



AGENDA SUMMARY EUREKA CITY COUNCIL

TITLE: September 2023 Zoning Code Update

DEPARTMENT: Development Services – Planning

PREPARED BY: Cristin Kenyon, AICP, Development Services Director

PRESENTED FOR: Action Information only Discussion

RECOMMENDATION

Hold a public hearing; and

Waive full reading, read by title only, and introduce Bill No. 1032-C.S., “An Ordinance of the City of Eureka amending portions of Eureka Municipal Code Chapter 155 for the September 2023 Zoning Code Update.”

FISCAL IMPACT

No Fiscal Impact Included in Budget Additional Appropriation

COUNCIL GOALS/STRATEGIC VISION

- Effective Governance
- Economic Development

DISCUSSION

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, and adapt to changes in State law. The proposed September 2023 Zoning Code Update is the fifth annual clean-up amendment.

Overview of Changes

A table listing, describing, and providing justification for each of the proposed changes to the code is included as Attachment 1. Each row of the table in Attachment 1 includes a proposed change, with reference to the corresponding Section number in the Draft Ordinance (Attachment 2), and Zoning Code page number (Attachment 3). 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 projects 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 zoning 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 requiring 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).

The Inland Zoning Map assigns a zoning district to every inland property, and includes use tables specifying which use classifications are allowed in each zoning district, either

by right or with a Use Permit. In addressing inquiries about allowed uses, it has come to Staff's attention that vehicle cleaning (e.g., car washes and car detailing) and indoor commercial recreation (e.g., movie theaters and bowling alleys) do not fit neatly within any of the existing use classifications included in the code. Staff proposes addressing these omissions by: (1) changing the existing "Vehicle Repair" use classification to "Vehicle Cleaning and Repair"; and (2) creating a new "Indoor Commercial Recreation" use classification.

The Zoning Code Update also includes the following proposed changes to allowed uses in certain zoning districts:

- Allowing micro/shared housing (i.e., shared living quarters without separate kitchen or bathroom facilities for each unit) as a principally permitted use in all mixed-use zoning districts except for the Hospital Medical District, consistent with the regulations for other types of long-term housing and commercial lodging;
- Allowing emergency shelters in the Public Facilities (PF) District since emergency shelters are a civic/institutional use type consistent with the purpose of the PF District and associated Public/Quasi-Public land use designation; and
- Allowing the use type "Resource Protection and Restoration" in the Public Facilities District, Parks and Recreation District, and in all residential zoning districts, 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 zoning districts.

To meet the 2040 General Plan's vision for increased density in the multi-family and mixed-use zoning districts, the Inland Zoning Code currently prohibits new detached single-family residences (SFRs) on lots greater than 3,000 square feet in size in the R2 and R3 Districts, and on all properties in mixed-use zoning districts (i.e., if a residential development is proposed, at least two dwelling units are required). Staff proposes adding exceptions to this prohibition on new SFRs to allow the subdivision and separate sale of one dwelling unit within a multiple unit development (effectively creating an SFR through separate sale), and to allow live-work units with an SFR in conjunction with a non-residential primary use (e.g., one home above an office or shop) regardless of the lot's size. These exceptions promote home ownership and mixed-use development, respectively, consistent with the intent of the 2040 General Plan.

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.

The code currently prohibits ground-floor residential uses on pedestrian-focused frontages in the Downtown, Downtown West, and Henderson Center Districts unless the

project meets the density threshold of 66 dwelling units per acre or more. This density threshold doesn't translate for group living 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 lighting standards in the code requires all lights to be directed downward; the proposed 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. Separately, the proposed amendment would add to the outdoor lighting standards to require avoidance of light encroachment into habitat areas.

ANALYSIS

To approve a Text Amendment, the City Council must 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 §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 clarifications, 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 (2040 General Plan Goals H-1, H-2; Policies H-1.1, H-1.2, H-1.12, H-1.14, H-2.1, H-2.8, H-2.10, LU-2.14, LU-5.3);
- protect habitat resources (Goals NR-1, NR-2, NR-3; Policies NR-1.1, NR-1.3, NR-1.8, NR-2.2, NR-2.5, NR-3.1, NR-3.2, LU-1.3);

- support a compact pattern of mixed land uses (Policies LU-1.1, LU-1.2, LU-3.2, AC-1.9, U-5.2);
- streamline permitting and provide context-specific, flexible zoning (Goal E-1; Policies LU-1.6, LU-1.7, LU-1.20, LU-1.21, LU-6.1, LU-6.9, E-1.1, E-1.2); and
- encourage attractive and well-maintained development that enhances Eureka's sense of place and pedestrian environment (Policies LU-1.5, LU-1.9, LU-1.12, LU-1.13, LU-1.19, LU-3.2, E-1.7, E-7.6, NR-4.2).

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.

PLANNING COMMISSION ACTION

At its regular meeting on September 11, 2023, the Planning Commission held a duly noticed public hearing during which there was no public testimony. The Planning Commission then unanimously voted, with one commissioner absent, to adopt a resolution recommending Council approve the September 2023 Inland Zoning Code Update, with an additional recommendation that, within the next calendar year, there is research done and brought back to the Commission on potential objective design standards for historic properties which could be incorporated into next year's annual code update.

Planning Commission's recommendation related to historic properties was prompted by the proposed addition of language to the accessory dwelling units (ADU) standards of the Inland Zoning Code clarifying when proposed ADUs on properties listed on the Local Register of Historic Places are exempt from Historic Preservation Review. State ADU law (CA Govt. Code §65852.2) only allows the City to apply objective development and design standards to ADUs to allow for ministerial review and approval. If objective standards are in place, ADUs that do not meet the objective and ministerial standards may still be permitted through an ancillary discretionary process if the applicant chooses to pursue this route. There are no objective historic resource protection standards in the current code, and the City's Historic Preservation Review process for properties listed on the Local Register of Historic Places is subjective and discretionary, inconsistent with State ADU law. To ensure consistency with State ADU law, the code update as

proposed at the time of Planning Commission review added language stating that all new-construction, detached ADUs are exempt from discretionary Historic Preservation Review. Based on Planning Commission's concerns, Staff has since updated the proposed language to only exempt detached ADUs from Historic Preservation Review if the ADU will not be located between a historic building and the street. ADUs that do not meet this objective locational standard (i.e., ADUs proposed in front of, rather than behind, a historic home) will require discretionary review. Staff believes this change addresses Planning Commission's concerns while remaining consistent with State ADU law.

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, §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.

SUGGESTED MOTION

“I move the City Council waive full reading, read by title only, and introduce Bill No. 1032-C.S., “An Ordinance of the City of Eureka amending portions of Eureka Municipal Code Chapter 155 for the September 2023 Zoning Code Update.”

ATTACHMENTS

Attachment 1 – Change Summary

Attachment 2 – Draft Ordinance

Attachment 3 – Draft Code