



PLANNING COMMISSION REGULAR MEETING AGENDA

Thursday, September 5, 2024 | 6:00 PM

CITY COUNCIL CHAMBERS, CITY HALL
7351 ROSANNA STREET, GILROY, CA 95020

Chair: Manny Bhandal:
manny.bhandal@cityofgilroy.org

Vice Chair: Annedore Kushner:
annedore.kushner@cityofgilroy.org

Commissioners:

Stefanie Elle:
stefanie.elle@cityofgilroy.org
Joan Lewis:
joan.lewis@cityofgilroy.org

Adriana Leongardt:
adriana.leongardt@cityofgilroy.org
Kelly Ramirez:
kelly.ramirez@cityofgilroy.org

Monica Valdez:
monica.valdez@cityofgilroy.org

Staff Liaison: Sharon Goei, Community Development Director | sharon.goei@cityofgilroy.org

Written comments can be submitted by email to planningdivision@cityofgilroy.org. Please note that written comments will not be read out loud, but will be part of the written record.

Comments by the public will be taken on any agenda item before action is taken by the Planning Commission. Persons speaking on any matter are asked to state their name and address for the record. Public testimony is subject to reasonable regulations, including but not limited to time restrictions on particular issues and for each individual speaker. A minimum of 12 copies of materials should be provided to the Clerk for distribution to the Commission and Staff. Public comments are limited to no more than three-minutes, at the Chair's discretion.

Comments on any agenda item may be emailed to the Planning Division at planningdivision@cityofgilroy.org or mailed to the City of Gilroy, Community Development Department at City Hall, 7351 Rosanna Street, Gilroy, CA 95020. Comments received by the Planning Division by 1:00 pm on the day of a Planning Commission meeting will be distributed to the Planning Commissioners prior to or at the meeting and are available for public inspection at the Planning Division counter at City Hall, 7351 Rosanna Street. Any correspondence received will be incorporated into the meeting record. Items received after the 1:00 pm deadline will be provided to the Planning Commission as soon as practicable.

In compliance with the American Disabilities Act (ADA), the City will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Clerk 72 hours prior to the meeting at (408) 846-0491. A sound enhancement system is available in the City Council Chambers.

If you challenge any planning or land use decision made at this meeting in court, you may be limited to raising only those issues you or someone else raised at the public hearing held at this meeting, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing. Please take notice that the time within which to seek judicial review of any final administrative determination reached at this meeting is governed by Section 1094.6 of the California Code of Civil Procedure.

Persons who wish to speak on matters set for Public Hearing will be heard when the presiding officer calls for comments from those persons who are in support of or in opposition thereto. After persons have spoken, the hearing is closed and brought to the Planning Commission level for discussion and action. There is no further comment permitted from the audience unless requested by the Planning Commission.

A Closed Session may be called during this meeting pursuant to Government Code Section 54956.9(b)(1) if a point has been reached where, in the opinion of the legislative body of the City on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the City.

Materials related to an item on this agenda submitted to the Planning Commission after distribution of the agenda packet are available for public inspection with the agenda packet in the lobby of Administration at City Hall, 7351 Rosanna Street during normal business hours. These materials are also available with the agenda packet on the City website at www.cityofgilroy.org

KNOW YOUR RIGHTS UNDER THE GILROY OPEN GOVERNMENT ORDINANCE.

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, task forces, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE, TO RECEIVE A FREE COPY OF THE ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION STAFF AT (408) 846-0204 or by email at cityclerk@cityofgilroy.org.

1. **OPENING**
2. **PLEDGE OF ALLEGIANCE**
3. **REPORT ON POSTING THE AGENDA AND ROLL CALL**
4. **PUBLIC COMMENTS**

(Three-minute time limit). This portion of the meeting is reserved for persons desiring to address the Planning Commission on matters not on the agenda. The law does not permit the Planning Commission action or extended discussion of any item not on the agenda except under special circumstances. Comments on any agenda item may be emailed to the Planning Division at planningdivision@cityofgilroy.org or mailed to Community Development Department at City Hall, 7351 Rosanna Street, Gilroy, CA 95020. Comments received by the Planning Division by 1:00pm on the day of a Planning Commission meeting will be distributed to the Planning Commission prior to or at the meeting and available for public inspection with the agenda packet located in the lobby of Planning Division at City Hall, 7351 Rosanna Street prior to the meeting. Any correspondences received will be incorporated into the meeting

record. Items received after 1:00pm deadline will be provided to the Planning Commission as soon as practicable. All statements that require a response will be referred to staff for reply in writing.

PUBLIC HEARINGS FOR RELATED PROJECT APPLICATIONS WILL BE HEARD CONCURRENTLY AND ACTION WILL BE TAKEN INDIVIDUALLY. COMPANION PROJECTS UNDER NEW BUSINESS WILL BE TAKEN UP FOR ACTION PRIOR TO, OR IMMEDIATELY FOLLOWING THE RELATED PUBLIC HEARING. THIS REQUIRES DEVIATION IN THE ORDER OF BUSINESS AS NOTED WITHIN THE AGENDA.

5. CONSENT AGENDA

5.1. August 1, 2024 Planning Commission Meeting Minutes

6. PUBLIC HEARINGS

6.1. No items.

7. NEW BUSINESS

7.1. Presentation on two Active Transportation Planning Grant Applications for: (1) Development of a Bicycle and Pedestrian Action Plan, and (2) Multi-modal improvements on Monterey Road within City limits (presentation will be provided by the Public Works Department at the meeting)

7.2. Planning Commission Annual Presentation to Council (draft presentation will be provided at the meeting)

7.3. Zoning Ordinance Update Introduction and General Administration

1. Staff Report: Cindy McCormick, Planning Manager
2. Public Comment:
3. Possible Action:

Receive the staff report and provide preliminary feedback on the preliminary draft sections of the Zoning Ordinance.

8. INFORMATIONAL ITEMS

8.1. Planning Division Staff Approvals

9. PLANNING DIVISION REPORT

10. ASSISTANT CITY ATTORNEY REPORT

11. ADJOURNMENT To the Next Meeting of September 19, 2024 at 6:00 PM

**City of Gilroy
Planning Commission
Regular Meeting Minutes
Thursday, August 1, 2024 | 6:00 PM**

1. OPENING

Tonight's meeting was called to order by Chair Bhandal at 6:00 pm.

2. PLEDGE OF ALLEGIANCE

Chair Bhandal led the pledge of allegiance.

3. REPORT ON POSTING THE AGENDA AND ROLL CALL

The agenda was posted on Wednesday, July 25, 2024 at 5:00 p.m.

Attendance	Attendee Name
Present	Stefanie Elle, Commissioner Joan Lewis, Commissioner Kelly Ramirez, Commissioner Monica Valdez, Commissioner Annedore Kushner, Vice Chair Manny Bhandal, Chair
Absent	Adriana Leongardt, Commissioner

4. PUBLIC COMMENTS

Chair Bhandal opened public comment for items not on the agenda.

There being no speakers, Chair Bhandal closed public comment for items not on the agenda.

5. CONSENT AGENDA

5.1. July 11, 2024 Planning Commission Meeting Minutes

A motion was made by Commissioner Lewis; seconded by Commissioner Ramirez to approve the consent agenda.

RESULT: Pass [6 – 0]

MOVER: Commissioner Lewis

SECONDER: Commissioner Ramirez

AYES: Commissioner Elle, Lewis, Ramirez, Valdez, Vice Chair Kushner, and Chair Bhandal

ABSENT: Commissioner Leongardt

6. PUBLIC HEARINGS

6.1. No items.

7. NEW BUSINESS

7.1. Planning Commission Review of a Resolution of the City Council of the City of Gilroy Requesting the Allocation of Fiscal Year 2025 Transportation Development Act Article 3 Pedestrian/Bicycle Project Funding from the Metropolitan Transportation Commission.

1. Staff Report: Heba El-Guindy, Public Works Director
2. Public Comment:
3. Possible Action:

Receive a report, provide feedback, and recommend City Council adopt a resolution to approve the Transportation Development Act Article 3 grant funding request from the Metropolitan Transportation Commission for Fiscal Year 2025.

A motion was made by Chair Bhandal; seconded by Vice Chair Kushner to:

Receive a report, provide feedback, and recommend City Council adopt a resolution to approve the Transportation Development Act Article 3 grant funding request from the Metropolitan Transportation Commission for Fiscal Year 2025.

RESULT: Pass [6 – 0]

MOVER: Chair Bhandal

SECONDER: Vice Chair Kushner

AYES: Commissioner Elle, Lewis, Ramirez, Valdez, Vice Chair Kushner, and Chair Bhandal

ABSENT: Commissioner Leongardt

7.2. Planning Commissioner Training – Complete Streets (presentation will be provided at the meeting).

Public Works Director, Heba El-Guindy, provided a training on complete streets and answered the Planning Commissioner's questions. The presentation covered what constitutes a complete street and provided examples from different cities that demonstrate a complete street.

8. INFORMATIONAL ITEMS

8.1. Planning Division Staff Approvals

There were no Planning Division approvals since the last report provided to the Planning Commission at its July 11, 2024 regular meeting.

9. PLANNING DIVISION REPORT

Planning Manager, Cindy McCormick, informed the Planning Commission that an email was sent out on July 11, 2024 regarding the environmental notice of intent to adopt a mitigated negative declaration for the RenFu Villa residential development project that will be coming to the Planning Commission in the next few months as a tentative map and zoning map amendment.

Planning Manager McCormick advised the Planning Commission that staff is getting close to completing the draft sections for the comprehensive zoning code update. Staff will present the draft to the Planning Commission over a series of public meetings, and that the dates and structure of those meetings would be announced later.

Planning Manager McCormick informed the Commission of the Gilroy Leadership's Government Day which will be hosted on August 9, 2024 in the Council Chambers.

Planning Manager McCormick concluded her report by announcing that the City received a grant for the development of a climate action plan and VMT Policy.

10. ASSISTANT CITY ATTORNEY REPORT

No report.

11. ADJOURNMENT To the Next Meeting of September 5, 2024 at 6:00 PM

Chair Bhandal adjourned the meeting at 7:00 p.m.

Ariana Fabian

Ariana Fabian, Planning Technician



Community Development Department

Sharon Goei
DIRECTOR

7351 Rosanna Street, Gilroy, CA 95020-6197
Telephone: (408) 846-0451 | Fax: (408) 846-0429
cityofgilroy.org | planningdivision@cityofgilroy.org

DATE: September 5, 2024
TO: Planning Commission
FROM: Cindy McCormick, Planning Manager
SUBJECT: Zoning Ordinance Update Introduction and General Administration

RECOMMENDATION:

Receive the staff report and provide preliminary feedback on the preliminary draft sections of the Zoning Ordinance.

PROJECT DESCRIPTION:

The City of Gilroy Planning Division is proposing amendments to Gilroy City Code, Chapter 30 (Zoning). The proposed update is necessary to implement changes in the adopted 2040 General Plan and will include a new format intended to make the zoning code more user-friendly by clarifying or revising language to limit misinterpretation and revising and adding figures to better depict standards. In addition, the update is intended to be responsive to community goals identified in the General Plan, including but not limited to housing needs and downtown revitalization.

BACKGROUND:

In November 2020, the City Council adopted the [Gilroy 2040 General Plan](#). The General Plan represents the City of Gilroy's view of its future and expresses the community's vision and guiding principles for development over a 20-year horizon. While the General Plan sets forth a wide-ranging and long-term vision for the City, the Zoning Ordinance is the primary tool used to implement General Plan goals and policies, through guidance and regulation of land use development.

When reviewing the proposed amendments, the Planning Commission should determine whether the draft zoning regulations support the vision, guiding principles, goals and policies in the General Plan, Housing Element, and adopted Specific Plans.

General Plan Vision Statement. The City of Gilroy's adopted General Plan includes a vision statement that reads as follows. *In 2040, Gilroy is a diverse and culturally rich community with a small-town feel. Gilroy's economy is thriving, with a healthy business environment and ample job opportunities for residents. Visitors come to Gilroy for its wineries, shopping, festivals, and recreational opportunities. It is well-known throughout the region for its excellent schools, agriculture, and downtown.*

General Plan Guiding Principles. The Gilroy 2040 General Plan also includes eight (8) guiding principles: 1) Foster Economic Growth; 2) Cultivate a Downtown Renaissance; 3)

Balance Growth and Open Space; 4) Promote Fiscal Strength; 5) Foster a Sustainable Community; 6) Ensure Public Safety; 7) Offer Recreation Opportunities; and 8) Support Housing Options.

Existing Zoning Code. The last major update to the City’s Zoning Ordinance (City Code Chapter 30) was in 2013. Since that time, only minor amendments have been proposed, primarily to address state legislation that affect City regulations (e.g., Accessory Dwelling Units). The current code lacks regulations for new land uses adopted in the 2040 General Plan including the new City Gateway District, Industrial Park, Employment Center and Mixed-Use designations.

DISCUSSION AND ANALYSIS:

The draft Zoning Ordinance will be organized into ten (10) Articles. Given the length and complexity of the Zoning Ordinance, the draft will be developed and presented to the general public, the Planning Commission, and the City Council, over a series of public meetings, beginning with an introduction to the public and the Planning Commission at the September 5, 2024 Planning Commission meeting.

During the September 5th meeting, staff will introduce preliminary drafts of the following administrative sections of the Zoning Ordinance.

- Enactment and Administration
- Application Procedures
- Planning Permit Procedures
- Nonconforming Uses and Structures

Following the introduction and preliminary review of these administrative processes, staff will begin holding community meetings on the more substantive sections of the Zoning Ordinance. Future community meetings will introduce draft definitions; zoning districts, allowed uses and development standards; standards applicable to all zones; and standards for specific land uses.

The following table provides a summary of the preliminary draft sections of code being presented to the public and the Planning Commission for initial review and comment.

Enactment and Administration (Article 1)
This article consolidates all regulations related to zoning code applicability, authority, interpretation, and enforcement. This Article also briefly describes the process for zoning amendments, general plan amendments, and urban service area amendments.
Nonconforming Uses and Structures (Article 7)

This Article establishes regulations for legal nonconforming uses and structures that were lawfully established and constructed before the adoption of a Zoning Code amendment, but which would be prohibited, regulated, or restricted differently under the terms of the revised Zoning Code or future amendments thereto.

Application Procedures (Article 8)

This Article includes application submittal and review procedures, public notices and hearing requirements, and appeal requirements.

Planning Permits (Article 9)

This Article includes all permit review types and review procedures, including zoning clearances, architectural and site plan review and minor modifications, conditional use permits, minor use permits, temporary use permits, planned development permits, reasonable accommodations, variances and minor deviations, and historic resources.

CONCLUSION AND NEXT STEPS

Staff will review and incorporate feedback from the community and Planning Commission, where a majority consensus can be reached. Future community meetings will introduce preliminary drafts of the more substantive sections of the Zoning Ordinance, including definitions; zoning districts, allowed uses and development standards; standards applicable to all zones; and standards for specific land uses.

PUBLIC OUTREACH:

This meeting was advertised in the City's weekly newsletter and posted to the City's social media. A dedicated website <https://www.cityofgilroy.org/1004/Zoning-Code-Update> was also created and will be updated as new drafts are developed. Staff also intend to do more extensive outreach to the business community, residential stakeholders, and other stakeholders who would be most impacted by substantive changes to the Zoning Code. Staff will also begin advertising these community meetings in the Gilroy Dispatch.

ATTACHMENTS:

1. Draft Article 1: Enactment and Administration
2. Draft Article 7: Nonconforming Uses and Structures
3. Draft Article 8: Application Procedures
4. Draft Article 9: Planning Permits

Chapter 30 – Zoning Ordinance

Article 1 – Enactment and Administration

Division 30.10 – Introduction

Division 30.12 – Zones and Zoning Map

Division 30.14 – Interpretation of Zoning Ordinance

Division 30.15 – Zoning Amendments

Division 30.16 – Other Legislative Procedures

DRAFT

Division 30.10 – Introduction

Sections

- 30.10.010 – Title
- 30.10.020 – Purpose
- 30.10.030 – Enactment
- 30.10.040 – Authority
- 30.10.050 – Applicability
- 30.10.060 – General Plan Consistency
- 30.10.070 – Rights and Violations
- 30.10.080 – Projects in Progress
- 30.10.090 – Enforcement
- 30.10.100 – Severability

30.10.010 Title

Chapter 30 contains the City’s zoning regulations and shall be known as the "Gilroy Zoning Ordinance" and may be referred to in this Chapter as the “Zoning Ordinance.”

30.10.020 Purpose

Purpose. This Zoning Ordinance is intended to carry out the policies of the City of Gilroy General Plan. More specifically, the purposes of this Ordinance are as follows:

- A. To promote and protect the public health, safety, peace, comfort, convenience, and general welfare;
- B. To assist in providing a definite comprehensive plan for sound and orderly development, and to guide and regulate each development in compliance with the General Plan and the objectives and standards specified therein;
- C. To protect and improve the established character and the social and economic stability of agricultural, residential, commercial, industrial, and other areas of the City;
- D. To provide light, air, privacy, and convenience of access to property; and to promote safety from fire and other dangers;
- E. To prevent overcrowding of land and undue congestion of population;
- F. To regulate the location and use of structures and land so as to prevent undue interference with existing or prospective traffic movements on public thoroughfares; and
- G. To prezone unincorporated territory adjoining the City for the purpose of determining the zoning that shall apply to the property in the event of subsequent annexation to the City.

30.10.030 Enactment

This Zoning Ordinance is enacted based on the authority vested in the City of Gilroy and the State of California, including but not limited to the State Constitution, Planning and Zoning Law (California Government Code Section 65000 et seq.), Subdivision Map Act (California Government Code Section 66410 et seq.), California Environmental Quality Act (California Public Resources Code Section 21000 et seq.), the California Health and Safety Code, the City Charter, and the City Code.

30.10.040 Authority

The Community Development Director shall have the authority and responsibilities in the enforcement and administration of this Zoning Ordinance and may delegate responsibilities to the Community Development Department staff.

30.10.050 Applicability

This Zoning Ordinance applies to all property, uses of land and structures, subdivisions, and development, regardless of ownership, within the incorporated area of the City.

- A. **Compliance required.** No structure shall be altered, erected, or reconstructed in any manner, nor shall any structure or land be used for any purpose, other than as allowed by this Zoning Ordinance.
- B. **Subdivisions.** A subdivision of land proposed within the City after the effective date of the ordinance adopting this Zoning Ordinance shall comply with the minimum parcel size requirements of Article 2 (Zones, Allowable Land Uses, and Development Standards), other applicable requirements of this Zoning Ordinance, City Code Chapter 21 (Subdivisions and Land Development), and provisions of state law including the Subdivision Map Act.
- C. **Continuation of an existing land use.** An existing land use is lawful and not in violation of this Zoning Ordinance only when operated and maintained in compliance with applicable provisions of this Zoning Ordinance and any condition(s) imposed on a discretionary application, including Article 5 (Nonconforming Uses and Structures). However, the requirements of this Zoning Ordinance are not retroactive in their effect on a land use that was lawfully established before the effective date of the ordinance adopting this Zoning Ordinance or any applicable amendment, except as otherwise provided by **Article 7** (Nonconforming Uses and Structures).
- D. **Minimum requirements.** The provisions of this Zoning Ordinance shall be considered the minimum requirements for the promotion of the public health, safety, and general welfare. When this Zoning Ordinance provides for discretion on the part of a Review Authority, the discretion may be exercised to impose more stringent requirements than required by this Zoning Ordinance, as determined by the applicable Review Authority to be necessary to promote

orderly land use and development, environmental resource protection, and the other purposes of this Zoning Ordinance.

- E. **Conflicting requirements.** Conflicts between different requirements of this Zoning Ordinance, or between this Zoning Ordinance and other regulations, shall be resolved in compliance with **Section 30.14.020** (Rules of Interpretation).
- F. **Other requirements may apply.** Nothing in this Zoning Ordinance eliminates the need for obtaining other permits required by the City, or a permit, approval, or entitlement required by another applicable special district or agency, or other approvals required by the regulations of a Regional, State or Federal agency. The City shall not issue any permit, Business License, or other approval if the structure or land use would violate the provisions of this Zoning Ordinance. Permits issued in error shall be void.
- G. **Exempt.** The City is exempt from the provisions of this Zoning Ordinance.

30.10.060 General Plan Consistency

The City Council intends that this Zoning Ordinance be consistent with the General Plan and any applicable specific plan, and that any development, land use, or subdivision approved in compliance with this Zoning Ordinance shall also be consistent with the General Plan and any applicable specific plan. In the event of any inconsistencies between the General Plan and this Zoning Ordinance, the General Plan shall control the use and development of the land until the City Council adopts an amendment to the Zoning Ordinance to achieve consistency.

30.10.070 Rights and Violations

The enactment of this Zoning Ordinance shall not terminate nor otherwise affect vested land use development permits, approvals, or agreements authorized under the provisions of any ordinance or resolution, nor shall violation of any prior ordinance or resolution be excused by the adoption of this Zoning Ordinance.

30.10.080 Projects in Progress

The enactment of this Zoning Ordinance, or an amendment to this Zoning Ordinance, may have the effect of imposing different standards on a new land use than those that applied to existing development. (For example, this Zoning Ordinance or a future amendment could require more off-street parking spaces for a particular land use than the former regulations). A planning permit application, which has been accepted by the Community Development Department as complete before the effective date of this Zoning Ordinance or any amendment, shall be processed in compliance with the requirements in effect when the application was accepted as complete.

- A. Any structure for which a permit has been lawfully granted prior to the effective date of the ordinance codified in this Zoning Ordinance, or of subsequent amendments hereto, that does not conform to the revised zoning requirements, may be completed

only in accordance with the approved plans; provided, that actual construction is started within two months of the date of issuance of the permit and diligently executed until its completion.

- B. The term “actual construction” for the purposes of this Article shall mean the performance of any readily apparent work, labor, or the placing of any material upon the building site, pursuant to the permit and required or reasonably necessary for the construction of the structure. Such structure shall thereafter be deemed to be a legal nonconforming structure, and subject to **Article 7**, Nonconforming Uses and Structures.
- C. **Project Under Construction.** A project for which a Building Permit has been issued under the provisions of earlier ordinances of the City which are in conflict with this Zoning Ordinance, and on which substantial construction, as determined by the Community Development Director, has been performed by integration of materials on the site before the effective date of this Zoning Ordinance, nevertheless may be continued and completed in compliance with the plans and specifications upon which the permit was issued.

30.10.090 Enforcement

- A. **Vested Duty.** All departments, officials and public employees of the City who are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Chapter and shall issue no such permit or license for uses, buildings or purposes where the same would be in conflict with the provisions of this Zoning Ordinance and any such permit or license if issued in conflict with the provisions of this Zoning Ordinance shall be null and void. It shall be the duty of the Community Development Director to enforce or cause to be enforced the provisions of this Zoning Ordinance pertaining to the erection, construction, reconstruction, moving, conversion, alteration, removal of or addition to any building, sign, structure, building site or parcel of land in the City.
- B. **Penalty and Fine.** Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any of the provisions of this Zoning Ordinance shall be guilty of an infraction, and upon conviction thereof shall be punished as set forth in Government Code Section 36900, as it now exists or may hereafter be amended. The violating party shall be judged to be guilty of a separate offense for each and every day during any portion of which any violation of this Zoning Ordinance is committed, continued or permitted by such person, firm or corporation, and shall be punishable as herein provided. Nothing in this Zoning Ordinance shall be construed as to restrict the right of any individual to pursue redress by civil action of any violation of this Zoning Ordinance.

- C. **Declaration of Nuisance.** Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the provisions of this Zoning Ordinance and/or any use of any land, building or premises conducted, operated or maintained contrary to the provisions of this Zoning Ordinance shall be and the same is hereby declared to be unlawful and a public nuisance and the City Attorney of the City shall, upon order of the City Council, immediately commence action or proceedings for the abatement and removal and enjoinder thereof in the manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate and remove such building or structure and restrain and enjoin any person, firm or corporation from setting up, erecting, building, maintaining or using any such building or structure or using any property contrary to the provisions of this Zoning Ordinance.
- D. **Cumulative Remedies.** The remedies for herein shall be cumulative and not exclusive.

30.10.100 Severability

If any portion of this Zoning Ordinance is held to be invalid, unconstitutional, or unenforceable by a court of competent jurisdiction, the determination shall not affect the validity of the remaining portions of this Zoning Ordinance. The City Council hereby declares that this Zoning Ordinance and each article, division, section, subsection, subparagraph, sentence, clause, phrase, and portion thereof is adopted without regard to the fact that one or more portions of this Zoning Ordinance may be declared invalid, unconstitutional, or unenforceable.

Division 30.12 – Zones and Zoning Map

Sections

- 30.12.010 – Establishment of Zones
- 30.12.020 – Zoning Map
- 30.12.030 – Rights-of-way and Vacated Boundary Lines
- 30.12.040 – Uncertainty of Boundaries
- 30.12.050 – Classification of Annexed Lands

30.12.010 Establishment of Zones

- A. **General.** The City is divided into zones to allow for the orderly, planned development of the City and to implement the General Plan. **Table 30.12-1** (Establishment of Zoning Districts), below identifies all of the zones adopted by the City to implement the General Plan. All zones shall be listed and appropriately designated on the City's Official Zoning Map.
- B. **Base Zones.** Every parcel shall have a base zone that establishes the primary type and intensity of land use allowed, along with development regulations for that particular type and intensity of land use.
- C. **Overlay/Combining Zones.** An overlay/combining zone supplements the base zone for the purpose of establishing special use or development regulations for a particular area in addition to the provisions of the underlying base zone. In the event of conflict between the base zone regulations and the overlay/combining zone regulations, the provisions of the overlay/combining zone shall apply.

Table 30.12-1 ESTABLISHMENT OF ZONING DISTRICTS	
ZONING DISTRICT SYMBOL	ZONING DISTRICT NAME
Residential Zones	
RH	Residential Hillside District
R1	Single-Family Residential District
R2	Two-Family Residential District
R3	Medium Density Residential District
R4	High Density Residential District
ND-H	Neighborhood District High
ND-L	Neighborhood District Low

Table 30.12-1 ESTABLISHMENT OF ZONING DISTRICTS	
ZONING DISTRICT SYMBOL	ZONING DISTRICT NAME
Commercial and Mixed Use Zones	
C1	Neighborhood Commercial District
C2	Central Commercial District
C3	Shopping Center Commercial District
HC	Highway Commercial District
GC	Gateway Commercial District
MU	Mixed Use District
PO	Professional Office District
Downtown Specific Plan Zones	
CCA	Civic/Cultural Arts District
CD	Cannery District
DED	Downtown Expansion District
DHD	Downtown Historic District
GD	Gateway District
TD	Transitional District
Industrial Zones	
CI	Campus Industrial District
CM	Commercial Industrial District
M1	Limited Industrial District
M2	General Industrial District
Resource and Public/Quasi-Public Zones	
AG	Agricultural
OS	Open Space District
PF	Park/Public Facilities District

Table 30.12-1 ESTABLISHMENT OF ZONING DISTRICTS	
ZONING DISTRICT SYMBOL	ZONING DISTRICT NAME
Special Purpose Zones	
GL	Glen Loma District
HP	Hecker Pass Specific Use District
Combining Zones	
MA	Murray-Las Animas Avenue
PD	Planned Development

30.12.020 Zoning Map

The boundaries, designations, and locations of the zones established by this Zoning Ordinance shall be shown upon the map(s) entitled "Zoning Map for the City of Gilroy" and referred to in this Zoning Ordinance as the Zoning Map. Any additional maps (e.g., Murray-Las Animas map) adopted shall also be a part of this Zoning Ordinance by reference. This Zoning Ordinance, together with the Zoning Map, is hereby adopted in compliance with current State planning, zoning, and development laws. Changes in the boundaries of any identified zones shall be made by ordinance.

30.12.030 Rights-of-way and Vacated Boundary Lines

Where a public street or alley is officially abandoned or vacated, the property encompassed by areas associated with the abandoned/vacated street or alley shall be included within the zone or zones of the adjoining properties. If the adjoining properties are in different zones, the boundary lines shall be the centerline of the former street or alley and the extension of the side yard lines of the abutting properties. In the event the street, alley, or right-of-way was a boundary between two or more different zones, the new zone or zone boundary shall be the property line that is created by the abandonment or vacation.

30.12.040 Uncertainty of Boundaries

If there is uncertainty about the location of a zone boundary shown on the adopted Zoning Map, the Community Development Director shall determine the precise location of the boundary in the following manner, except as provided in **Section 30.12.030** (Rights-of-way and Vacated Boundary Lines), above:

- A. **Line Shall be the Zone Boundary.** Where a zone or area boundary approximately follows a parcel line, street line, or alley line, the parcel line, street centerline, or alley centerline shall be construed as the zone boundary.

- B. **Use of Scale.** Where a zone or area boundary divides a parcel and the boundary line location is not specified by distances indicated on the subject map, the location of the boundary shall be determined by using the scale appearing on the map.

30.12.050 Classification of Annexed Lands

- A. **Zoning of Annexed Lands.** Any land annexed to the City of Gilroy shall be zoned to be consistent with the General Plan land use designation.
- B. **Adoption of Zone Classification.** Whenever it is deemed that the zoning of annexed lands is inconsistent with an adopted General Plan land use policy or other City policies, the Planning Commission shall recommend, and the City Council shall adopt the zone classification(s) which shall apply to the annexed lands in the manner prescribed in **Division 30.15** (Zoning Amendments) for amending this Zoning Ordinance.

Division 30.14 – Interpretation of Zoning Ordinance

Sections

- 30.14.010 – Purpose
- 30.14.020 – Rules of Interpretation
- 30.14.030 – Uses Not Classified
- 30.14.040 – Headings and Illustrations

30.14.010 Purpose

The purpose of this Division is to specify the authority and procedures for clarifying any ambiguity in the regulations of this Zoning Ordinance, and to ensure its consistent interpretation and application.

30.14.020 Rules of Interpretation

The Community Development Director has the authority to interpret the provisions of this Zoning Ordinance and to determine the appropriate zoning classification of uses not specifically mentioned in this Zoning Ordinance. Whenever the Community Development Director determines that the meaning or applicability of a Zoning Ordinance requirement is subject to interpretation, the Community Development Director may issue a written interpretation. The Community Development Director may also refer any issue of interpretation to the Planning Commission for a determination. The following rules apply to all provisions of this Zoning Ordinance:

- A. **Language.** When used in this Zoning Ordinance, the words "shall," "must," and "will," are always mandatory. "Should" is not mandatory but is strongly recommended; and "may" is permissive.
- B. **Tense.** The past, present, and future tenses shall be read as the same.
- C. **Number.** The singular number includes the plural number, and the plural the singular, unless the natural construction of the words indicate otherwise.
- D. **Calculations.**
 - 1. **Residential Density.** When the number of dwelling units allowed on a site is calculated based on the minimum site area per dwelling unit, any fraction of a unit shall be rounded up to the next highest whole number.
 - 2. **Other Calculations.** For all calculations the fractional/decimal results of calculations shall be rounded to the next highest whole number, unless otherwise specified in this Zoning Ordinance.
- E. **Conjunctions.** "And" indicates that all connected items or provisions shall apply. "Or" indicates that the connected items or provisions may apply singly or in any combination. "Either...or" indicates that the connected items and provisions shall

apply singly but not in combination. “Includes” and “including” shall mean “including but not limited to”.

- F. **Local Reference.** “City” as used in this Zoning Ordinance means the City of Gilroy. All public officials, bodies, and agencies referenced in this Zoning Ordinance are those of the City, unless otherwise stated.
- G. **Definitions.** As defined in **Article 10** (Definitions) and/or as determined or interpreted by the Community Development Director.
- H. **Number of Days.** Whenever the number of days is specified in this Zoning Ordinance, or in any permit, condition of approval, or notice issued or given as provided in this Zoning Ordinance, the number of days shall be construed as calendar days.
- I. **State Law Requirements.** Where this Zoning Ordinance refers to provisions of State law (for example, the California Government Code, Subdivision Map Act, Public Resources Code, etc.), the references shall be interpreted to be to the applicable State law provisions as they may be amended from time to time.

30.14.030 Uses Not Classified

- A. If a proposed use of land is not specifically listed in **Article 2** (Zones, Allowable Uses, and Development Standards), the use shall not be allowed, except as provided in **Subsection B.**, below.
- B. The Community Development Director may determine that a proposed land use that is not listed in **Article 2** (Zones, Allowable Uses, and Development Standards) may be allowed if it is similar to other uses listed in the zone or will meet the purposes and intent of the zone district and is consistent with the goals, objectives and policies of the General Plan and/or any applicable specific plan.

30.14.040 Headings and Illustrations

- A. **Headings.** The headings of the divisions, sections, subsections, subparagraphs, and clauses of this Zoning Ordinance, together with the accompanying illustrations, examples, and explanatory notes, are inserted as a matter of convenience and in no way define, limit, or enlarge the scope or meaning of this Zoning Ordinance or its provisions.
- B. **Illustrations.** In case of a conflict between the Zoning Ordinance text and any diagram, illustration, or image contained in this Ordinance, the text shall control.

Division 30.15 – Zoning Amendments

Sections

- 30.15.010 – Initiation
- 30.15.020 – Process
- 30.15.030 – Reapplication
- 30.15.040 – Rezoning Prior to Annexation

30.15.010 Initiation

Amendments to this Chapter 30 (Zoning Ordinance) or the Zoning Map may be initiated by the owners of the property proposed to be rezoned, motion of the City Council, or by recommendation of the Community Development Director.

30.15.020 Process

Zoning Amendments shall be processed in accordance with this Division, as follows:

- A. Notice of the public hearings shall be provided and the hearings shall be conducted in compliance with **Division 30.81** (Public Notices and Hearings).
- B. The Planning Commission shall conduct a public hearing on the amendment and forward a recommendation to the City Council whether to approve, approve in modified form, or deny the amendment. If the Planning Commission is unable to reach a majority agreement on a recommendation, the amendment shall be forwarded to the City Council with no recommendation.
- C. The City Council shall conduct a public hearing prior to taking action on the amendment. The City Council may refer the request back to the Planning Commission for further study and report. The Planning Commission shall not be required to hold a public hearing under these circumstances.
- D. Notice of decision. The City Council shall announce its findings and decision for approval by ordinance or denial (with or without prejudice) by resolution introduced not more than twenty (20) days, or as soon thereafter as practical, following the termination of proceedings of the hearing, or upon receipt of a report from the Planning Commission when a matter has been referred back to the Planning Commission. The ordinance or resolution shall recite, among other things, the facts and reasons that, in the opinion of the City Council, make the approval, denial, or denial without prejudice of the Zoning Ordinance or map amendment necessary to carry out the general purposes of this Zoning Ordinance and the General Plan.
- E. Finality of decision. The action by the City Council on the application for a Zoning Ordinance or map amendment shall be final and conclusive.

30.15.030 Reapplication

If an application for a zone change is denied, another request for the same rezoning on the same property or portions thereof shall not be accepted within a one (1) year period. However, if the City Council specifies that a denial of a zone change application is made without prejudice, or if the City Council makes a determination that significant new material or facts are present which justify reconsideration of the zone change application and thereby grants specific approval for refiling of the application, the one (1) year waiting period may be waived.

30.15.040 Prezoning Prior to Annexation

All lands proposed for annexation shall be prezoned prior to formal annexation. An application for annexation to the City shall be accompanied by an application to prezone the property to a zoning district or zoning districts consistent with that of the General Plan land use designation and processed in conformance with city, state and local agency formation commission regulations. All parcels in the application shall comply with the following criteria:

- A. All parcels must be within the Urban Service Area.
- B. The annexation cannot split lines of assessment.
- C. When the annexation includes a roadway, the entire width of the roadway (and necessary right-of-way) must be included in the annexation. The Engineering Division will make the determination as to how much land area must be annexed for the roadway and associated right-of-way.
- D. None of the parcels proposing annexation may be under a Williamson Act contract, which may be determined by asking the applicant to provide a current title report. Parcels within the Williamson Act may not annex until the non-renewal period is complete or the applicant cancels the contract.
- E. The annexation may not create any islands or areas to which it would be difficult to provide municipal services. If the applicant proposes an annexation that will create an island, the applicant will be required to annex other parcels so that no islands are created.
- F. The annexation must be contiguous to existing City limits.

Division 30.16 – Other Legislative ProceduresSections

- 30.16.010 General Plan Amendments
- 30.16.020 Specific Plans
- 30.16.030 Urban Service Area Amendments
- 30.16.040 Development Agreements

30.16.010 General Plan Amendments

Requests to amend the General Plan map or text shall be submitted and processed in accordance with the procedures established by the Planning Division, and in accordance with State Government Code Section 65350-65360.

30.16.020 Specific Plans

An application to adopt or amend a specific plan shall be submitted and processed in accordance with the procedures established by the Planning Division, and in accordance with State Government Code Section 65450-65457 Article 8.

30.16.030 Urban Service Area Amendments

An application to amend the City of Gilroy Urban Service Area shall be accepted during the month of July each calendar year. The application shall be submitted and processed in accordance with the procedures established by the Planning Division.

30.16.040 Development Agreements

Requests to enter into a development agreement with the City of Gilroy shall be submitted and processed in accordance with the procedures established by the Planning Division and State Government Code Section 65864-65869.5.

Chapter 30 – Zoning Ordinance

Article 7 – Nonconforming Uses and Structures

Division 30.70 – General Nonconforming Provisions

Sections

30.70.010 - Purpose

30.70.020 – Applicability

30.70.030 – Continued Use

30.70.040 – Loss of Nonconforming Status

30.70.010 Purpose

This Division establishes regulations for legal nonconforming uses and structures, that were lawfully established and constructed before the adoption or amendment of this Zoning Code, but which would be prohibited, regulated, or restricted differently under the current terms of this Zoning Code or future amendments thereto. It is the intent of this Division to limit the number and extent of nonconforming structures by limiting or prohibiting their alteration, enlargement, or expansion, and by limiting or prohibiting their restoration after destruction. Eventually, all nonconforming structures are to be eliminated or altered to conform to the zoning district standards in which they are located.

30.70.020 Applicability

- A. **Legal Nonconforming Use.** Any use lawfully established prior to the effective date of the ordinance codified in this Zoning Ordinance or of subsequent amendments hereto, that does not conform to the use regulations for the district in which it is located shall be deemed a legal nonconforming use and may continue, except as otherwise provided herein.
- B. **Legal Nonconforming Structure.** Any structure lawfully existing at the effective date of the ordinance codified in this Zoning Ordinance or of subsequent amendments hereto, that is wholly or partially constructed or designed for use contrary to the regulations of the district in which it is located, or does not conform to the minimum physical standards of the district in which it is located, shall be deemed a nonconforming structure and may be so used or continue in such use, except as otherwise provided herein.
- C. **Projects in Progress.** Any structure for which a permit has been lawfully granted prior to the effective date of the ordinance codified in this Zoning Ordinance, or of subsequent amendments hereto, that does not conform to the revised zoning requirements, may be completed only in accordance with Section 30.10.080, Projects in Progress.

30.70.030 Continued Use

- A. **Alteration, Enlargement, and Discontinuance.** This article does not authorize the extension, expansion, or enlargement of an existing legal nonconforming structure, or permit the addition of new structures or other facilities in conjunction with an existing nonconforming use, unless all of the following conditions are met:
1. The proposed extension, expansion, and/or enlargement is limited to a maximum of 10 percent of the gross floor area of the nonconforming structure;
 2. All required parking can be accommodated on site;
 3. All other physical development standards of the Zoning Ordinance will be met; and
 4. The proposed project will not affect the character of the neighborhood.
- B. **Maintenance and Repair.** A legal nonconforming structure may undergo necessary maintenance and repair. If a nonconforming structure becomes physically unsafe due to lack of ordinary repairs or maintenance, it shall only be repaired in full compliance with the applicable regulations of the zone in which it is located.
- C. **Involuntary Damage.** Nothing in this Division shall be construed to prevent the restoration and resumption of a former lawful use of any building that is damaged or partially destroyed by fire or other calamity, or by act of God or by the public enemy to the extent of 75 percent or less of its replacement cost; provided, that such restoration is permitted by Chapter 6, and is started within one year after such damage and diligently pursued to completion. The amount of destruction shall be calculated by taking 75 percent of the full assessed value of the improvements destroyed, as such value is shown on the current equalized assessment roll of Santa Clara County. Destruction or damage due to lack of maintenance does not qualify as involuntary destruction or damage.

30.70.040 Loss of Nonconforming Status

- A. A nonconforming structure that is completely destroyed or damaged or partially destroyed in any manner to a greater extent than above specified, or voluntarily razed or required by law to be razed, shall not thereafter be restored except in full conformity with all the provisions of this Zoning Ordinance as to building and use. The amount of destruction shall be calculated by taking 75 percent of the full assessed value of the improvements destroyed, as such value is shown on the current equalized assessment roll of Santa Clara County.
- B. Whenever a nonconforming use of land or a structure has been changed to a conforming use, the prior nonconforming use shall not thereafter be

reestablished, and the use of the land or structure thereafter shall be in conformity with the regulations for the district.

- C. Whenever a nonconforming use of land or a structure has been discontinued for a continuous period of 120 days, the prior nonconforming use or structure shall be deemed abandoned by the Community Development Director and shall not thereafter be reestablished, and the use of the land or structure thereafter shall be in conformity with the regulations for the district.
- D. **Extension.** In addition to other grounds set forth in this Division, the exception granted by this Division to allow continuation of a legal nonconforming use may be extended if it is determined that the nature of the improvement is such that to require cessation of use would impair the property rights of any person to such an extent as to be an unconstitutional taking of property.

Chapter 30 – Zoning Ordinance

Article 8 – Application Procedures

Division 30.80 – Application Submittal and Review

Division 30.81 – Public Notices and Hearings

Division 30.82 – Appeals

DRAFT

Division 30.80 –Application Submittal and Review

Sections

- 30.80.010 – Purpose
- 30.80.020 – Application Submittal
- 30.80.030 – Authority for Land Use and Zoning Decisions
- 30.80.040 – Multiple Permit Applications
- 30.80.050 – Notice and Hearing
- 30.70.060 – Additional Permits May Be Required
- 30.80.070 – Post-Decision

30.80.010 Purpose

The purpose of this Division is to provide procedures and requirements for the preparation, filing, and processing of permit applications and approvals required by this Zoning Ordinance.

30.80.020 Application Submittal

- A. **Application Required.** No structure shall be altered, enlarged, erected, moved, or rebuilt, nor use established except in compliance with this Article. A Building Permit shall not be issued until any required discretionary permit approvals have been obtained.
- B. **Existing Zoning Violations.** Applications for Building Permits or other entitlements shall not be processed for parcels in violation of the Gilroy Municipal Code unless the proposed entitlement application is intended to correct the violation.
- C. **Authority to File.** Applications may be initiated by property owners, lessees or designated agents of the subject property with consent of the owner(s), or motion of the City Council. Planning application forms shall be signed by the owner of the property, or by a person designated as the owner's power-of-attorney. In the case of multiple owners, either all owners shall sign the application, or the signatory shall provide evidence that he or she has the right to act on behalf of all owners.
- D. **Application Forms.** The Community Development Director shall prescribe the form on which all applications are made, shall prepare and provide forms for all planning applications, and shall prescribe all application filing requirements. No application shall be accepted unless it complies with the specified application filing requirements.
- E. **Application Filing.** Permit applications shall be filed with the Planning Division on a City application form, together with all required fees and/or deposits in compliance with the Comprehensive Fee Schedule, and all other information and

materials required for filing of the application. The Community Development Director may request additional information, including maps, technical reports, environmental analysis, and/or design criteria, deemed necessary to evaluate the application.

- F. **Applicant Indemnification.** At the time of submitting an application for a discretionary entitlement, the applicant shall be deemed to have agreed as part of the application, to defend (with legal counsel of City's selection), indemnify, and hold harmless the City and its elected and appointed officials, agents, attorneys, employees, and officers from any action, claim, or proceeding brought against the City or its elected and appointed officials, agents, employees, and officers to attack, set aside, void, or annul a discretionary land use approval of the City. The required indemnification shall include damages awarded against the City, if any, costs of suit, attorneys' fees, and other costs and expenses incurred in connection with the action. In the event an action, claim, or proceeding is brought, the applicant shall cooperate fully in the defense of the action, claim, or proceeding. Nothing in this Section shall prohibit the City from participating in the defense of any action, claim, or proceeding if the City elects to bear its own attorneys' fees and costs and defends the action in good faith.
- G. **Evidence in Support.** It is the responsibility of the applicant to provide evidence in support of the findings required for approval of an application.
- H. **Permanent Record.** Applications filed pursuant to this Division or Chapter 30 shall be numbered consecutively in the order of their filing and shall become a part of the permanent records of the Planning Division, and there shall be attached thereto and permanently filed therewith copies of all notices and actions with certificates and affidavits of posting, mailing or publications pertaining thereto.
- I. **Acceptance Does Not Constitute Approval.** Acceptance of the application and/or fees does not constitute an indication of approval nor imply that the application is complete.
- J. **Abandonment of Application.** Applications shall be deemed abandoned when information and/or fees necessary for the completion of the application have been requested in writing and not received by the Planning Division within 90 days of notification. The applicant may request (within the 90-day time period) an extension of up to 180 days, or longer as may be approved by the Community Development Director. No further action shall be taken on an application and no fees will be refunded once abandoned.

30.80.030 Authority for Land Use and Zoning Decisions

Table 30.80-1 (Review Authority) identifies the authority for reviewing and making decisions or determinations on each type of application required or offered by this

Zoning Ordinance, except where review may be elevated pursuant to a provision of this Division or Municipal Code.

Table 30.80-1
Review Authority

Type of Action	Applicable Code Citation*	Role of Review Authority		
		Community Development Director	Planning Commission	City Council
Ministerial				
Habitat Permit	12.6	Decision	NA	NA
Zoning Clearance	30.76	Decision	NA	NA
Administrative				
Architectural and Site Plan Review	30.62	Decision	Appeal	Appeal
Historic Resource Minor Alteration	30.80	Decision	Appeal	Appeal
Home Occupation	30.42	Decision	Appeal	Appeal
Minor Deviation	30.74	Decision	Appeal	Appeal
Minor Modification	30.62	Decision	Appeal	Appeal
Minor Use Permit	30.66	Decision	Appeal	Appeal
Reasonable Accommodation	30.70	Decision	Appeal	Appeal
Sign Permit/Master Sign Program	30.38	Decision	Appeal	Appeal
Temporary Use	30.72	Decision	Appeal	Appeal
Quasi-Judicial				
Conditional Use Permit	30.64	Recommend	Decision	Appeal
Historic Resource Designation/Removal	30.80	Recommend	Recommend	Decision
Historic Resource Significant Alteration/Demolition	30.80	Recommend	Decision	Appeal
Mills Act Contract	30.80	Recommend	N/A	Decision
Planned Development Permit	30.68	Recommend	Recommend	Decision
Subdivision	21	Recommend	Recommend	Decision
Variance	30.74	Recommend	Decision	Appeal
Legislative				
Annexation/Prezoning	30.78	Recommend	Recommend	Decision
Development Agreement	30.80	Recommend	Recommend	Decision
Specific Plan	30.80	Recommend	Recommend	Decision
Urban Service Area Amendment	30.80	Recommend	Recommend	Decision
Zoning Amendment	30.78	Recommend	Recommend	Decision
General Plan Amendment	30.80	Recommend	Recommend	Decision

* Identifies the relevant Zoning Ordinance Division or Municipal Code Chapter

30.90.040 Multiple Permit Applications

If a development project requires filing of more than one application (e.g., Tentative Map and Architectural & Site Review, etc.), the applications shall be processed concurrently and reviewed together by the highest review authority designated for any one of the applications, unless the Community Development Director waives the requirement for concurrent filing. Further, any subsequent time extension request shall apply to all of the entitlements included as part of the original project approval.

30.80.050 Notice and Hearing

When required for a permit application, public hearing and/or notice for shall be provided in accordance with **Division 30.81**.

30.80.060 Additional Permits and Inspections

A land use on property that complies with the applicable permit requirements or exemption provisions of this Zoning Ordinance shall also comply with the permit requirements of other Gilroy Municipal Code provisions and any permit requirements of other agencies before construction or use of the property is commenced. Land use is subject to all Building Code permit and inspection requirements of the City and all other applicable zoning regulations and procedures. All necessary permits shall be obtained before starting work, establishing a new use or as otherwise required.

30.80.070 Post-Decision**A. Time Limits.**

1. Any approval granted pursuant to this Zoning Ordinance, for a project for which Building Permits have not been obtained within 24 months from the date of the permit approval, or as otherwise specified in project conditions, shall be deemed automatically revoked.
2. Upon written request prior to the expiration date of the approval, an extension of time may be granted by the Community Development Director.
3. Grant of an extension of time shall be applicable to all discretionary entitlements granted for the original development project, unless otherwise determined by the Community Development Director.

B. Effective Date. An approval granted pursuant to this Zoning Ordinance shall become final and effective after expiration of any applicable appeal period established by **Division 30.82**, and if no appeal has been filed.**C. Revisions/Amendments.** Minor revisions of an approved permit, which meet the requirements of this Division, may be approved by the Community Development Director. Otherwise, the revisions shall require filing of a new application and approval from the codified review authority or designee. The applicant shall file all required documents and pay all required fees associated with the review.**D. Conditions of Approval.** Revisions to conditions of approval shall require approval from the initial review authority or designee, unless otherwise stated in the adopted conditions.**E. Revocation.** Discretionary permit approvals may be revoked or modified by the City, upon violation of conditions of approval or City Code regulations.

- F. **Appeals.** Appeals of a decision made under this Zoning Ordinance, shall be filed and processed in accordance with **Division 30.82**.

DRAFT

Division 30.81 – Public Notices and Hearings

Sections

30.81.010 – Purpose

30.81.020 – Procedures

30.81.010 Purpose

The purpose of this Division is to establish requirements for providing notice and conduct of public hearings when required by City Code. Public notice shall also be provided, as required, in compliance with Government Code Sections 65090, 65091, 65092, 65094 and 66451.3, and Public Resources Code 21000 et seq.

30.81.020 Procedures

- A. **Setting of Hearing.** When a development project requires a public hearing, the Community Development Director shall set hearings before the Planning Commission, and the City Clerk shall set hearings before the City Council.
- B. **Notices.** Notice of any public hearing shall be given not less than 10 days before the date of the public hearing as follows:
1. Publication in a newspaper of general circulation in the City;
 2. Written notice mailed to the owners of the property located within a radius of 500 feet of the exterior boundaries of the property subject to the public hearing, using for this purpose the last known name and address of such owners, on file in the County Assessor's Office of the County of Santa Clara, State of California; and
 3. Installation of public notification signage on the property in accordance with this Division.
- C. **Continuance of Hearing.**
1. Public hearings may be continued at the request of the applicant or the review authority. If continued twice, the third public hearing shall be re-noticed. Any subsequent continuance for the same project shall be re-noticed in the manner established herein.
 2. Notwithstanding the above process for re-noticing, the continuance of public hearings and time for the decision makers to act on a project is subject to the time limits established by State law, including but not limited to the Subdivision Map Act, the Permit Streamlining Act, the Housing Accountability Act, and the California Environmental Quality Act.
- D. **Content of Notice.** Notice of a public hearing shall consist of the words "Notice of Hearing" and shall include all the following information, as applicable.

1. **Hearing Information.** The date, time, and place of the hearing and the name of the review authority; a brief description of the City's general procedure concerning the conduct of hearings and decisions (e.g., the public's right to appear and be heard); and the phone number and street address of the Planning Division where an interested person could call or visit to obtain additional information.
 2. **Project Information.** The name of the applicant; the City's file number assigned to the application; the type of application being considered, a general description of the project; and a general description of the location of the subject property, in text and/or by diagram.
 3. **Environmental Determination/Recommendation.** A statement regarding any applicable environmental recommendation or determination for the project (i.e., Statutory or Categorical Exemption, Negative Declaration or Mitigated Negative Declaration, Environmental Impact Report) in compliance with the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines.
- E. **Signs Required.** In addition to any written notice that may be required by this Division, at least 10 days before a public hearing or project decision, the applicant shall install public notification signage on the property that is the subject of the public hearing or project decision, as follows:
1. The following applications shall install a four-foot by eight-foot sign on the subject property: subdivisions of five or more parcels; Architectural and Site Plan Review applications for nonresidential structures and residential developments with three or more units; Zoning Text or Map Amendments that are not applicable City-wide; and General Plan Amendments that are not applicable City-wide.
 2. All other Architectural and Site Review, Conditional Use Permit, and Variance applications shall install a two-foot by three-foot sign.
 3. The project applicant shall submit photos of the installed sign, and a signed affidavit that states the property sign has been installed consistent with this Division and the standards established by the Planning Division.
 4. The form and content of the sign shall be as specified by the Planning Division to sufficiently identify the proposed development, project file number, applicant name, and contact information of the Planning Division.
 5. The sign shall be maintained and remain on the project site until after the City renders a decision on the project and any appeal period established in the Zoning Ordinance has expired. The sign shall be removed within seven days of the expiration of the appeal period.

- F. **Additional Notice.** Additional notice may be provided in a manner that the Community Development Director determines is necessary or desirable.
- G. **Defect or Error in Notice.** Any defect or error appearing in any notice shall not invalidate any proceedings.

DRAFT

Division 30.82 – Appeals

Sections

30.82.010 – Purpose

30.82.020 – Eligibility to Appeal

30.82.030 – Appeal Procedures

30.82.010 Purpose

The purpose of this Division is to provide the process for appeal of a discretionary decision or action made pursuant to the provisions of this Zoning Ordinance.

30.82.020 Eligibility to Appeal

An appeal in compliance with this Division may be filed by an interested party who, in person or through a representative, appeared at the public hearing in connection with the decision being appealed and provided comments/testimony, or who otherwise informed the City in writing of the nature of their concerns before the conclusion of the public hearing.

30.82.030 Appeal Procedures

- A. **Appeal Form.** An appeal shall be submitted in writing, stating the specific aspect of the decision being appealed, and supporting evidence substantiating the following:
1. Evidence of eligibility to appeal; and
 2. The basis for the appeal including but not limited to any specific legal or factual errors made by the Community Development Director or Planning Commission, the reason specific findings must be or cannot be made, and/or any inadequacy of conditions necessary to mitigate significant project impacts.
- B. **Filing and Time Limits.**
1. **Community Development Director Decisions.** Any decision of the Community Development Director may be appealed to the Planning Commission by written request to the Planning Division and payment of the appeal fee within 20 days after the date of the decision.
 2. **Planning Commission Decisions.** Any decision of the Planning Commission may be appealed to the City Council, by written request to the City Clerk and payment of the appeal fee within 20 days from the date of decision by the Planning Commission.

C. **Public Hearing.**

1. Consideration of an appeal shall be by public hearing. Notices shall be mailed in compliance with the provisions of **Division 30.81** and the hearing shall be held within 30 days of the complete filing of such appeal.
2. When a matter has been appealed to the City Council, the City Council may refer the matter back to the Planning Commission for further study and report for additional information, or due to the submission of significant new material or evidence for the appeal.

D. **Decision and Findings.** The Planning Commission or City Council shall adopt a resolution that clearly states the facts and reasons for the decision rendered and any condition or limitations imposed to uphold or deny the appeal, in whole or in part, or to modify the application.

E. **Effective Date of Appeal Decisions.** The review authority's decision on an appeal shall be effective immediately. Action by the City Council on an appeal shall be final.

Chapter 30 – Zoning Ordinance

Article 9 – Planning Permits

Division 30.90 – Zoning Clearance

Division 30.91 – Architectural and Site Plan Review and Minor Modification Permits

Division 30.92 – Temporary Use Permits

Division 30.93 – Minor Use Permits

Division 30.94 – Conditional Use Permits

Division 30.95 – Historic Resource Permits

Division 30.96 – Variances and Minor Deviation Permits

Division 30.97 – Reasonable Accommodation Permits

Division 30.98 – Planned Development Permits

Division 30.90 – Zoning Clearance

Zoning clearance is a ministerial procedure used to verify that a proposed land use or structure complies with the applicable zone and development standards. An example includes the alteration, construction, modification, or reconstruction of a wireless telecommunication co-location facility pursuant to the provisions of **Section 30.42.070**. The Community Development Director may issue a zoning clearance determination after confirming the proposed land use or structure complies with the applicable provisions of this Zoning Ordinance.

DRAFT

Division 30.91 – Architectural and Site Plan Review and Minor ModificationsSections

- 30.91.010 – Purpose and Intent
- 30.91.020 – Exemptions
- 30.91.030 – Architectural and Site Plan Reviews
- 30.91.040 – Minor Modifications
- 30.91.050 – Scope of Review
- 30.91.060 – Findings
- 30.91.070 – Conditions of Approval

30.91.010 Purpose and Intent

The purpose of this Division is to provide the process for review of Architectural and Site Plan Review and Minor Modification requests. It is the intent of this Division to ensure that all approved site and structural development:

- A. Promotes the orderly development of the City in compliance with the goals, objectives, and policies of the General Plan, any applicable specific plan, the applicable standards specified in this Zoning Ordinance, and any applicable design standards;
- B. Respects the physical and environmental characteristics of the site;
- C. Ensures safe and convenient access and circulation for pedestrians and vehicles;
- D. Exemplifies high-quality design practices;
- E. Encourages the maintenance of a distinct neighborhood and/or community identity; and
- F. Minimizes or eliminates negative or undesirable visual impacts.

30.91.020 Exemptions

The following actions are exempt from this Division, but shall be reviewed through the building permit process for compliance with the applicable zoning and development standards:

- A. Construction of a permitted single-family residential dwelling unit and/or permitted residential accessory structures on a lot when located within the R1 or R2 Zone District.
- B. Residential development that is exempt from discretionary review under state law, or by adopted policy of the City of Gilroy City Council.
- C. Accessory Dwelling Units and Junior Accessory Dwelling Units which are regulated pursuant to **Section 30.5X**.

- D. Construction of four or fewer single-family residential dwelling units within the same parcel map or final map.
- E. Demolition of non-historic single-family dwellings or residential accessory structures, subject to site restoration as determined necessary by the Community Development Director, and subject to the housing replacement requirements of State law.
- F. Accessory structures not requiring a building permit and that are consistent with zoning regulations and adopted City policies.
- F. Interior remodeling that does not change the density, intensity, use, or exterior appearance of a structure.
- G. Minor repair and/or maintenance to existing structures, landscaping, parking, or other site improvements to keep the site in good repair and condition.
- H. Demolition of any building that the City Building Official has determined to be an immediate threat to public health or safety, or that has been ordered to be removed or demolished by the City Administrator or a court of law, or that due to their size, nature, condition, or other factors are determined by the Community Development Director to not require a permit pursuant this Division.

30.91.030 Architectural and Site Plan Review Permits

- A. Architectural and Site Plan Review shall be required for the following actions, not otherwise exempt or allowed under the Minor Modification provisions of this Division:
 - 1. **Nonresidential Development.**
 - a. New construction or major remodeling (i.e., additions or alterations exceeding 50 percent of the existing gross building floor area) of a single structure.
 - b. Installation of trailers and mobile units on a site; except temporary structures permitted in compliance with **Division 30.92** (Temporary Use Permits).
 - c. Design alterations exceeding 50 percent of any building façade that is visible from a public street or parking lot.
 - d. Additions, relocation, or demolition of non-residential structures 1,000 square feet in area or larger.
 - e. Installation and/or replacement of site improvements totaling 2,500 square feet in area or larger.

- f. Establishment or use of a lot for outdoor storage, except ancillary uses that may be allowed as a Minor Modification to a conforming developed property.
- g. Wireless facilities in accordance with **Section 30.42.070**.

2. Residential Development.

- a. New duplex or multi-family units.
- b. New single family residential dwellings, or accessory structures requiring building permits, located in the RH, ND or PD zone districts, except as otherwise allowed by law.
- c. Development of five or more single-family residential parcels within the same subdivision.
- d. Installation and/or replacement of 2,500 square feet or more of impervious surface area.

3. Historic Resources. Projects that require an Historic Resource Alteration Permit or Historic Resource Demolition Permit pursuant to the provisions of **Section 30.95** (Historic Resources Permits and Mills Act Agreements)

- B. Applications for Architectural and Site Review Plan Review shall be subject to administrative review by the Community Development Director, except when review by the Planning Commission or City Council is required by this Zoning Ordinance. A decision on the application shall be based on the Findings in **Section 30.91.060** and notice shall be provided in compliance with the provisions of **Division 30.81**.

30.91.040 Minor Modification Permits

- A. Minor Modification review shall be required for the following actions, not otherwise exempt from this Division:
- 1. Changes to previously approved development permits, or to property developed prior to the requirement of an Architectural and Site Plan Review, that involve only minor modification of exterior design features, exterior lighting, or landscape details.
 - 2. Demolitions, additions, or relocation of non-historic non-residential buildings or accessory structures less than 1,000 square feet in area.
 - 3. Creation or replacement of less than two thousand five hundred (2,500) square feet of impervious surface.
 - 4. Above ground storage tanks of 10,000 gallons or less in an industrial zoning districts and 2,000 gallons or less in all other zoning districts.

5. Reconfiguration of parking spaces in a permitted and required parking lot.
 6. Minor changes to an approved Planned Development Permit.
 7. Other modifications determined by the Community Development Director to be similar in nature to the types of improvements included in this list.
- B. A Minor Modification request shall not require notice, public hearing or written findings. Approval may be issued by the Community Development Director in the form of a stamp, letter, or authorization of a Building Permit application.

30.91.050 Scope of Review

Development shall be reviewed to ensure compliance with this Zoning Ordinance; any adopted City guidelines, policies or standards; and all applicable federal, state, regional and local regulations. The Review Authority shall also insure that, at minimum, the development addresses and adequately meets requirements for the following:

- A. Traffic Safety and Efficiency, including traffic volume and capacity of roadways; circulation patterns within the development; locations and dimensions of vehicular and pedestrian access; adequacy of off-street parking; surfacing, lighting, and landscaping of off-street parking facilities; adequacy, location, arrangement, and dimensions of truck loading and unloading facilities.
- B. Signage, including location and placement to ensure signage is adequate, safe, and sufficient for the anticipated uses, and compatible with the site and building design. A separate sign permit, pursuant to **Division 30.38**, may be required.
- C. Site Design, including arrangement and placement of buildings to consider physical site characteristics and constraints, existing and proposed easements, existing and projected public improvements, location and placement of open space, and compliance with building and fire codes.
- D. Landscaping, in accordance with **Division 30.36**, including screening of utilities, equipment, walls, fences, and storage areas; planting to prevent erosion and dust; preservation of existing mature trees; tree planting for shading of pavement and parking areas; required street tree planting; methods to ensure continued health and maintenance of landscaping and water efficiency; and incorporation of drainage and flood control features.
- E. Environmental Impacts, including consistency with the City's adopted environmental review procedures and process and the California Environmental Quality Act (CEQA).

30.91.060 Findings

The Review Authority may approve or conditionally approve an Architectural and Site Plan Review only after making all of the following findings:

- A. The proposed project is consistent with the General Plan and any applicable specific plan;
- B. The proposed project complies with all applicable provisions of the Zoning Ordinance and other adopted City policies and regulations;
- C. The project complies with the provisions of the California Environmental Quality Act.

30.91.070 Conditions of Approval

The Review Authority may impose conditions deemed reasonable and necessary to carry out the requirements of the Zoning Ordinance and to minimize significant impacts to the community's health, comfort, or general welfare. The following minimum conditions shall be standard on all Architectural and Site Plan Review approvals, where applicable:

- A. **Landscaping.** Landscaping plans including specifications for an irrigation system shall be approved by the Community Development Director in compliance with **Division 30.36** (Landscaping), before issuance of a Building Permit. The landscaping shall be continuously maintained in an orderly, live, healthy, and relatively weed-free condition, in compliance with the approved specific landscape plan or City standards.
- B. **Trash Enclosures.** All trash enclosures shall consist of visually solid fences and gates, six feet in height, in compliance with the adopted City standard trash enclosure design plan, or a similar design approved by the Community Development Director. All trash enclosures shall be located in compliance with the approved site plan, Uniform Fire Code, and the California Fire Code.
- C. **Exterior Lighting.** No unobstructed beam of exterior lighting shall be directed outward from the site toward any residential use or public right-of-way. Lighting shall be designed to illuminate the intended area and prevent offsite glare.
- D. **Mechanical Equipment.** Mechanical equipment to be located on the roof of a structure shall be screened by an architectural feature of the structure such that it cannot be seen from ground level at the far side of the adjacent public right-of-way.
- E. **Outdoor Storage.** All outdoor storage and loading areas shall be screened from public view with a combination of landscaping, solid fencing, and structure design and orientation.
- F. **Backflow Devices.** Backflow devices shall be painted so that they blend with their surroundings, and integrated with landscaping to provide screening.

Division 30.92 – Temporary Use Permits

Sections

- 30.62.010 – Purpose
- 30.62.020 – Applicability
- 30.62.030 – Findings
- 30.62.040 – Conditions of Approval
- 30.62.050 – Exemptions
- 30.62.060 – Restoration of Site

30.92.010 Purpose

The purpose of this Division is to allow for short-term activities that would be compatible with adjacent and surrounding uses when conducted in compliance with this Division and in accordance with the purposes and intent of the Zoning Ordinance.

30.92.020 Applicability

A permit for a temporary use may be issued on private property for the following:

- A. **Temporary Construction Structures and Uses.** Temporary construction trailers and/or an on-site caretaker quarters incidental to the construction of a structure or group of structures on the same or adjacent premises, for the duration of the construction period.
- B. **Sales Offices.** A temporary model home or sales office, including associated temporary signage, during the period of construction or sale of homes in a new subdivision if located in a dwelling or in a temporary structure that complies with setback requirements for a main structure.
- C. **Temporary Business Expansion.** Temporary structures or improvements located on the same or adjacent property that are requested to accommodate immediate expansion needs of a business, and only to allow time for the business to submit permits for permanent expansion or relocation of the business within the City. The Review Authority may temporarily waive parking or setback standards for the duration of the permit, provided that the temporary waiver would not have a substantial adverse effect on the site operations or surrounding land uses. The initial permit term shall not exceed 180 days. The Community Development Director may approve an extension up to an additional 90 days if the applicant has satisfied all permit application submittal requirements for the permanent expansion or relocation of the business. An extension of more than 90 days may require the installation of specified site improvements, conditions of approval, and additional permits from the City.

- D. **Seasonal Sales and Events.** The following temporary uses or activities may be allowed subject to a time limit not to exceed 30 aggregate days per calendar year, or as otherwise permitted by the Review Authority:
1. Temporary events and activities not covered under the City’s Special Event Permit process.
 2. Holiday and seasonal events including haunted house, open-air sale of Christmas trees and pumpkins, and other similar events, in conjunction with the issuance of applicable City permits.
 3. Sales of fireworks, as regulated by all applicable City policies and ordinances.
- E. The Community Development Director may allow other temporary activities that are determined to be similar in nature to the activities in this Section.

30.92.030 Findings

The Review Authority may approve the permit only after making the following findings:

- A. The temporary use will not be detrimental to the zone in which it is proposed to be located; and
- B. The temporary use will not be detrimental to adjoining properties through the creation of excessive dust, noise, light, odor, or other objectionable characteristics.

30.92.040 Conditions of Approval

The Review Authority may impose conditions deemed reasonable and necessary to carry out the requirements of the Zoning Ordinance and to minimize significant impacts to the community’s health, comfort, or general welfare. This may include and not be limited to restrictions on the duration, days, times, and hours of the operation, and guarantees to ensure removal of the temporary structures or use and restoration of the site.

30.92.050 Exemptions

The following activities are exempt from the provisions of this Division.

- A. **Emergency Facilities.** Emergency public health and safety facilities or land use activities, as determined by the City Administrator.
- B. **Special Events.** Activities that are covered under a Special Events Permit.
- C. **Garage and Yard Sales.** In compliance with standards established in **Section 13.44(d)** of Chapter 13 of the Municipal Code.

- D. **Temporary Construction Storage.** Temporary storage containers placed on the same site of a project for which an active building permit has been issued, and in accordance with any stipulations, timelines, or conditions applied to issuance of the building permit.

30.92.060 Revocation / Restoration of Site

At the end of the approval period, the site shall be cleaned of all temporary structures, equipment, materials, debris, litter, or any other evidence of the Temporary Use. The premises shall be restored to pre-existing conditions when compliant with City regulations, within thirty (30) days or as otherwise specified in the permit conditions. Violation of any condition shall be grounds for the revocation of the permit and/or other enforcement action.

Division 30.93 – Minor Use PermitsSections

- 30.93.010 – Purpose and Intent
- 30.93.020 – Administrative Review
- 30.93.030 – Findings
- 30.93.040 – Conditions of Approval
- 30.93.050 – Post-Decision

30.93.010 Purpose and Intent

The purpose of this Division is to provide an administrative process for issuance of a Minor Use Permit to allow activities associated with certain land uses specified by Article 2 (Zones, Allowable Uses, and Development Standards), and impose reasonable conditions deemed necessary to meet the objectives of this Zoning Ordinance.

30.93.020 Administrative Review

The Community Development Director may approve a Minor Use Permit, only after first making the findings specified in **Section 30.93.030**. Notice and hearing are not required.

30.93.030 Findings

The Review Authority may approve or conditionally approve a Minor Use Permit only after first making all of the following findings:

- A. The proposed use is consistent with the General Plan and any applicable specific plan;
- B. The proposed use is allowed within the subject zone and complies with all other applicable provisions of this Zoning Ordinance and the Gilroy Municipal Code;
- C. As proposed and conditioned, operation of the use at the subject location would be compatible with the surrounding uses and will not materially affect the health, comfort, or general welfare of persons residing or working in the immediate neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- D. The project complies with the provisions of the California Environmental Quality Act.

30.93.040 Conditions of Approval

The Review Authority may impose conditions deemed reasonable and necessary to carry out the requirements of the Zoning Ordinance and to minimize significant impacts to the community's health, comfort, or general welfare.

30.93.050 Post-Decision

In addition to the post decision provisions of **Section 30.80.070**, the following shall apply to issuance of a Minor Use Permit:

- A. **Operation.** A Minor Use Permit approved and established in compliance with the provisions of this Division shall continue to be valid at the subject property upon any change of ownership of the business, parcel, service, structure, or use that was the subject of the permit approval in the same area, configuration, and manner as it was originally approved and in compliance with this Division.
- B. **Modification.** Applicants wishing to modify or waive any condition imposed by a Minor Use Permit may reapply for a new/modified permit, subject to all filing requirements and filing fees. The applicable Review Authority may modify or waive any conditions if it finds that such modification or waiver is necessary for the preservation of an applicant's substantial property right or to avoid practical difficulties or unnecessary hardship, and that the modification or waiver would be consistent with the intent of this Division.

Division 30.94 – Conditional Use Permits**Sections**

- 30.64.010 – Purpose and Intent
- 30.64.020 – Public Hearing
- 30.64.030 – Findings
- 30.64.040 – Conditions of Approval
- 30.64.050 – Post-Decision

30.94.010 Purpose and Intent

The purpose of this Division is to provide procedures for Planning Commission review of a Conditional Use Permit required to authorize proposed land uses under **Article 2** (Zones, Allowable Uses, and Development Standards). These permits are intended to provide the opportunity to impose conditions to ensure land use compatibility and mitigate potential impacts that could result from allowing the use(s) at the requested location.

30.94.020 Public Hearing

The Review Authority may approve or deny a Conditional Use Permit following conduct of a public hearing in compliance with **Division 30.81**

30.94.030 Findings

The Review Authority may approve or conditionally approve a Conditional Use Permit only after first making all of the following findings:

- A. The proposed use is consistent with the General Plan and any applicable specific plan;
- B. The proposed use is allowed within the subject zone and complies with all other applicable provisions of this Zoning Ordinance and the Gilroy Municipal Code;
- C. As proposed and conditioned, operation of the use at the subject location would be compatible with the surrounding uses and will not materially affect the health, comfort, or general welfare of persons residing or working in the immediate neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- D. The project complies with the provisions of the California Environmental Quality Act.

30.94.040 Conditions of Approval

The Review Authority may impose conditions deemed reasonable and necessary to carry out the requirements of the Zoning Ordinance and to minimize significant impacts to the community's health, comfort, or general welfare.

30.94.050 Post-Decision

In addition to the post decision provisions of **Section 30.80.070**, the following shall apply to issuance of a Conditional Use Permit:

- A. **Operation.** A Conditional Use Permit approved and established in compliance with the provisions of this Division shall continue to be valid at the subject property upon any change of ownership of the business, parcel, service, structure, or use that was the subject of the permit approval in the same area, configuration, and manner as it was originally approved and in compliance with this Division.
- B. **Modification.** Applicants wishing to modify or waive any condition imposed by a Conditional Use Permit may reapply for a new/modified permit, subject to all filing requirements and filing fees. The applicable Review Authority may modify or waive any conditions if it finds that such modification or waiver is necessary for the preservation of an applicant's substantial property right or to avoid practical difficulties or unnecessary hardship, and that the modification or waiver would be consistent with the intent of this Division.

Division 30.95 – **Historic Resource Permits and Mills Act Agreements**

Sections

- 30.65.010 – Purpose and Intent
- 30.65.020 – Applicability
- 30.65.030 – Definitions
- 30.65.040 – Historic Resource Alteration Permit
- 30.65.050 – Historic Resource Demolition / Significant Alteration
- 30.65.060 – Historic Resource Designation
- 30.65.070 – Removal From Historic Resource Inventory

30.95.010 Purpose and Intent

The intent of this Section is to identify, designate, and preserve historic resources that represent important elements of Gilroy's past, increase public awareness of the architectural and cultural heritage of the community, foster civic pride of the City's preservation efforts, and encourage the rehabilitation, restoration, and preservation of character defining features of historic resources throughout the City.

30.95.020 Applicability

This Section applies to all listed properties on the City's Historic Resource Inventory (HRI), in accordance with the Historic Context Statement and Historic Resources Inventory Update, dated July 2020, and accepted by the City Council (Resolution 2020-53). Any property that was found to be ineligible for continued listing on the City's HRI is exempt from the provisions of this Section.

30.95.030 Definitions

The following definitions are intended for the interpretation of this Section.

"Alteration" means any exterior modification to a historic resource, including but not limited to a new addition, new exterior materials that are inconsistent with historic materials being replaced, or removal of existing architectural features. As defined herein, alteration does not include routine maintenance and repair, such as any work involving the in-kind replacement of existing material for the purpose of protective or preventative measures.

"Alteration, Significant" means any alteration, destruction, relocation, demolition, or partial demolition that may have a significant adverse effect on the character-defining features of a historic resource. An alteration that is consistent with the Secretary of the Interior's Standards is not generally considered a significant alteration.

"Fenestration" means the arrangement, proportioning, and design of windows and doors (i.e., wall openings) in a building.

"Historic Context Statement" means the City Council's accepted narrative report on the geography, history and culture that shaped Gilroy's built environment and that provides the basis for evaluating historic significance and integrity.

"Historic Resource" means an object, building, structure, or site, over 50 years in age, that has been designated by Resolution of the City Council, in accordance with the criteria of this Section.

"Historic Resource Inventory" means the official City Council approved register of historic resources.

"Mills Act" means the state law enacted in 1972 that grants participating local governments the authority to enter into contracts with owners of a qualified historic resource who actively participate in the rehabilitation and maintenance of the historic resource while receiving property tax relief.

"Restoration" means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

"Rehabilitation" means the process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. Rehabilitation is the primary means of preservation in Gilroy and acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character.

"The Secretary of the Interior's Standards for the Treatment of Historic Properties", as codified in the Code of Federal Regulations (CFR), Title 36, Part 68, ("Standards"), are principles that promote historic preservation best practices that will help protect Gilroy's historic resources.

30.95.040 Historic Resource Alteration Permit

Applications to alter the exterior of any historic resource shall require review for significance. The intent of historic resource alteration review is to provide guidance on the preservation of character defining features of a historic resource. The Community Development Director or designee shall review applications for historic resource alteration and shall be bound by any uniform standards adopted by the City relating to the intent and scope of historic resource alteration review and approval. Interior remodeling that does not affect the building exterior or structural integrity, and routine maintenance or repair of the exterior features of a historic resource shall not require a historic resource alteration review.

- A. Standard Review.** An alteration that is consistent with the guidelines provided in the Secretary of the Interior's Standards for the Treatment of Historic Properties

is not generally considered a significant alteration and can be processed through the City's standard permitting procedures for the type of structure involved (e.g., building permit, architectural and site review).

- B. Historic Resource Evaluation Report.** The Community Development Director may recommend that a historic resource evaluation report be prepared to determine if the project is consistent with the guidelines in Secretary of the Interior's Standards for the Treatment of Historic Properties.
- C. Planning Commission Review.** If the Community Development Director or designee determines that the alteration is not consistent with the guidelines provided in Secretary of the Interior's Standards for the Treatment of Historic Properties, the application shall be referred to the Planning Commission for Historic Resource Alteration review. The Planning Commission may recommend that a historic resource evaluation report be prepared to determine if the project findings for approval can be made. The Planning Commission shall consider the recommendation of the Community Development Director and any historic evaluation report prepared for the application and shall either approve, approve with modification, or deny the historic resource alteration application, based on the findings for approval identified in this Division.
- D. Recommended Modifications.** In recommending approval of a historic resource minor alteration, the Community Development Director or the Planning Commission may suggest reasonable and necessary modifications to the proposed alterations, intended to ensure that the application will comply with the Secretary of the Interior's Standards.
- E. Findings for Approval (minor alteration).** An Architectural and Site review permit for historic resource alteration shall be approved upon making all of the following findings:
1. The proposed action is consistent with the purposes of this Article, the applicable requirements of the Municipal Code, and the General Plan; and
 2. The proposed action will not have a significant adverse effect on the character-defining features of the historic resource and is consistent with the Secretary of the Interior's Standards, as follows:
 - a. The proposed action will preserve and retain the historic character of the historic resource and will be compatible with the existing historic features, size, massing, scale and proportion, and materials;

- b. The proposed action will, to the greatest extent possible, avoid removal or significant alteration of distinctive materials, features, finishes, and spatial relationships that characterize the historic resource;
- c. Deteriorated historic features will be repaired rather than replaced to the greatest extent possible; and
- d. New additions will be differentiated from the historic resource and will be constructed such that the essential form and integrity of the historic resource shall be protected if the addition is removed in the future.

30.95.050 Historic Resource Demolition / Significant Alteration

- A. Planning Commission Determination.** Following review by the Planning Commission, a significant alteration that does not meet the findings of Section **30.95.040** shall be processed in accordance with this Section.
- B. CEQA Review.** The Community Development Director shall require review pursuant to the California Environmental Quality Act (CEQA), CEQA Guidelines (Title 14, Division 6, Chapter 3 of the California Code of Regulations).
- C. Findings for Approval (demolition / significant alteration).** A historic resource demolition/significant alteration can be approved by the Planning Commission upon making alternative findings a, b or c, and findings d and e, as follows:
 - 1. The Building Official or Fire Chief certifies the action is required for the public safety due to an unsafe or dangerous condition; or
 - 2. The historic resource has been substantially destroyed by fire, explosion, earthquake or flood and the building official certifies that the structure is not restorable due to such damage; or
 - 3. The structure no longer conforms to the historic designation criteria identified in this Division and the historic character of the structure cannot be restored without immediate and significant economic hardship to the property owner; and
 - 4. The proposed action is consistent with the purposes of this Section, the applicable requirements of the Municipal Code, and the General Plan; and
 - 5. The demolition or significant alteration is exempt from CEQA, has been mitigated to a less than significant impact, or has otherwise complied with the CEQA statute including but not limited to preparation of an Environmental Impact Report, as necessary.

D. Preservation. The Planning Commission or City Council may suspend action on a historic resource demolition/significant alteration for a period not to exceed one hundred eighty (180) days to allow sufficient time for the property owner to preserve the structure, or portions of the structure through all means available, including, but not limited to:

1. Retaining and reusing materials or offering materials for salvage if the materials are not able to be retained in some capacity;
2. Photographing or otherwise documenting any remaining historic features;
3. Documented advertisements publicizing the availability of the structure for purchase for restoration purposes;
4. A map showing investigation into possible sites for relocation of the structure; or
5. Documented letters offering the donation of the structure to nonprofit organizations for relocation.

E. Removal from Inventory. Upon approving the demolition or significant alteration, the structure shall be removed from the Historic Resource Inventory by Resolution of the City Council, in accordance with Section 30.95.070.

30.95.060 Historic Resource Designation

A. Review Authority. The designation of a historic resource on the Historic Resource Inventory shall be made by Resolution of the City Council, following a review and recommendation by the Planning Commission.

B. Findings for Designation. Any structure or property, over 50 years in age, within the City may be designated as a historic resource if the City Council makes one of the following findings:

1. It exemplifies or reflects special elements of the City's cultural, social, economic, political, aesthetic, engineering or architectural history; or
2. It is identified with persons or events significant in local, state or national history; or
3. It embodies distinctive characteristics of a style, type, period or methods of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or

4. It is representative of the work of a notable builder, designer or architect.

30.95.070 Removal From Historic Resource Inventory

- A. Review Authority.** The removal of a historic resource from the Historic Resource Inventory shall be made by Resolution of the City Council, following a review and recommendation by the Planning Commission. The Planning Commission may recommend that a historic resource evaluation report be prepared to determine if the applicable findings for removal can be made.
- B. Findings for Removal.** Any resource may be removed from the Historic Resource Inventory upon a finding that the object, building, structure, or site no longer meets the required findings for designation on the Historic Resource Inventory.

30.95.080 Mills Act Contract

- A. Review Authority.** To foster and encourage the preservation, maintenance, rehabilitation, and restoration of historic resources, the City Council may, by resolution at its sole discretion, approve a Mills Act contract for any property that is listed, or recommended for listing, on the City's Historic Resource Inventory.
- B. Term.** Mills Act contracts are recorded against the property title, have a contract term of 10 years with automatic annual extensions, and may be cancelled by the City if it is determined that the owner, or any subsequent owner, has breached any mandatory conditions of the contract.
- C. 10 Year Preservation Plan.** The applicant shall submit and maintain a ten-year plan of proposed improvements to the property, including cost estimate broken down by individual task and estimated year of improvement. The property owner shall invest Mills Act property tax savings into the ongoing maintenance of the historic property.
- D. Ongoing Preservation.** The owner, and subsequent owners, shall preserve and maintain the historic property in accordance with the Mills Act Contract, the preservation plan, and Secretary of the Interior's Standards for Rehabilitation.
- E. Inspections.** Mills Act Property owners shall be subject to inspections by the City periodically, or at least every 5 years, to ensure the property is being maintained in accordance with the Mills Act contract.

Division 30.96 – Variances and Minor Deviation Permits

Sections

- 30.66.010 – Purpose
- 30.66.020 – Review Authority
- 30.66.030 – Findings
- 30.66.040 – Precedents
- 30.66.050 – Conditions of Approval
- 30.66.060 – Post-Decision

30.96.010 Purpose

The purpose of this Division is to provide the process for a Variance from the strict application of any of the provisions of this Zoning Ordinance, to the extent necessary to overcome physical or environmental constraints associated with the subject property. Use variances are not permitted. Given the strict limitations of the Variance requirements, the Minor Deviation permit process allows for minor deviations of specified development standards, under certain circumstances.

30.96.020 Review Authority

- A. **Variances.** The Planning Commission may approve a Variance from the development standards required by this Zoning Ordinance only after providing notice and holding a public hearing consistent with **Division 30.81**, and upon making the findings for approval in **Section 30.96.030.A**.
- B. **Minor Deviations.** The Community Development Director may approve a Minor Deviation for standards specified in **Table 30.96-1** (Types of Minor Deviations Allowed) upon making the findings for approval in **Section 30.96.030.B**. A public notice and/or hearing are not required prior to action on a Minor Deviation.

Table 30.96-1
Types of Minor Deviations Allowed

Types of Minor Deviations	Maximum Deviation
Parking Space Requirements. Reduction in the number of required off-street parking and loading spaces and/or of off-street parking space design, layout, and landscape standards.	25 percent, up to 4 stalls
Setbacks. A decrease in a required setback, except that no projection into a public utility easement or property boundary is allowed.	25 percent

30.96.030 Findings

A. **Variance Findings.** The Review Authority may approve a Variance application only after first making all the following findings:

1. There are special circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification;
2. Strict compliance with Zoning Ordinance requirements would deprive the subject property of privileges enjoyed by other property in the vicinity and under an identical zoning classification;
3. Approving the Variance would not constitute a grant of special privilege inconsistent with the limitations on other properties in the same vicinity and zone in which the subject property is situated;
4. The requested Variance would not allow a use or activity that is not otherwise expressly authorized by the regulations governing the subject parcel; and
5. The project complies with the provisions of the California Environmental Quality Act.

B. **Minor Deviation Findings.** The Review Authority may approve a Minor Deviation application only after first making all the following findings:

1. Unique characteristics are applicable to the site or project that make strict adherence to the Zoning Ordinance requirements impractical or infeasible;
2. Granting the Minor Deviation will result in development compatible and consistent with the adjoining properties and the immediate neighborhood;
3. Granting the Minor Deviation will comply with the intent and purposes of the zone for the subject property; and
4. There are no significant adverse impacts from the proposed Minor Deviation, and the project complies with the provisions of the California Environmental Quality Act.

30.96.040 Precedents

Each application shall be reviewed on a case-by-case basis and the approval of a prior Variance or Minor Deviation for another property is not precedent for the approval of a new Variance or Minor Deviation.

30.96.050 Conditions of Approval

The Review Authority may impose conditions deemed reasonable and necessary to carry out the requirements of the Zoning Ordinance and to minimize significant impacts to the community's health, comfort, or general welfare.

30.96.060 Post-Decision

In addition to the post-decision provisions of **Section 30.80.070**, a Variance or Minor Deviation approved and established in compliance with the provisions of this Division, unless revoked, shall continue to be valid upon a change of ownership of the property that was the subject of the permit approval in the same area, configuration, and manner as it was originally approved in compliance with this Division.

DRAFT

Division 30.97 – Reasonable Accommodation Permits

Sections

- 30.67.010 – Purpose
- 30.67.020 – Applicability
- 30.67.030 – Review Authority
- 30.67.040 – Findings
- 30.67.050 – Conditions of Approval

30.97.010 Purpose

The purpose of this Division is to provide a process for individuals with disabilities to make requests for reasonable accommodation regarding relief from the City's various land use, zoning, and development regulations, policies, and procedures, in compliance with the Federal Fair Housing Amendments Act of 1988 (FFHAA) and the California Fair Employment and Housing Act (the Acts). This Division is intended to provide people with disabilities reasonable accommodation in the application of rules, policies, practices, and procedures that may be necessary to ensure equal access to housing.

30.97.020 Applicability

- A. A request for Reasonable Accommodation may be made by any person with a disability, their representative, or any entity, when the application of a zoning law or other land use regulation, policy, or practice acts as a barrier to fair housing opportunities.
- B. A person with a disability is a person who has physical or intellectual impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment, or anyone who has a record of such impairment. This Section is intended to apply to those persons who are defined as disabled by the Acts.
- C. A request for Reasonable Accommodation may include a modification or exception to the rules, standards, and practices for the siting, development, and use of housing or housing-related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of his or her choice.
- D. A Reasonable Accommodation may be granted only to the household that needs the accommodation and does not apply to successors-in-interest to the property.
- E. A Reasonable Accommodation request that is granted in compliance with this Division shall not, in and of itself, require the approval of a Variance or a Minor Deviation.

30.97.030 Review Authority

The Community Development Director shall make a written decision and either approve, conditionally approve, approve with modifications, or deny a request for Reasonable Accommodation within 45 days of the application being deemed complete. However, if the project involves both a request for Reasonable Accommodation and another discretionary approval (e.g., Conditional Use Permit, Architectural and Site Plan Review, etc.), the application shall be reviewed by the highest Review Authority.

30.97.040 Findings

The written decision to approve, conditionally approve, or deny a request for Reasonable Accommodation shall be based on consideration of all the following findings:

- A. Whether the housing, which is the subject of the request, will be used by an individual defined as disabled under the Acts;
- B. Whether the request for Reasonable Accommodation is necessary to make specific housing accessible to an individual with a disability under the Acts;
- C. Whether the requested Reasonable Accommodation would impose an undue financial or administrative burden on the City;
- D. Whether the requested Reasonable Accommodation would require a fundamental alteration in the nature of a City program or law, including but not limited to land use and zoning;
- E. Whether the requested Reasonable Accommodation would result in an adverse impact to public health or safety on the subject site or to surrounding properties; and
- F. Whether alternative Reasonable Accommodations may provide an equivalent level of benefit.

30.97.050 Conditions of Approval

The Review Authority may impose conditions deemed reasonable and necessary to carry out the requirements of the Zoning Ordinance and to minimize significant impacts to the community's health, comfort, or general welfare. The following conditions shall be standard on all Reasonable Accommodation approvals:

- A. The Reasonable Accommodation shall only be applicable to the specific request for which the application is made.
- B. The Reasonable Accommodation is subject to all Building Code permit and inspection requirements of the City and all other applicable zoning regulations and procedures.

- C. A Reasonable Accommodation shall lapse if the exercise of rights granted by it, is discontinued for at least 180 consecutive days.
- D. If the person(s) initially occupying a residence vacates, the Reasonable Accommodation shall remain in effect only if the Community Development Director first determines that:
 - 1. The modification is physically integrated into the residential structure and cannot easily be removed or altered to comply with this Zoning Ordinance; or
 - 2. The accommodation is to be used by another qualifying individual with a disability.
- E. The applicable Review Authority may impose additional conditions on the approval of a Reasonable Accommodation request that are consistent with the purposes of this Division and the findings for approval.

Division 30.98 – Planned Development Permits

Sections

- 30.68.010 – Purpose and Intent
- 30.68.020 – Applicability
- 30.68.030 – Notice and Hearing
- 30.68.040 – Findings
- 30.68.050 – Conditions of Approval
- 30.68.060 – Planned Development Permit Amendments

30.98.010 Purpose and Intent

The purpose of the Planned Development Permit process is to allow for review and approval of customized development standards for projects located within a Planned Development (PD) Combining District, under limited and appropriate circumstances. The Planned Development Permit shall provide the precise development plan for the site consistent with the adopted PD Combining Zone, and shall accomplish the following:

- A. **Efficient Use of Land.** Utilize innovative site planning and project design that results in more effective solutions to unique site features and environmental conditions; minimizes impacts on abutting properties; and achieves a more desirable and appropriate living or business environment that may not otherwise be possible through the strict application of the development standards specified in **Article 2** (Zones, Allowable Uses, and Development Standards), **Article 3** (Regulations Applicable to All Zones), and **Article 4** (Standards for Specific Land Uses);
- B. **Enhanced Amenities.** Provide enhanced amenities, including but not limited to additional and creative private and public open space, public art, or other enhanced amenities beyond those generally required by this Zoning Ordinance or adopted design standards; and
- C. **Higher Quality Design.** Provide a higher quality design than would otherwise be achieved through compliance with the development standards or design policies of the subject zone.

30.98.020 Applicability

A Planned Development Permit may only be requested for a commercial retail, industrial, mixed-use, office, residential, or business campus-type development project that is located within a Planned Development Combining Zone that has been established for the property pursuant to **Section 30.29.040** (Planned Development Zone Standards). The Planned Development Permit may be processed concurrent or subsequent to establishment of the Planned Development Combining District for the property.

30.98.030 Notice and Hearing

Notice and public hearing shall be required for action on a Planned Development Permit application, in compliance with **Division 30.81**. The Review Authority may either approve, approve in modified form, conditionally approve, or deny the Planned Development Permit application, based upon the findings contained in **Section 30.98.040**. Amendments shall be subject to review in accordance with **Section 30.98.060**.

30.98.040 Findings

The Review Authority may approve or conditionally approve a Planned Development Permit application only after first making all the following findings:

- A. The project is consistent with the General Plan and any applicable specific plan;
- B. The project complies the general purposes of this Zoning Ordinance, the purposes of Planned Development Combining Zone, and the standards and requirements of the Planned Development Zone regulations applied to the property;
- C. The project accomplishes the specific purposes of this Division; and
- D. The project complies with the provisions of the California Environmental Quality Act.

30.98.050 Conditions of Approval

The Review Authority may impose conditions deemed reasonable and necessary to carry out the requirements of the Zoning Ordinance and to minimize significant impacts to the community's health, comfort, or general welfare.

30.98.060 Planned Development Permit Amendments

- A. **Minor Changes (Community Development Director).** Minor changes in the Planned Development Permit that do not involve an increase in the number of dwelling units, more than a 10% increase in the height, floor area, or lot coverage of the site, or any changes to the conditions of approval may be approved by the Community Development Director through a Minor Modification Permit.
- B. **Substantive Changes (Planning Commission / City Council).** Applications for requested changes that cannot be approved by the Community Development Director shall be subject to review and recommendation by the Planning Commission, and final action by the City Council.
- C. **Additional Conditions.** The Review Authority may impose added stipulations, changes, and/or conditions to the Planned Development Permit as it deems reasonable and necessary.



Community Development Department

7351 Rosanna Street, Gilroy, California 95020-6197
Telephone: (408) 846-0451 Fax: (408) 846-0429
<http://www.cityofgilroy.org>

TO: Planning Commission
FROM: Sharon Goei, Community Development Director
Ariana Fabian, Planning Technician
DATE: September 05, 2024
SUBJECT: Planning Division Staff Approvals

In conformance with Gilroy Municipal Code Sections 30.50.20(b) and 30.50.46, the following table lists all Minor Deviation approvals and all Architectural and Site approval/denial actions taken by the Planning Division since the last report was provided to the Planning Commission at its August 1, 2024 meeting.ⁱ

APPROVED	PROJECT #	LOCATION	PROJECT NAME & DESCRIPTION
8/19/2024	AS 22-22	601 Renz Lane	This application approved a new perimeter wall and minor site improvements at an existing PG&E substation.
8/27/2024	AS 24-15	450 Leavesley Road	This application approved interior and exterior work and the addition of a second drive-thru lane at the existing Burger King drive-thru restaurant.

DENIED	PROJECT #	LOCATION	PROJECT NAME & DESCRIPTION
None			

AS = Architectural and Site Review
VMD = Minor Deviation

The current status of other planning projects is available online at:
<https://www.cityofgilroy.org/298/Development-Activity-Projects>

ⁱ Submitted in conformance with Gilroy Municipal Code Sections 30.50.20(b) and 30.50.46