unit and upon any transfer or conveyance (whether voluntarily or by operation of law) of an owner-occupied inclusionary unit.
- ~~C.B.~~ **Foreclosure.** ~~Affordability restrictions in any Affordability Control Covenant will survive foreclosure.~~
- ~~D.C.~~ **Resale Price.** The maximum sales price and qualifications of purchasers permitted on resale of an inclusionary unit must be specified in an the aAffordability housingControl cCovenant to be approved by the City Attorney. The maximum sales price permitted on resale of an inclusionary unit intended for owner-occupancy shall not exceed the seller's purchase price, adjusted for the percentage increase in median income since the seller's purchase, plus the value of substantial structural or permanent fixed improvements to the property.