Proposed Ordinance for Other Amendments

BILL NO. ___-C.S.
ORDINANCE NO. ___-C.S.

AN ORDINANCE OF THE CITY OF EUREKA AMENDING EUREKA MUNICIPAL CODE TITLE 15, CHAPTERS 150 AND 155, PERTAINING TO CONSTRUCTION SITE EROSION CONTROL, ZONING DISTRICTS AND MAPS, TREE REMOVAL, LANDSCAPING, ADMINISTRATIVE RESPONSIBILITIES, SPECIFIC PERMITS AND APPROVALS, AND DEFINED TERMS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

Section 1.
Title XV, Chapter 150, Sections 150.200 et seq. pertaining to Construction Site Erosion Control is hereby amended to read as follows:

CONSTRUCTION SITE EROSION CONTROL

SECTION 150.200 PURPOSE AND INTENT.

The purpose and intent of this chapter is to protect and enhance the water quality of watercourses, water bodies and wetlands pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. §§ 1251 et seq.) and the Porter Cologne Water Quality Control Act (California Water Code §§ 13000 et seq.) by minimizing, to the maximum extent practicable, the discharge of sediment and other pollutants into the storm drainage system as a result of construction related activities.

SECTION 150.201 DEFINITIONS.

The terms used in this chapter shall have the following meanings:

CITY. The City of Eureka.

CLEAR. Any activity which removes the vegetative ground cover and/or trees including, but not limited to, root mat removal and/or top soil removal.

CONSTRUCTION SITE. All areas where soil is disturbed related to a project, including but not limited to, soil disturbed for construction, staging area, ingress, egress and any temporary dumping areas.

ENTITY. Any property owner, lessee, contractor, utility company, person, firm, corporation, or any legal entity, and their employees and agents. The term ENTITY shall include all entities with authority or control over the property in issue.

EROSION. The wearing away of the ground surface, and the detachment of soil particles resulting from the movement of water, wind or mechanical causes.

EXCAVATE. Any digging, scraping or other methods of removing earth materials.

FILL. Any depositing or stockpiling of earth materials.

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GRADE. Any excavating or filling of earth materials or any combination thereof, including land in its excavated or filled condition.

ILLICIT DISCHARGE. Any direct or indirect sediment discharge to the storm drainage system and either in violation of an approved erosion control permit or in the absence of an approved erosion control permit.

POLLUTANTS. Any agent, material or substance that may cause or contribute to the degradation of water quality.

SEDIMENT. Eroded earth material, such as rock, sand, silt, soil, or combination thereof, which threatens to be transported by runoff and/or deposited in a stream, drainage course, tidal slough or other area.

SOIL. Unconsolidated mineral and organic material.

STORM DRAINAGE SYSTEM. Any inlet, pipe, conduit, swale, channel or waterway designed or used for the disposal of stormwater and non-stormwater, excluding any sanitary sewer system.

STORMWATER. Runoff discharges originating from precipitation events.

WATERWAY. Natural or artificial body of water, or system of interconnected bodies of water.

WET SEASON. October 15 through April 15.

SECTION 150.202 APPLICABILITY.

The regulations set forth in this chapter shall apply to all property within the jurisdiction of the City of Eureka.

SECTION 150.203 RESPONSIBILITY FOR ADMINISTRATION.

The Building Official or designee of the city shall administer, implement and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Building Official may be delegated in writing by the Building Official to the designee.

SECTION 150.204 SEVERABILITY.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

SECTION 150.205 REGULATORY CONSISTENCY.

This chapter shall be construed to assure consistency with the requirements of the Clean Water Act and Porter-Cologne Act and any acts amendatory thereof or supplementary thereto, or any applicable implementing regulations.

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SECTION 150.206 ULTIMATE RESPONSIBILITY OF DISCHARGER.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards. Greater erosion and pollution control measures may be necessary to comply with other applicable local, state and federal laws. This chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the state and/or U.S. caused by said person. This chapter shall not create liability on the part of the City of Eureka, or any agent or employee thereof for any damages that result from any discharger's reliance on this chapter or any administrative decision lawfully made thereunder.

SECTION 150.207 CLEARING, GRADING, EXCAVATING, FILLING.

(A) It shall be unlawful for any entity to clear, grade, excavate or fill (hereinafter "work") any property within the city limits without having first obtained an erosion control permit ("ECP") from the city except when work is performed in accordance with an exemption set forth in 150.208. The ECP applications shall contain the following information:

(1) The name, address and telephone number of the applicant for the ECP.

(2) The name, address, and telephone number of the contractor who will perform the work.

(3) The building site location.

(4) A scaled site map and grading plan detailing the total area to be cleared, graded, excavated or filled.

(5) General description of work to be performed.

(6) The specific erosion/sediment control devices and best management practices (BMPs) proposed, as specified herein below.

(7) Soils or geotechnical engineer reports and designs as required by a site-specific determination from staff.

(8) Schedule of work detailing when the work is to occur, indicating when BMPs will be installed prior to ground disturbance, the construction period and BMP removal. Note any schedule details regarding working in the wet weather period.

(9) Stormwater Information form(s) as required.

(B) The State Water Resources Control Board General Permit for Discharges of Stormwater Associated with Construction Activity requires a Stormwater Pollution Prevention Plan (SWPPP) for construction sites that are larger than an acre. If an application for an ECP involves a construction site larger than one acre, a copy of the SWPPP shall be submitted, and may take the place of a separate ECP, as long as the SWPPP meets all of the ECP requirements.

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SECTION 150.208 EXEMPTIONS.

(A) Work below finished grade for footings, sewers, water pipes, natural gas pipes, electrical/communications conduit or cables, or other ground disturbing activities associated with a valid building permit that already have an ECP. Such excavations performed in the public right of way or in a public utility easement shall require an encroachment permit.

(B) Emergency work to mitigate dangers posing an immediate risk to life or property.

(C) Any work where the total volume of material stored, disposed of, or used as fill does not exceed 50 cubic yards provided all the following conditions are met:

(1) The activity does not obstruct or modify existing site drainage or drainage capacity.

(2) The site is not located in the Coastal Zone or the Gulch Greenway Management Area.

(3) No new impervious surfaces are created.

(4) Erosion control devices are implemented for controlling site storm water runoff and remain in place during appropriate seasons as prescribed in 150.210.

(5) Work is not commenced or continued during the wet season.

SECTION 150.209 SUBMISSION OF EROSION CONTROL PERMIT.

ECP applications shall be submitted to the Building Department and reviewed by the Engineering Department. ECP plan review and application fees shall be set by resolution of the City Council. No building permit will be issued for any property on which indebtedness to the city exists by reason of an order of abatement costs or liens associated with this chapter.

SECTION 150.210 EROSION/SEDIMENT CONTROL DEVICES.

(A) The ECP shall require, and the entity shall install specific erosion/sediment control devices, which shall be maintained in proper working condition for so long as work is being conducted on the property or for so long as an active permit of any nature is issued for the project. Erosion/sediment control devices required by the ECP may include, but are not limited to, silt fences, straw bales, retention ponds, mulch, sod, rip-rap, vegetation barriers, hydro-seeding, erosion blankets and any other measures which will adequately prevent soil from being eroded and transported onto adjoining property or into waterways.

(B) The ECP shall always require a stabilized construction site access for any sites where sediment can be tracked onto public roads by construction vehicles.

(C) The responsibility of the property owner and its agents shall be joint and severable with the entity performing the work for the maintenance of all erosion control devices, which shall be maintained in a condition so as to prevent soil erosion on the property and transport of sediment off the property.

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SECTION 150.211 WET SEASON WORK.

Work during the wet season shall be commenced only when demonstrated that the disturbance is minor and that sediment and erosion can be controlled. For protracted work extending into the wet season, BMPs shall be employed as to secure the site and prevent stormwater runoff and erosion. Specific permission shall be obtained for any wet season work.

SECTION 150.212 VIOLATIONS.

(A) **Municipal property**. It shall be unlawful for any entity to cause, permit or allow any sediment to be deposited upon any municipal property within the city unless otherwise approved in an erosion control permit. In the event any entity shall allow such sediment to be deposited upon municipal property, such entity shall immediately remove such sediment from said municipal property.

(B) **Private property**. It shall be unlawful for any entity to cause, permit or allow any sediment to be deposited upon any private property within the city unless otherwise approved in an erosion control permit. In the event any entity shall allow such sediment to be deposited upon private property, such entity shall immediately remove such sediment from said property, upon notice by and with consent of the property owner.

SECTION 150.213 AUTHORITY TO INSPECT.

Whenever necessary to make an inspection to enforce any provision of this chapter or whenever the Building Official or City Engineer have cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this chapter, the Building Official or City Engineer may enter such premises at all reasonable times to inspect the same and to inspect and record stormwater compliance issues. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the city is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

SECTION 150.214 NOTICE OF VIOLATION.

Whenever the Building Official or City Engineer finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the Building Official or City Engineer may order compliance by written notice of violation to the responsible person. Such notice may require without limitation and in addition to penalties or any other remedies available under law:

(A) The elimination of illicit discharges or practices and operations contributing to illicit discharges;

(B) The immediate placement of erosion/sediment control devices or practices;

(C) The abatement or remediation of the illicit discharge;

(D) The restoration of any affected property; and

(E) Payment of any administrative and remediation costs incurred by the city for abatement.

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SECTION 150.215 APPEAL.

Notwithstanding the provisions of §150.216 below, any person receiving a Notice of Violation under §150.214 above may appeal the determination of the Building Official or City Engineer to the City Manager. The notice of appeal must be received by the City Manager within five days from the date of the Notice of Violation. Hearing on the appeal before the City Manager or his or her designee shall take place within 15 days from the date of city's receipt of the notice of appeal. The decision of the City Manager or designee shall be final.

SECTION 150.216 ABATEMENT BY CITY.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal under §150.215, within ten days of the decision of the City Manager upholding the decision of the Building Official or City Engineer, then the city or a contractor designated by the Building Official may enter upon the subject private property and is authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the city or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 150.217 CHARGING COSTS OF ABATEMENT/LIENS.

(A) Within 30 days after abatement of the illicit discharge by the city, the Building Official shall notify the property owner of the abatement cost, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with the City Clerk within 15 days. The City Clerk shall set the matter for public hearing by the City Council. The decision of the City Council shall be set forth by resolution and shall be final.

(B) If the amount due is not paid within ten days of the decision of the City Council or the expiration of the time in which to file an appeal under this section, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Auditor so that the auditor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

SECTION 150.218 ACTS POTENTIALLY RESULTING IN A VIOLATION OF THE CLEAN WATER ACT AND/OR CALIFORNIA PORTER-COLOGNE ACT.

Any person who violates any provision of this chapter or any provision of any requirement issued pursuant to this chapter may also be in violation of the Clean Water Act and/or the Porter-Cologne Water Quality Control Act and may be subject to the sanctions of those acts including civil and criminal penalties.

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Section 2.
Title XV, Chapter 155, Section 155.116, Subsection 155.116.020, Division C is hereby amended to read as follows *(the remainder of the subsection is unchanged and is omitted)*:

155.116.020 - ZONING DISTRICTS.

C. **Overlay Zones.** Table 116-3 lists the overlay zones which impose additional regulations on properties beyond what is required by the underlying zoning district.

Table 116-3: Overlay Zones

Symbol	Overlay Zone Name
QO	Qualified
NMO	Neighborhood Market
SCO	Special Considerations
GG	Gulch Greenway

Section 3.
Title XV, Chapter 155, Section 155.304, Subsection 155.304.140 is hereby amended to read as follows:

155.304.140 TREE REMOVAL.

A. **Purpose**. This subsection establishes permit requirements to remove or alter a tree. These regulations are intended to:

1. Protect and preserve trees that are important to the character of the city and its neighborhoods;

2. Protect the public's safety by allowing hazardous tree removal; and

3. Allow for tree removal and mass reduction as necessary to allow for residential developments and supporting solar arrays.

B. **Definitions**.

1. **Altering a Tree**. Altering a tree means relocating, reducing the crown by more than 20 percent, or any action that kills or destroys a tree.

2. **Mass Reduction**. Mass reduction of a tree means actions taken to reduce the volume of a tree's branches or foliage.

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3. **Protected Trees**.

   a. **Outside GGMA**. Outside gulch greenway management areas (GGMA) as defined in 155.508.020, a protected tree means any tree native to coastal Northern California, as identified in the Calflora database or USDA Plants Database, with a 24-inch diameter, or a circumference of 75 inches, or greater, as measured 4.5 feet above the ground.

   b. **Inside GGMA**. In GGMA, a protected tree means any tree native to coastal Northern California, as identified in the Calflora database or USDA Plants Database, with a 12-inch diameter, or a circumference of 38 inches, or greater, as measured 4.5 feet above the ground.

C. **Permits Required.**

1. **General**. Table 304-1 identifies permits required to remove or alter a protected tree. No permit is required for actions affecting a non-protected tree.

Table 304-1: Protected Tree Removal Permit Requirements

P = Permitted by-right (no permit) ZC = Zoning Clearance MGG = Minor Gulch Greenway Permit CGG – Conditional Gulch Greenway Permit TP = Tree Permit	Location		Reference
	Inside GGMA	Outside GGMA	
Hazardous	ZC	ZC	155.304.140.C.4
Within 15 ft. of structure	MGG	ZC	155.304.140.C.5
Blocks Solar Access	MGG [1]	ZC	155.304.140.C.6
Five or fewer [2]	MGG	ZC	
More than five every 10 years [2]	CGG	TP	155.304.140.D

[1] Tree removal and alteration allowed with Zoning Clearance if needed to comply with a solar access easement recorded prior to adoption of this ordinance.
[2] Excludes hazardous trees in all areas and trees removed for solar access with a Zoning Clearance and trees removed within 15 feet of a structure outside GGMA.

2. **Inside GGMA**. Inside GGMA, removing or altering a protected tree requires either a Minor or Conditional Gulch Greenway Permit. See 155.348 for Gulch Greenway permit requirements.

3. **Outside GGMA**. Outside GGMA, removing or altering more than five protected trees requires a Tree Permit. Removing or altering five or fewer protected trees requires a Zoning Clearance.

4. **Hazardous Trees in All Areas**. Removing or altering a hazardous protected tree is allowed in all areas with a Zoning Clearance as follows:

   a. **Emergencies**. In cases of emergency, a protected tree may be removed or altered if an arborist or Registered Professional Forester (RPF) determines a tree:

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(1) Presents an immediate danger of collapse; and

(2) Poses an imminent threat to the public safety or general welfare.

c. **Dead/dying trees**. A hazardous protected tree may be removed or altered when a report prepared by an arborist or a RPF determines the tree is dead, or dying with no hope of recovery; is a danger to public safety, general welfare, and/or the health of adjacent trees; and the issue cannot be addressed by mass reduction that does not remove or alter the tree.

5. **Within 15 Feet of Structures – Outside GGMA**. A protected tree outside GGMA may be removed or altered with a Zoning Clearance as part of project to construct a new structure if the tree is:

a. Within 15 feet of the footprint of a proposed new structure or within the boundary of the associated access road, and

b. Identified on the site plan of the proposed project.

6. **Solar Access**

a. **Outside GGMA**. If a protected tree outside GGMA hinders direct sunlight for a solar energy system, the tree may be removed or altered with a Zoning Clearance. The City may approve the Zoning Clearance only if a report prepared by an arborist or RPF finds that the removal or alteration is necessary to provide solar access, and the solar access cannot be achieved with more minimal mass reduction.

b. **Inside GGMA**. A protected tree inside GGMA may be removed or altered with a Zoning Clearance only when necessary to comply with a solar access easement recorded prior to the adoption of this ordinance based on evidence of the easement. All other tree removal or alteration for solar access requires a Minor Gulch Greenway Permit, with a report prepared by an arborist or RPF that finds the removal or alteration is necessary to provide solar access, and the solar access cannot be achieved with more minimal mass reduction.

D. **Tree Permits.**

1. **Review Authority**. The Planning Commission reviews and takes action on Tree Permit applications.

2. **Required Report**. Tree Permit applications and Gulch Greenway Permit applications to remove a protected tree must include a report prepared by an arborist or RPF that recommends measures, if needed, to:

a. Avoid or minimize adverse impacts to remaining trees on the property that would not be removed.

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b. Address issues associated with drainage, erosion, land stability, windscreen, and visual buffers along roads and between neighbors resulting from the tree removal.

3. **Findings for Approval**. To approve a Tree Permit, the Planning Commission must find that the project:

a. Complies with requirements of this subsection; and

b. Incorporates adequate measures to minimize and mitigate adverse impacts resulting from the tree removal.

E. **Nesting Bird Protection**. The following nesting bird protections apply in all areas.

1. Trees to be removed or altered from March 15 through August 15 shall be surveyed by a qualified biologist to determine the presence or absence of nesting birds.

2. If the biologist encounters an active nest, no work may begin until the biologist, in consultation with the California Department of Fish and Wildlife (CDFW), prepares species-specific measures to avoid nest abandonment or other harm, and the measures are approved by City staff and implemented.

F. **Other Approvals**. Removing or altering any tree, including a non-protected tree, may require an encroachment permit approved by the Public Works Department and approval from CalFire and/or other governmental agencies.

Section 4.

Title XV, Chapter 155, Section 155.328 is hereby amended to read as follows:

155.328.010 PURPOSE.

This section establishes landscaping standards to enhance the aesthetic appearance of developed areas in Eureka and to promote the efficient use of water resources.

155.328.020 NONCONFORMITIES.

Properties nonconforming to the standards in 155.328.040 (Required Landscape Areas) and 155.328.050 (General Landscape Requirements) must be brought into conformance when required by 155.424.030 (Nonconforming Site Features).

155.328.030 – LANDSCAPE PLANS

A. **Landscape Plan Required.**

1. An applicant must submit a landscape plan if new or modified landscaping is required by this chapter.

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2. Required landscape plans must be submitted as part of the Design Review application, if any, and subsequent building permit applications.

B. **Required Contents.** Landscape plans must include the following features and information:

1. Site boundaries.
2. Existing conditions on the property, including contours and existing structures.
3. New structures and expansions proposed as part of the project.
4. Existing landscaping, trees, and vegetation to be retained, specifying plant location, species, and size. Details of existing trees must also include approximate tree diameter measured 48 inches above existing grade and approximate outer limit of tree canopy.
5. New landscaping proposed as part of the development project, specifying plant location, species, number, and size.
6. Irrigation plan specifying the location, type, and size of all components of the irrigation system (if proposed).
7. Proposed grading if any.
8. A landscape maintenance plan describing how the landscaping will be maintained in a healthy and thriving condition, including provisions to replace plant material as needed to maintain compliance with the approved landscape plan.
9. Additional information as determined by the Department to demonstrate compliance with the requirements of this section.

C. **Review and Approval.**

1. For projects that do not require Design Review, the Department will review all landscape plans to verify compliance with this section as part of the Zoning Clearance approval.

2. For projects that require Design Review, the review authority responsible for approving Design Review must also approve the landscape plan.

D. **Changes to Approved Landscape Plans.**

1. Only the review authority that approved the landscape plan may allow substantial modifications to an approved landscape plan.

2. The Director may approve minor changes to a landscape plan previously approved by the City Council, Planning Commission, or Design Review Committee. Minor changes are defined as modifications to a landscape plan that do not alter the general design character of the landscaped area or alter a feature of the landscaped area specifically required by the review authority. The Director may also approve changes to a landscape plan required to comply with Building Code or Fire Code requirements.

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155.328.040 – REQUIRED LANDSCAPE AREAS

A. **Applicability.** The requirements of this subsection do not apply to single-family homes in any zoning district.

B. **Parking Lots.** See 155.324.080 (Parking Lot Landscaping) for required landscaping in parking lots.

C. **Residential Zoning Districts.**

1. The following areas, excluding areas required for access to the property, must be landscaped and maintained:

   a. All required front and street side setback areas;

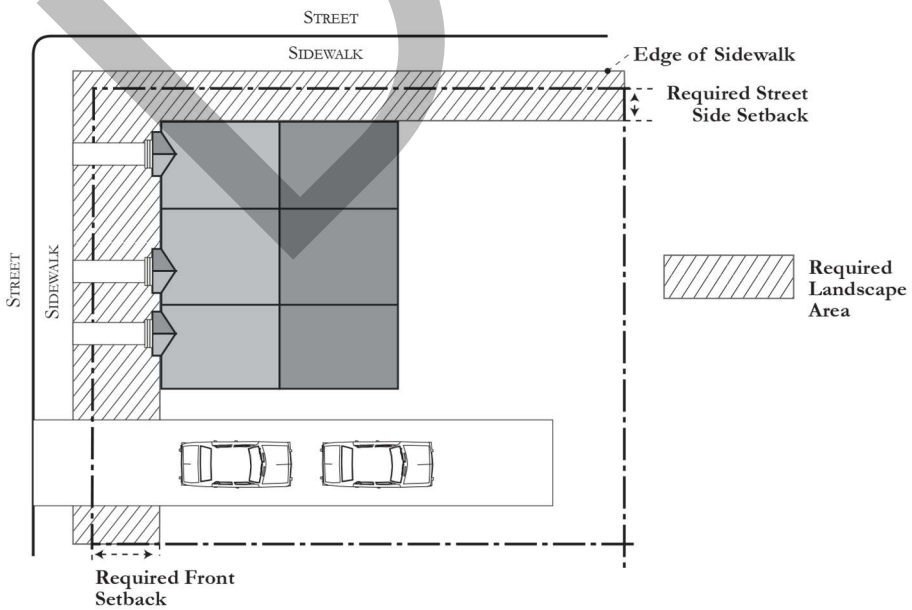
   b. All areas between a building and a front or exterior side lot line; and

   c. Any area between the front or exterior side lot lines and the sidewalk or edge of street curb. See Figure 328-1.

2. Landscaping is not required in setback or yard areas located behind a four-foot or higher solid fence or wall or in areas not visible from the sidewalk or street.

3. Landscaping may consist of any combination of living plants, such as trees, shrubs and grass or related natural features, such as rock, stone, or mulch. Decorative hardscape featuring pervious materials, such as pervious paver stones, gravel, and decomposed granite, is permitted within required landscaping areas.

Figure 328-1: Required Landscape Area in Residential Zoning Districts



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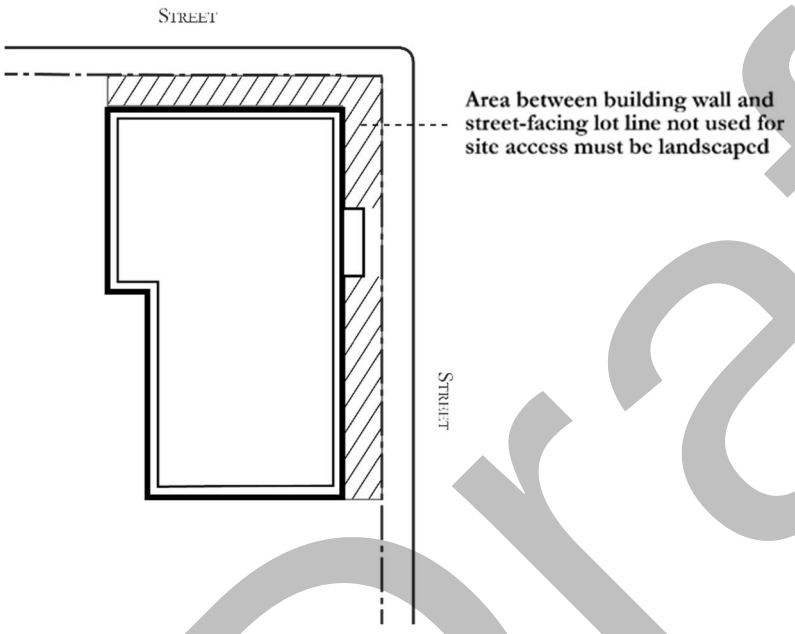
D. **Mixed-Use Zoning Districts.** In mixed-use zoning districts, all areas between a building and a front or exterior side lot line and all areas between the front or exterior side lot lines and the sidewalk or edge of street curb must be landscaped, excluding areas required for access to the property. See Figure 328-2.

FIGURE 328-1: REQUIRED LANDSCAPE AREA IN MIXED USE DISTRICTS



E. **Other Zoning Districts.** Parking lots in zoning districts other than residential and mixed-use zoning districts must comply with the landscaping requirements in 155.324.080 (Parking Lot Landscaping). No additional landscaping is required.

155.328.050 – GENERAL LANDSCAPE REQUIREMENTS

A. The following requirements apply to all landscaping within the City.

1. **Vision Clearance Area.** Landscaping must comply with the vision clearance area requirements in 155.308.040 (Vision Clearance Area).

2. **Public Safety.** Plant species must be selected and located so that at maturity they do not interfere with pedestrian, bicycle, or vehicular circulation and do not conflict with utilities and overhead lights.

3. **Invasive Plants.** Planting species with a "High" rating in the California Invasive Plant Council's Cal-IPC inventory of invasive plants and plant species identified as invasive weeds by the Humboldt County Weed Management Area are prohibited.

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B. The following requirements apply to landscaping installed as part of a City-approved landscaping plan.

1. **Parking Lots.** See 155.324.080 (Parking Lot Landscaping) for landscaping requirements that apply to new parking lots with four or more spaces.

2. **Native Plants.** At least 75 percent, by count, of all new in-ground shrubs, groundcover, and trees will involve only the use of species native to Eureka as listed by the California Native Plant Society, with the remainder being noncompeting exotic species.

3. **Trees.**

   a. New trees must be a minimum 15-gallon size unless the reviewing authority determines that a smaller size is sufficient for the site.

   b. Trees in landscape planters less than 10 feet in width or located closer than five feet from a public sidewalk, street, or permanent structure on an adjacent property must be planted with root barriers or root barrier panels to prevent damage to adjacent structures or pavement.

4. **Groundcover and Shrubs.**

   a. A minimum of 50 percent of required landscape area must be covered with groundcover, shrubs, turf, or other types of plants at maturity.

   b. Groundcover must be provided throughout the landscaped area and must be spaced to achieve full coverage of the groundcover area within one year.

   c. A maximum of 50 percent of the required landscape area may consist of mulch, bark chip, crushed rock, pebbles, stone, or similar non-plant materials.

   d. Landscaped areas must be top dressed with bark, chip, mulch, or other similar material to cover exposed bare soil.

5. **Timing of Installation.**

   a. Required landscaping must be installed prior to receiving a temporary or final certificate of occupancy.

6. The Director may defer the installation of landscaping for a maximum of 180 days after project occupancy/completion in cases of delays caused by inclement weather, unavailability of plant materials, construction scheduling, or other similar issues. The Director may require the applicant to provide adequate security to guarantee the landscaping installation in accordance with 155.420.070 (Performance Guarantees).

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155.328.060 - WATER EFFICIENCY IN LANDSCAPING ORDINANCE (WELO)

A. **General.** In addition to the requirements of this section, all applicable development in Eureka must also comply with the California Model Water Efficient Landscape Ordinance (WELO) as required by California Water Conservation in Landscaping Act (Government Code Section 65591 et seq.).

B. **When Required.** The following landscape projects must comply with the WELO requirements:

1. New construction projects requiring a building permit that have an aggregate landscape area equal to or greater than 500 square feet.

2. Rehabilitated landscape projects requiring a building permit that have an aggregate landscape area equal to or greater than 2,500 square feet.

C. **Conflicts.** If conflicts occur between the Government Code or WELO and this section, the more restrictive will control.

155.328.070 – MAINTENANCE AND ENFORCEMENT

The following maintenance requirements and enforcement procedures apply to landscaping installed as part of a City-approved landscaping plan:

A. **Maintenance Required.**

1. **Dead and Dying Plants.** All landscaping must be maintained free of physical damage or injury from lack of water, excess chemical fertilizer or other toxic chemical, blight, or disease. Dead or dying plants must be removed and replaced with landscaping of similar size and maturity.

2. **Weed Removal.** Landscaping must be kept free from weeds.

3. **Irrigation Systems.** Irrigation systems must be maintained in a fully functional manner as approved by the City and required by this section. Watering schedules should be adjusted periodically to reflect seasonal variations.

B. **Violations.** Failure to maintain landscape areas in compliance with this section will be deemed a nuisance subject to the enforcement procedures in 155.428 (Enforcement and Penalties).

Section 5.

Title XV, Chapter 155, Section 155.404, Subsection 155.404.030 is hereby amended to read as follows:

155.328.030 DEVELOPMENT SERVICES DEPARTMENT.

A. **Responsibilities and Powers.** The Department:

1. Processes permit applications as provided in 155.408 (Permit Procedures);

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2. Assumes responsibilities delegated by the Director; and

3. Performs other duties as necessary to administer the Zoning Code.

Table 404-1: Review and Decision-Making Authority

Type of Action	Zoning Code Section	Role of Authority			
		Director/ Department	Design Review Committee	Planning Commission	City Council
Legislative Actions					
Zoning Code and General Plan Amendment	155.432	Recommend	-	Recommend	Decision
Use Permits					
Conditional Use Permit [3]	155.412.120	Recommend	-	Decision	Appeal
Minor Use Permit [3]	155.412.120	Decision [1]	-	Decision [5]	Appeal
Flexibility and Relief					
Administrative Adjustment	155.412.030	Decision [1]	-	Appeal	Appeal
Infill Incentive Permit, Major [3]	155.412.060	Recommend	-	Decision	Appeal
Infill Incentive Permit, Minor [3]	155.412.060	Decision [1]	-	Decision [5]	Appeal
Minor Modification	155.412.070	Decision [1]	-	Appeal	Appeal
Reasonable Accommodation	155.412.080	Decision [1]	-	Appeal	Appeal
Variance, Major [3]	155.412.140	Recommend	-	Decision	Appeal
Variance, Minor [3]	155.412.140	Decision [1]	-	Decision [5]	Appeal
Sign Permits					
Administrative Sign Permits	155.340.060.B	Decision [2]	Appeal	Appeal	Appeal
Creative Sign Permits [3]	155.340.060.D	Recommend	Decision	Appeal	Appeal
Master Sign Permits [3]	155.340.060.C	Recommend	Decision	Appeal	Appeal
Gulch Greenway Permits					
Conditional Gulch Greenway Permit [3]	155.224.050	Recommend	-	Decision	Appeal
Minor Gulch Greenway Permit [3]	155.224.050	Decision [1]	-	Decision [5]	Appeal
Other Permits and Approval					

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Density Bonus (ministerial)	155.344	Decision [2]		Appeal	Appeal
Density Bonus (discretionary) [3]	155.344	Decision [1]		Appeal	Appeal
Design Review [3]	155.412.040	Recommend	Decision [4]	Appeal	Appeal
Home Occupation Approval	155.304.070	Decision [2]	-	Appeal	Appeal
Tiny House on Wheels Permit	155.304.130	Decision [2]		Appeal	Appeal
Tree Permit	155.304.140	Recommend	-	Decision	Appeal
Zoning Clearance	155.412.150	Decision [2]	-	Appeal	Appeal

Notes:

[1] The Director may choose to refer the project to the Planning Commission for review and decision.

[2] The Director may delegate review authority to Department staff on ministerial permits and approvals.

[3] Applications requiring other discretionary review will be acted upon by the highest review authority, with appeal rights to the next highest authority, except that decisions of the City Council are final.

[4] The Historic Preservation Commission conducts Design Review for projects that alter a designated historic resource as provided in Municipal Code Chapter 157. If a project subject to Design Review also requires a permit from the Planning Commission, the Planning Commission conducts Design Review. If the project both alters a designated historic resource as provided in Municipal Code Chapter 157 and requires a permit from the Planning Commission, the Historic Preservation Commission conducts any Design Review for the project.

[5] The Planning Commission acts on the permit only after receiving a written request for a public hearing during the 15-day hearing request period, in accordance with 155.408.090 (Notice of Pending Action). If no request for a public hearing is received by the end of the 15-day period, the Director acts on the application, and the action is final.

Section 6.

Title XV, Chapter 155, Section 155.412, Subsection 155.412.045 is hereby added to read as follows:

155.412.045 – GULCH GREENWAY PERMITS

See 155.224.050.C.3 (Gulch Greenway Permits).

Section 7.

Title XV, Chapter 155, Section 155.412, Subsection 155.412.110 is hereby amended to read as follows:

155.412.110 – TREE PERMITS

See 155.304.140.D (Tree Permits).

Section 8.

Title XV, Chapter 155, Section 155.508, Subsection 155.508.020, Division G is hereby

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Bill No. _____C.S.
Ordinance No. _____C.S.

amended to read as follows *(the remainder of the subsection is unchanged and is omitted)*:

G. **"G" Terms.**

1. **Garage.** An enclosed structure or a part of a building designed or used for the storage of automobiles and other motor vehicles.

2. **General Plan.** The General Plan of the City of Eureka prepared in accordance with Government Code Section 65300 et seq.

3. **Grade, Finished.** The level of the ground after completion of site preparation, grading, earthwork, or construction associated with a development project.

4. **Grade, Natural.** The level of the ground prior to the start of any current or proposed site preparation, grading, earthwork, or construction.

5. **Grading.** Any and all activities involving earthwork, including placement or fill and/or excavation.

6. **Ground Floor.** The first level of a building, other than a cellar or basement, that is closest to finished grade.

7. **Gulch Greenway Management Area (GGMA).** See 155.224.050.B

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 1st of July, 2025 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

_____
Leslie Castellano, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the ___ day of _____, 2025, and hereby approved.

_____
Kim Bergel, Mayor

Draft

Bill No. _____C.S.
Ordinance No. _____C.S.

Approved as to Administration: *Approved as to form:*

_____ _____
Miles Slattery, City Manager Robert Black, Acting City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the____ day of _____, 2025.

_____
Pamela J. Powell, City Clerk

Draft