

Subject:	September 2023 Inland Zoning Code Update
Project:	Zoning Code Amendment TA-19-0002 (mod 5)
Location:	Inland portion of the City of Eureka
APNs:	Various
Applicant:	City of Eureka
Property Owners:	Various
Purpose/Use:	Update inland zoning code (Eureka Municipal Code Chapter 155)
General Plan:	Varies
Zoning:	Varies
CEQA:	Exempt under §15061 “Common Sense Exemption”
Staff Contact:	Cristin Kenyon, Development Services Director
Recommendation:	Hold a public hearing; and Adopt a resolution recommending City Council approve the amendment.
Motion:	<i>“I move the Planning Commission adopt a resolution recommending City Council approve the proposed September 2023 Inland Zoning Code Update.”</i>

Figure 1: Location Map – City of Eureka (Coastal Zone boundary shown as blue line and City limits shown as black dotted line)

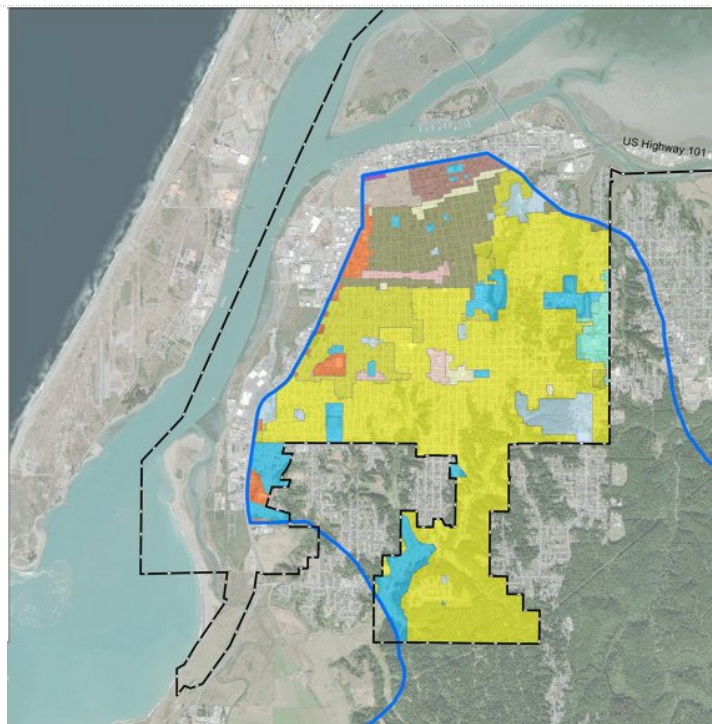
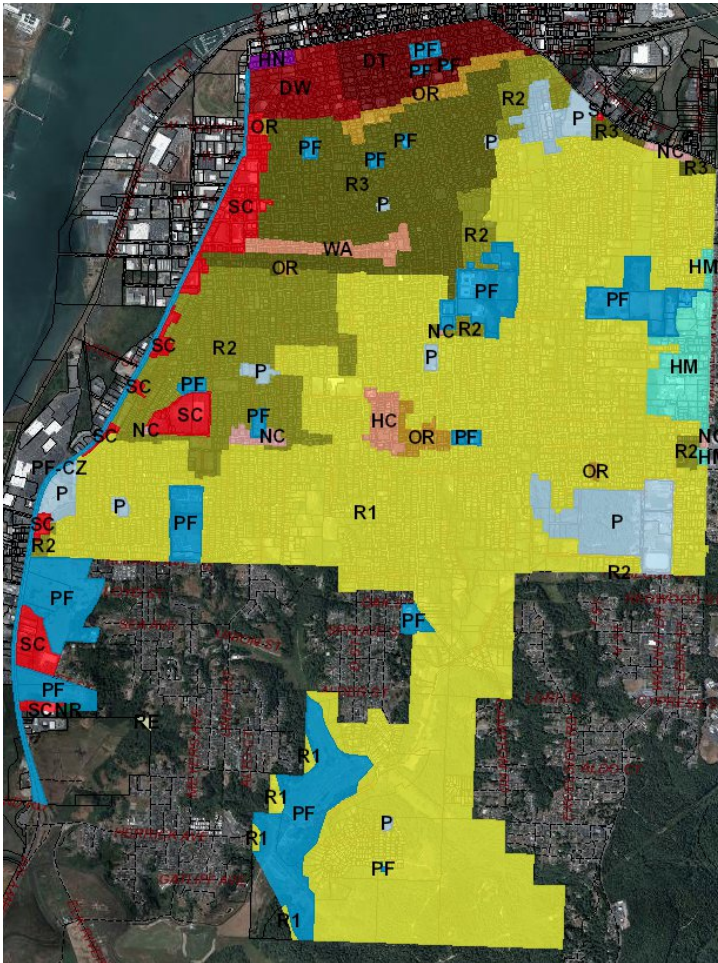


Figure 2: Site Map – Inland Portion of City



PROJECT SUMMARY

In May 2019, the City Council adopted an ordinance repealing and replacing Eureka Municipal Code Chapter 155, the City’s inland zoning code. The new code became effective on June 20, 2019, and Staff anticipated occasional clean-up amendments would be needed as Staff began to use the code day-to-day, to correct errors and inconsistencies in the newly adopted language, address omissions, resolve questions of interpretation, address unintended outcomes of code application that are contrary to the code’s intent, and adapt to changes in State law. The proposed September 2023 Zoning Code Update is the fifth annual clean-up amendment.

Overview of Changes

Changes are proposed to Articles 2 through 5 of the Inland Zoning Code. A table listing, describing, and providing justification for each of the proposed changes to the code is

included as Attachment 2. Implicated code sections are included in their entirety in Attachment 3 with proposed changes highlighted in red track changes.

Many of the proposed changes are intended to correct errors and/or inconsistencies within the code; improve the readability of the code, such as by adding references to related sections for ease of navigation; or provide clarification where questions of interpretation have been raised during application of the code to specific cases in the field. The amendment also includes changes meant to correct inconsistencies with current State law, including inconsistencies related to the regulation of family day care homes, accessory dwelling units, and emergency shelters.

There are also changes proposed to help the City earn a “Prohousing Designation” from the California Department of Housing and Community Development (HCD). Local jurisdictions with this designation receive additional points or other preference during the scoring of HCD’s competitive applications for specified housing and infrastructure funding programs. Proposed changes in support of the Prohousing Designation include:

- Reducing the deadline for City action on accessory dwelling unit applications from 60 days to 45 days;

- Adding language clarifying State Density Bonus Law (CA Govt. Code 65915 et seq.) guides interpretation of the City's density bonus provisions (155.344), and supersedes local regulations where there is a conflict;
- Clarifying when accessory dwelling units proposed on properties listed on the Local Register of Historic Places do not require Historic Preservation Review; and
- Removing the requirement for subjective Design Review for residential project with four or fewer residential units, including mixed-use developments with at least two-thirds of the square footage designated for residential use, as well as for transitional, supportive, emergency and farmworker housing. It is important to note that up to four housing units are currently allowed on each lot in the single-family residential district (R1 District) without Design Review.

In addition to subjective Design Review (155.412.040), the Inland Zoning Code includes objective design standards (155.312) as well as other objective standards (e.g., for landscaping, signage, outdoor lighting, parking lot design, screening, etc.) to ensure new development and redevelopment contributes positively to Eureka's character and sense of place. Staff proposes tightening and strengthening certain objective design-related standards and/or requiring broader application of such standards, to help compensate for the aforementioned removal of subjective Design Review for certain residential projects. For instance, 30% or greater additions to buildings have been added to the list of developments that require adherence to the objective design standards in 155.312, and an additional objective design standard has been added requiring screening of ground or roof-mounted mechanical equipment. Conversely, Staff proposes reducing objective design standards for Tiny Houses on Wheels, to promote their development (the City has yet to receive an application for a Tiny House on Wheels).

Other notable changes are described below:

- Movie theaters, bowling alleys, and similar indoor commercial recreational uses do not fit neatly within any of the existing use type categories included in the code. Currently, indoor commercial recreational uses fall under "General Services" if no alcohol is served and "Bars and Nightclubs" if alcohol is served. Staff proposes creating a new "Indoor Commercial Recreation" use type that mirrors the existing "Outdoor Commercial Recreation" use type where things like movie theaters and bowling alleys fit regardless of whether alcohol is served.
- The "Nonconforming Site Features" and "Nonconforming Signs" subsections of the nonconformities section of the code (155.424) include provisions requiring certain nonconforming site features and signs to be brought into compliance with the current code if the City receives a building permit for the property where the total construction value is \$50,000 or more. Given the increase in construction costs since the \$50,000 trigger was enacted in 2019, and given inflation overtime, Staff proposes changing to a \$55,000 trigger with an annual adjustment of 3%. Separately, Staff recommends adding Use Permits as another trigger for correcting nonconforming site features and signs.
- Micro/shared housing is currently a conditional use in all mixed-use districts. Staff proposes making micro/shared housing principally permitted in all mixed-use districts except for the Hospital Medical District, consistent with the regulations for other types of

long-term housing and commercial lodging, since micro/shared housing is a residential use similar in intensity/impact to commercial lodging.

- Emergency shelters are currently only allowed in the Service Commercial, Hinge Industrial, and Light Industrial Districts. Staff proposes also allowing emergency shelters in the Public Facilities (PF) District since emergency shelters are considered a civic or institutional use type consistent with the purpose of the PF District and associated Public/Quasi-Public land use designation.
- Currently the use type “Resource Protection and Restoration” is only allowed in the Agriculture and Natural Resource Districts. Staff proposes expressly allowing resource protection and restoration in the Public Facilities District, Parks and Recreation District, and in all residential zoning districts as well, since the City wants to allow and encourage resource protection and restoration in and along the City’s gulch greenway network, which is predominately located in the aforementioned districts.
- The code currently prohibits new detached single-family residences (SFRs) on lots greater than 3,000 sf in size in the R2 and R3 Districts, in order to promote increased residential density (i.e., property owners proposing housing are required to construct at least two units per site). The proposed amendment would allow a new detached SFR if it results from the subdivision of a site with an existing multi-family dwelling (e.g., splitting a lot with two units into two lots with one unit each). In this scenario, density does not decrease, and opportunity for home ownership increases, consistent with the intent of the 2040 General Plan.
- In addition to prohibiting new detached SFRs on lots greater than 3,000 sf in size in the R2 and R3 Districts, the code also prohibits new detached SFRs on all properties in mixed-use zoning districts. The proposed amendment would allow a new detached SFR in the R2, R3, and all mixed-use zones if the SFR is proposed in conjunction with a non-residential primary use (e.g., an SFR would be allowed in addition to a permitted shop or office). This change promotes increased density by allowing a property owner with a non-residential use to add a residence. It also promotes mixed-use development and allows for live-work units, consistent with the intent of the 2040 General Plan.
- There currently isn't a land use classification that allows vehicle cleaning (e.g., a car wash) as a primary use. Vehicle cleaning/detailing is currently only allowed under the classifications "Fuel and Service Stations" and “Vehicle Sales and Rentals (Indoors)” as an accessory use incidental to a fueling station or vehicle sales/rental establishment, respectively. The proposed amendment would change the “Vehicle Repair” use type to “Vehicle Cleaning and Repair” to allow vehicle cleaning businesses in the same manner as vehicle repair businesses.
- The code currently prohibits ground-floor residential uses on pedestrian-focused frontages unless the project meets the density threshold of 66 dwelling units per acre or more. This density threshold doesn't translate for group quarters, where there can be a high density of people sharing residential space, but without separate bath and kitchen facilities necessary to qualify as separate dwelling units. The amendment would add a separate density threshold of 99 persons per acre for group quarters (e.g., transitional or supportive housing).

- One of the outdoor light standards in the code requires all lights to be directed downward; because of this standard, Planning Staff has denied requests for accent lighting, where, for instance, lighting is pointed at an architectural feature or landscaping, rather than at the ground. Currently, deviations from outdoor lighting standards are only allowed through an Administrative Adjustment if the Director finds the modification is necessary for public safety or security. The amendment would add the ability to allow deviations through an Administrative Adjustment for accent lighting, if the accent lighting is creative, visible from public vantage points, and designed to minimize light pollution.
- Currently standards for outdoor lighting focus on avoiding lighting encroachment onto adjoining properties or the public right-of-way. The proposed amendment would add language about also avoiding lighting encroachment into nearby habitat areas.

COUNCIL ANALYSIS

To approve a Text Amendment, the City Council will be required to make all of the following findings:

1. The proposed amendment is consistent with the General Plan and any applicable specific plan or area plan. (Currently, the City has no applicable adopted specific or area plans)
2. The proposed amendment is internally consistent with other provisions of the Zoning Code.
3. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare.

General Plan Consistency

California Government Code §65860 and Eureka Municipal Code (EMC) §155.104.050 both require the Zoning Code be consistent with the General Plan. The comprehensive update to Chapter 155 was found consistent with the 2040 General Plan upon adoption by the City Council in May 2019, and consistency findings have been made by Council for the subsequent annual updates. The proposed September 2023 Zoning Code Update does not modify the intent, purpose, or applicability of Chapter 155. Many of the changes are non-substantive corrections to errors and inconsistencies in code language and improvements to readability, such as additions of helpful internal references between related code sections. Some changes are necessary to ensure consistency with State laws, where the City has no discretion. Other changes add language to address omissions or provide clarification regarding questions of code interpretation that have arisen as Staff applies the code to specific projects. In addressing omissions and providing clarification, Staff has attempted to interpret the code consistent with the vision and policies of the 2040 General Plan, including to promote the creation of housing, protect habitat resources, support a compact pattern of mixed land uses, streamline permitting, provide context-specific, flexible zoning, and encourage attractive and well-maintained development that enhances Eureka's sense of place and pedestrian environment. Therefore, Staff believes the proposed changes help better implement the vision, goals and policies of the 2040 General Plan, and thus can be found consistent with the General Plan.

Internal Consistency of Zoning Code

The proposed amendment is intended to, and does, maintain and improve internal consistency throughout the Zoning Code itself. Consequently, the proposed amendment can be found internally consistent with the Zoning Code.

Public Interest, Health, Safety, Convenience and Welfare

The proposed amendment will not frustrate the purpose and objectives of the zoning regulations to protect the public interest, health, safety, peace, comfort, convenience, prosperity, or general welfare. By addressing issues that have arisen during code application, the amendment will improve the effectiveness of the Zoning Code in achieving these objectives.

ENVIRONMENTAL ASSESSMENT

In 2018, the City of Eureka prepared the City of Eureka 2040 General Plan Update Program EIR (State Clearinghouse #2016102025) in its capacity as lead agency and in compliance with CEQA. The EIR consisted of the Notice of Preparation, the Draft EIR including technical appendices, the Responses to Comments, Final Corrections and Additions, and the Project Findings and Statement of Overriding Considerations. The City of Eureka 2040 General Plan EIR was certified by the City Council on October 15, 2018, at the same time the General Plan was adopted. In order to adopt the 2019 Zoning Code Update and pursuant to Public Resources Code §21166 and §15162 of the CEQA Guidelines, an Environmental Impact Report Addendum was prepared and accepted by Council in May, 2019.

The amendment proposed by the September 2023 Zoning Code Update generally consists of corrections to errors and inconsistencies, minor additions to improve code readability and address omissions, clarifications addressing questions of interpretation, and changes necessary for compliance with State laws. Staff has reviewed the zoning code revisions currently proposed, and has determined the amendment does not meet any of the conditions required by CEQA to prepare a subsequent EIR or even another addendum.

Further, pursuant to the CEQA Guidelines, Section 15061, there is a general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty there is no possibility the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the Text Amendment does not modify the intent, purpose or general applicability of Chapter 155, and because proposed changes are aligned with and implement the vision, goals and policies of the 2040 General Plan, adoption of the amendment will have no significant effect on the environment.

PUBLIC HEARING NOTICE

Public notification consisted of publication of a display advertisement in the Times Standard newspaper on August 31, 2023, and posting of the notice on the City’s website and bulletin boards on or before September 1, 2023.

DOCUMENTS ATTACHED

- Attachment 1: Planning Commission Resolution 2023-____
- Attachment 2: Table Summary of Changes
- Attachment 3: Proposed Amendment to Chapter 155 (track changes)