



PLANNING COMMISSION SPECIAL MEETING AGENDA

Thursday, September 19, 2024 | 6:00 PM

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

Chair: Manny Bhandal:
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Vice Chair: Annedore Kushner:
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Commissioners:

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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. September 5, 2024 Planning Commission Meeting Minutes

6. PUBLIC HEARINGS

6.1. No items.

7. OLD BUSINESS

7.1. Zoning Ordinance Update: Preliminary Draft Articles 1, 7, and 8

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. NEW BUSINESS

8.1. No items.

9. ADJOURNMENT To the Next Meeting of October 3, 2024 at 6:00 PM

**City of Gilroy
Planning Commission
Regular Meeting Minutes
Thursday, September 5, 2024 | 6:00 PM**

1. OPENING

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

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 Thursday, August 29, 2024 at 5:30 p.m.

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

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. August 1, 2024 Planning Commission Meeting Minutes

A motion was made by Chair Bhandal; seconded by Commissioner Elle to approve the consent agenda.

RESULT: Pass [7 – 0]

MOVER: Chair Bhandal

SECONDER: Commissioner Elle

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

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)**

The Planning Commission serves as the City's bicycle and pedestrian advisory body. The Planning Commission is in support of the City's applications for Active Transportation Program grant funds for the following projects:

- (1) Development of the City's Bicycle and Pedestrian Actions Plan, and
- (2) Multi-modal Improvements on Monterey Road within the City Limits.

Heba El-Guindy, Public Works Director, provided a presentation with details on the above noted grant applications and responded to questions raised by members of the Planning Commission and the public.

There was one public comment made by Jon Vollersten regarding the current condition of existing sidewalks.

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

Cindy McCormick, Planning Manager, presented a draft of the Planning Commission annual presentation, summarizing the projects and presentations reviewed by the Commission over the last year. Staff received feedback from the Commission that will be incorporated into a second draft to be presented to the Planning Commission on October 3rd for final review before Chair Bhandal presents the annual report to the City Council on November 4th

7.3. **Zoning Ordinance Update Introduction and General Administration**

- 1. Staff Report: Cindy McCormick, Planning Manager
- 2. Public Comment:

Chair Bhandal opened public comment.

There was one speaker, Jon Vollersten, who provided a comment on accessory dwelling units and rental regulations.

There being no further speakers, Chair Bhandal closed public comment.

- 3. Possible Action:

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

Cindy McCormick, Planning Manager, provided a presentation with background information covering the General Plan and Housing Element goals as well as an overall introduction of the comprehensive zoning code update. This presentation was provided in preparation for the Study Session scheduled for Thursday, September 19, 2024, at 6:00 p.m. in the Council Chambers. The Commission

will be reviewing preliminary draft article(s) from the zoning ordinance update and providing staff with feedback.

8. INFORMATIONAL ITEMS

8.1. Planning Division Staff Approvals

There were two Planning Division approvals, Application No. AS 22-22, approving a new perimeter wall and minor site improvements at an existing PG&E substation located at 601 Renz Lane; and Application No. AS 24-15, approving an interior and exterior remodel of Burger King located at 450 Leavesley Road.

9. PLANNING DIVISION REPORT

None.

10. ASSISTANT CITY ATTORNEY REPORT

None.

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

Chair Bhandal adjourned the meeting at 7:17 PM.

Ariana Fabian

Ariana Fabian, Planning Technician



Community Development Department

Sharon Goei
DIRECTOR

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DATE: September 19, 2024
TO: Planning Commission
FROM: Cindy McCormick, Planning Manager
SUBJECT: Zoning Ordinance Update: Preliminary Draft Articles 1, 7, and 8

RECOMMENDATION:

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

BACKGROUND:

On September 5, 2024, City staff provided an introduction of the comprehensive Zoning Code update to the Planning Commission. The introduction included a brief background on General Plan goals and policies as well as the general purpose of the Zoning Ordinance. Additional background information is attached to this staff report.

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.

During the September 5th meeting, one Commissioner asked for a style guide for the comprehensive update. The style guide was prepared by the consultant hired to assist the City with preparing the comprehensive update. City staff welcome Planning Commission feedback on the style guide and any suggested modifications to the style guide. The preliminary drafts will then be updated accordingly.

It should be noted that following the September 5th meeting, the article numbers were changed (e.g., non-conforming uses is now Article 7) and the numbering system was also changed (i.e., from Division 30.01.010 to Division 30.01.010 and Section 30.10.010 to 30.01.011). The reason for the change is to be more consistent with the current code numbering system (e.g., 30.38.10 and 30.38.100). Given the consolidation of 54 Articles into 10 Articles, the additional zeros allow more flexibility for higher numbering.

During the September 19th meeting, staff will introduce preliminary drafts of the following administrative sections of the Zoning Ordinance.

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 notice and public hearing requirements, and appeal procedures.

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; planning permits, zoning districts, allowed uses and development standards; standards applicable to all zones; and standards for specific land uses. Once all preliminary drafts have been reviewed and revised per Planning Commission direction, a comprehensive draft of the entire ordinance will be brought back to the Commission for a recommendation to the City Council.

PUBLIC OUTREACH:

On September 12, 2024, the City advertised the zoning update in the Gilroy Dispatch. A dedicated website <https://www.cityofgilroy.org/1004/Zoning-Code-Update> has also been created and will be updated as new preliminary 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. These community meetings will most likely be virtual to supplement the in-person meetings being held by the Planning Commission.

ATTACHMENTS:

1. Background Information
2. Style Guide
3. Preliminary Draft Article 1: Enactment and Administration
4. Preliminary Draft Article 6: Nonconforming Uses and Structures
5. Preliminary Draft Article 7: Application Procedures
6. Summary of Changes: Articles 1, 6, and 7



Community Development Department

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PROJECT DESCRIPTION:

The City of Gilroy Planning Division is drafting 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. The new Zoning Ordinance will also include new best practice language that provides transparency to the public regarding how city staff and decision makers process development applications. In addition, the update is intended to be responsive to community goals identified in the General Plan, including but not limited to ensuring orderly development and land use compatibility, housing needs, employment needs, recreational opportunities, commercial growth, and downtown revitalization. The draft Zoning Ordinance will be organized into ten (10) Articles.

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.

General Plan Land Use (LU) Element: The Gilroy 2040 General Plan Land Use Element establishes goals, policies, and programs to strategically accommodate future growth and change while preserving and enhancing the qualities that make Gilroy a great place to live and work. The Land Use Element contains the Land Use Diagram, a map of land uses within the planning area. It also contains a description of the land use designations. The goals, policies, and programs are designed to enhance Gilroy's neighborhoods and districts with an attractive mix of uses and amenities that expand the local economy, protect environmental resources, and improve the overall quality of life of residents. A variety of topics are discussed within the Element, including growth and change, mixed-use districts, residential neighborhoods, commercial and industrial areas, and community design.

The following goals should help guide the Planning Commission when reviewing the draft Zoning Code Articles. The associated policies and programs can be reviewed online in the [Gilroy 2040 General Plan Land Use Element](#).

Goal LU 1: Protect and enhance Gilroy's quality of life and unique identity while continuing to grow and change.

Goal LU 2: Ensure the orderly development of large areas of Gilroy through specific plans.

Goal LU 3: Provide a variety of housing types that offer choices for Gilroy residents and create complete, livable neighborhoods.

Goal LU 4: Encourage the growth and development of retail, office, service, and entertainment uses in Gilroy to provide jobs, support City services, and make Gilroy an attractive place to live.

Goal LU 5: Encourage, facilitate, and support the development of new employment and industrial uses and retention of existing industry to ensure compatibility with existing surrounding uses and planned uses.

Goal LU 6: Support agricultural uses in and around Gilroy that have and will continue to influence Gilroy's identity and economy.

Goal LU 7: Encourage mixed-use development projects that create vibrant, walkable districts.

Goal LU 8: Support growth and development that preserves and strengthens the City's historic, small-town character; provides and maintains safe, livable, and affordable neighborhoods; and creates beautiful places.

Goal LU 9: Encourage the growth and revitalization of Downtown to create a vibrant, high-quality place for residents, businesses, and visitors.

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.

ZONING CODE ARTICLES:

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.

The following table provides a summary of the Zoning Code Articles being updated.

Enactment and Administration (Article 1)
This Article will consolidate 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.
Zones, Allowable Uses, and Development Standards (Article 2)
This Article will include all zoning district land use tables and development standards for residential, commercial, industrial, open space, park/public facilities, and Planned Unit Developments. Substantive changes include a new Mixed-Use District and Gateway Commercial District to implement the new General Plan land use designations.
Standards Applicable to All Zones (Article 3)
This Article will contain prescriptive standards that typically apply in all or multiple zones, including: general development standards (e.g., swimming pools); fences, walls, hedges and screens; off-street parking regulations and design; landscaping; protected trees; sign regulations; and performance standards (e.g., noise)
Standards for Specific Land Uses (Article 4)
This Article will contain standards applicable to uses that require special review or that may be limited to specific areas. This includes standards for specific land uses (e.g.,

wireless facilities, drive-through facilities, adult businesses, and cannabis [which is prohibited]).
Standards for Specific Housing Projects (Article 5)
This Article will contain standards applicable to specific housing projects, that are also generally subject to state housing legislation (e.g., accessory dwelling units, emergency housing, density bonus projects).
Nonconforming Uses and Structures (Article 6)
This Article will establish regulations for legal nonconforming uses and structures that were lawfully established and constructed before the adoption of a Zoning Code amendment, but would be prohibited, regulated, or restricted differently under the terms of the revised Zoning Code or future amendments thereto.
Application Procedures (Article 7)
This Article will include application submittal and review procedures, public notices and hearing requirements, and appeal requirements.
Planning Permits (Article 8)
This Article will include review procedures for specified planning permits, 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.
Reserved (Article 9)
This Article is reserved for future use (e.g., for additional permit types).
Definitions (Article 10)
The City's definitions will be updated to include new land use types and terms in the new code. New definitions may include Commercial Recreation and Entertainment Facility, Distribution Facility, Personal Service (General and Restricted), Retail Sales (General and Restricted), Tow Yard, and Vehicle Storage.

Chapter 30 – Zoning Ordinance

Article 1 – Enactment and Administration

Division 30.01.010 – Introduction

Division 30.01.020 – Zones and Zoning Map

Division 30.01.030 – Interpretation of Zoning Ordinance

Division 30.01.040 – Zoning Amendments

Division 30.01.050 – Other Legislative Procedures

DRAFT

Division 30.01.010 – Introduction

Sections

- 30.01.011 – Title
- 30.01.012 – Purpose
- 30.01.013 – Enactment and Authority
- 30.01.014 – Applicability
- 30.01.015 – General Plan Consistency
- 30.01.016 – Rights and Violations
- 30.01.017 – Projects in Progress
- 30.01.018 – Enforcement
- 30.01.019 – Severability

30.01.011 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."

30.01.012 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.

30.01.013 Enactment and Authority

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.

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.

30.01.014 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 this codified 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 6** (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 this codified Zoning Ordinance or subsequent amendment hereto, except as otherwise provided by **Article 6** (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 30.01.042** (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.

30.01.015 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.

30.01.016 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.

30.01.017 Projects in Progress

The enactment of this Zoning Ordinance, or subsequent amendment hereto, 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 subsequent amendment hereto 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 subsequent amendment hereto, 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 this codified Zoning Ordinance, or subsequent amendment 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 6** (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.

30.01.018 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 Zoning Ordinance 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 enforcement herein shall be cumulative and not exclusive.

30.01.019 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 30.01.020 – Zones and Zoning Map

Sections

- 30.01.021 – Establishment of Zones
- 30.01.022 – Zoning Map
- 30.01.023 – Rights-of-way and Vacated Boundary Lines
- 30.01.024 – Uncertainty of Boundaries
- 30.01.025 – Classification of Annexed Lands

30.01.021 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 30.01-1** (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 30.01-1 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 30.01-1 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 30.01-1 ESTABLISHMENT OF ZONING DISTRICTS	
ZONING DISTRICT SYMBOL	ZONING DISTRICT NAME
Special Purpose Zones	
GL	Glen Loma Ranch Specific Plan District
HP	Hecker Pass Specific Plan District
Combining Zones	
MA	Murray-Las Animas Avenue
PD	Planned Development

30.01.022 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.

30.01.023 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.

30.01.024 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 30.01.023** (Rights-of-way and Vacated Boundary Lines):

- 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.

30.01.025 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 apply to the annexed lands in the manner prescribed in **Division 30.01.050** (Zoning Amendments).

Division 30.01.040 – Interpretation of Zoning Ordinance

Sections

- 30.01.041 – Purpose
- 30.01.042 – Rules of Interpretation
- 30.01.043 – Uses Not Classified
- 30.01.044 – Headings and Illustrations

30.01.041 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.

30.01.042 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), or a specific land use Division (e.g., Accessory Dwelling Units), 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 (e.g., 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.

30.01.043 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 30.01.043 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 and is consistent with the goals, objectives and policies of the General Plan and/or any applicable specific plan.

30.01.044 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 30.01.050 – Zoning AmendmentsSections

- 30.01.051 – Initiation
- 30.01.052 – Process
- 30.01.053 – Reapplication
- 30.01.054 – Rezoning Prior to Annexation

30.01.051 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.

30.01.052 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 30.07.020** (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.

30.01.053 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.

30.01.054 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 30.01.060 – Other Legislative ProceduresSections

- 30.01.061 General Plan Amendments
- 30.01.062 Specific Plans
- 30.01.063 Urban Service Area Amendments
- 30.01.064 Development Agreements

30.01.061 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.

30.01.062 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.

30.01.063 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.

30.01.064 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 6 – Nonconforming Uses and Structures

Division 30.06.010 – General Nonconforming Provisions

Sections

- 30.06.011 – Purpose
- 30.06.012 – Applicability
- 30.06.013 – Continued Use
- 30.06.014 – Loss of Nonconforming Status

30.06.011 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 subsequent 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 zone standards in which they are located.

30.06.012 Applicability

- A. **Legal Nonconforming Use.** Any use lawfully established prior to the effective date of this codified 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 this codified Zoning Ordinance or of subsequent amendments hereto, that is wholly or partially constructed or designed for use contrary to the regulations of the zone in which it is located, or does not conform to the minimum physical standards of the zone 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 this codified Zoning Ordinance, or of subsequent amendments hereto, that does not conform to the revised zoning requirements, may be completed only in accordance with **Section 30.01.017**(Projects in Progress).

30.06.013 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.

30.06.014 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. **Change in Use.** 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 zone.

- C. **Discontinuance.** 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 zone.
- 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 7 – Application Procedures

Division 30.07.010 – Application Submittal and Review

Division 30.07.020 – Public Notices and Hearings

Division 30.07.030 – Appeals

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Division 30.07.010 – Application Submittal and ReviewSections

- 30.07.011 – Purpose
- 30.07.012 – Application Submittal
- 30.07.013 – Authority for Land Use and Zoning Decisions
- 30.07.014 – Multiple Permit Applications
- 30.07.015 – Notice and Hearing
- 30.07.016 – Additional Permits May Be Required
- 30.07.017 – Post-Decision

30.07.011 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.

30.07.012 Application Submittal

- A. **Application Required.** No structure shall be altered, enlarged, erected, moved, or rebuilt, nor use established except in compliance with City Code and 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 City 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 for processing 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.

30.07.013 Authority for Land Use and Zoning Decisions

Table 30.07-1 (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 City Code.

Table 30.07-1
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 City Code Chapter

30.07.014 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.

30.07.015 Notice and Hearing

When required for a permit application, public hearing and/or notice for shall be provided in accordance with **Division 30.07.020**.

30.07.016 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 City 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.

30.07.017 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 30.07.030**, and if no appeal has been filed.

C. Revisions/Amendments. Minor revisions of an approved permit, which meet the requirements of the Zoning Ordinance and conditions of approval, 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 30.07.030**.

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Division 30.07.020 – Public Notices and HearingsSections

30.07.021– Purpose

30.07.022– Procedures

30.07.021 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.

30.07.022 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 renoticing, 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.

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Division 30.07.030 – AppealsSections

30.07.031 – Purpose

30.07.032 – Eligibility to Appeal

30.07.033 – Appeal Procedures

30.07.031 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.

30.07.032 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.

30.07.033 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 30.07.020** 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.

AMENDMENTS TO FORMATTING

The revised City Gilroy Zoning Code is intended to have an underlying organizational structure that generally follows a flow from introductory provisions to zone and citywide standards and ending with application and permit processing procedures and definitions. To assist in administration and readability, the Zoning Code was organized into articles, divisions, and sections. The underlying structure will be recognized by those with ordinance-using experience (e.g., builders, architects), and will be more user friendly to the average user. The general ground rule in organizing ordinances is to group similar standards, both to minimize repetition and the need to flip between multiple divisions and sections to find related provisions. For example, provisions regarding zoning district specific standards and allowed land uses will be organized into a single article (Article 2). The organization of similar procedures in a single Article can make a substantial difference in the user-friendliness and readability of the Code.

ARTICLE 1 – ENACTMENT AND ADMINISTRATION

Division 30.01.010 – Introduction		
<u>New Section</u>	Existing Section	Overview of Changes
30.01.011 – Title	30.1.20 Short title.	
30.01.012 – Purpose	30.1.10 Statement of intent.	
30.01.013 – Enactment and Authority	New 30.49.11 Duties.	Establishes the City’s authority to enact and enforce the Zoning Code.
30.01.014 – Applicability	30.1.030 Application of the Zoning Ordinance.	
30.01.015 – General Plan Consistency	30.1.40 Relationship of the Zoning Ordinance and the general plan.	
30.01.016 – Rights and Violations	New	- Ensures that the rights and approvals granted under previous ordinances remain valid, which provides legal continuity. This prevents existing developments from being unintentionally penalized or invalidated due to changes in zoning regulations. - States that vested land use development permits and approvals will not be affected, it protects developers and property owners who have already secured rights or begun projects. This helps avoid potential legal disputes over whether new regulations apply retroactively.

Division 30.01.010 – Introduction		
<u>New Section</u>	Existing Section	Overview of Changes
		Ensures that violations of prior ordinances are not forgiven or overlooked simply because new regulations have been adopted. This maintains accountability for past non-compliance and helps enforce the ongoing adherence to previously established rules.
30.01.017 – Projects in Progress	New	- Clarifies that new zoning ordinances or amendments may impose different or stricter standards (e.g., parking requirements) than what was required under previous regulations. By explaining this explicitly, it helps developers, property owners, and planners understand that the rules may change for future projects. - Establishes that a complete application accepted before the new ordinance's effective date will be processed under the previous rules is a crucial best practice. It avoids potential conflicts or confusion and helps prevent unfair disruptions to projects already in progress. - Minimizes legal challenges by clearly outlining the treatment of ongoing projects, ensuring fairness, and protecting vested rights.
30.01.018 – Enforcement	30.53.10 Vested duty. 30.53.20 Penalty and fine. 30.53.30 Declaration of nuisance.	

Division 30.01.010 – Introduction		
<u>New Section</u>	Existing Section	Overview of Changes
30.01.119 – Severability	New	The severability clause ensures that if one portion of the ordinance is found invalid, unconstitutional, or unenforceable by a court, the rest of the ordinance remains in effect. This prevents a situation where a single problematic section could invalidate the entire zoning ordinance, protecting the broader regulatory framework.

Division 30.01.020 – Zones and Zoning Map		
<u>New Section</u>	Existing Section	Overview of Changes
30.01.021 – Establishment of Zones	30.3.10 Designation of zoning districts. 30.3.20 Designation of combining districts. 30.3.30 Establishment of districts	
30.01.022 – Zoning Map	30.3.40 Zoning map.	
30.01.023 – Rights-of-way and Vacated Boundary Lines	30.3.50 Determination of zone boundaries.	

Division 30.01.020 – Zones and Zoning Map		
<u>New Section</u>	Existing Section	Overview of Changes
30.01.024 – Uncertainty of Boundaries	30.3.50 Determination of zone boundaries.	
30.01.025 – Classification of Annexed Lands	New	- Ensures that annexed lands are zoned consistently with the General Plan and helps integrate new areas into the city in an orderly fashion, avoiding conflicting land uses or incompatible developments. - The clear process for addressing zoning inconsistencies provides transparency and minimizes the risk of legal disputes over zoning decisions.

Division 30.01.040 – Interpretation of Zoning Ordinance		
<u>New Section</u>	Existing Section	Overview of Changes
30.01.041 – Purpose	New	Best practice language that provides transparency and establishes the intent of the accompanying provisions.
30.01.042 – Rules of Interpretation	30.2.10 Word Construction	- Some existing language but mostly new. - Establishes clear rules for interpreting language, tense, and calculations ensure the ordinance is applied uniformly, reducing the potential for misinterpretation or inconsistent enforcement.

Division 30.01.040 – Interpretation of Zoning Ordinance

<u>New Section</u>	Existing Section	Overview of Changes
		• Allows the Community Development Director to interpret unlisted uses, so the ordinance can accommodate changes in land use without the need for frequent amendments, keeping it relevant and adaptable. • Ensures consistent interpretation of days, tenses, conjunctions, and numbers to minimize legal challenges by removing ambiguities that could lead to disputes. • Aligns the Code with amended State law and ensures that the City remains compliant with higher-level regulations, avoiding conflicts and potential legal issues.
30.01.043 – Uses Not Classified	30.49.21 Interpretation of uses.	
30.01.044 – Headings and Illustrations	New	• Establishes that headings, illustrations, and diagrams do not expand or limit the Code. This language minimizes potential legal disputes that could arise if someone attempted to use them to argue for a different interpretation of the zoning regulations. • Ensures that any conflict between visuals and text is resolved in favor of the written provisions, maintaining the Codes legal integrity. • Keeps the Code focused on its written rules while still recognizing the value of visual aids to make the content

Division 30.01.040 – Interpretation of Zoning Ordinance		
<u>New Section</u>	Existing Section	Overview of Changes
		more accessible and easier to understand, without altering the legal meaning.

Division 30.01.050 – Zoning Amendments		
<u>New</u>	Existing Section	Overview of Changes
30.01.051 – Initiation	30.52.20 Initiation.	
30.01.052 – Process	30.52.20 through 30.52.062	• Zoning Amendments are legislative acts. Similar to other legislative acts, the Planning Commission will provide a recommendation to the City Council, including a recommendation of denial. • Withdrawal provisions removed. While this language outlines a procedural option, it isn't essential to the functioning of the Code. The authority to withdraw or abandon applications is already within the general powers of the Planning Commission and City Council, and this procedural detail does not directly relate to the regulation of land use. Including it would add administrative clutter without significantly improving the Code's clarity or effectiveness.
30.01.053 – Reapplication	30.52.80 Reapplication.	

Division 30.01.050 – Zoning Amendments

<u>New</u>	Existing Section	Overview of Changes
30.01.054 – Rezoning Prior to Annexation	30.45.20 Prezone of land prior to annexation.	• Some existing language but mostly new. • Ensures that new areas adhere to the City’s long-term development vision by requiring that all lands proposed for annexation be rezoned to align with the General Plan. • Helps the City manage resources and services more effectively by ensuring that annexed lands are within the Urban Service Area. • Avoid complications in property taxation and record-keeping by preventing annexations that split property assessment lines. • Acknowledges existing agricultural preservation agreements under the Williamson Act, ensuring that the City does not infringe on contracts designed to protect agricultural lands. It helps avoid legal disputes and respects contractual obligations related to land use.

Division 30.01.060 – Other Legislative Procedures

<u>New Section</u>	Existing Section	Overview of Changes
30.01.061 General Plan Amendments	New	These provisions ensure that amendments to the General Plan, specific plans, urban service areas, and development agreements are processed consistently, transparently, and in compliance with both local and state regulations. They provide clarity, predictability, and legal assurance, which supports effective urban planning and development practices.
30.01.062 Specific Plans	New	
30.01.063 Urban Service Area Amendments	New	
30.01.064 Development Agreements	New	

ARTICLE 7 – NONCONFORMING USES AND STRUCTURES

Division 30.70 – General Nonconforming Provisions		
<u>New Section</u>	Existing Section	Overview of Changes
30.70.010 – Purpose	New	States the City's intent that non-conforming uses and structures will eventually be replaced with conforming uses and structures.
30.70.020 – Applicability	30.48.10 Criteria.	Similar to other proposed code sections, this Article now uses bold type titles to make finding information easier.
30.70.030 – Continued Use	30.48.20 Expansion, enlargement and discontinuance.	- States that nonconforming uses/structures may remain in the current state, but will have limitations put on their expansion. - Nonconforming uses/structures are intended to eventually be replaced, rather than allowed to extend their useful life by allowing an enlargement/expansion beyond 10% of the existing floor area. - References to a Variance for up to a 25% increase were removed since that option is available in the Variance section of the Zoning Ordinance.
30.70.040 – Loss of Nonconforming Status	30.48.20 Expansion, enlargement and discontinuance. 30.48.30 Extension.	Added title to this section to make code more user friendly.

ARTICLE 8 – APPLICATION PROCEDURES

Division 30.80 –Application Submittal and Review		
<u>New Section</u>	Existing Section	Overview of Changes
30.80.010 – Purpose	New	• Best practice language that provides transparency and establishes the intent of the accompanying provisions.
30.80.020 – Application Submittal	30.51.10 Applications. 30.51.20 Filing fees.	• Reorganized section for ease of use and reference.
30.80.030 – Authority for Land Use and Zoning Decisions	30.50.10 Designation.	• Consolidated review authority for various entitlements into a single matrix for ease of use and reference.
30.80.040 – Multiple Permit Applications	New	• Added as a best practice and transparency
30.80.050 – Notice and Hearing	New	• Outlines current process for transparency
30.70.060 – Additional Permits May Be Required	New	• Outlines current process for transparency
30.80.070 – Post-Decision	New	• Establishes how approvals can be managed, revised, or revoked. These provisions protect both the city’s planning interests and the applicant’s right to develop their property in accordance with the approved terms.

Division 30.80 –Application Submittal and Review		
<u>New Section</u>	Existing Section	Overview of Changes
		Streamlines the development approval process, ensuring that projects progress in a timely manner while allowing for necessary adjustments and enforcing compliance.

Division 30.81 – Public Notices and Hearings		
<u>New Section</u>	Existing Section	Overview of Changes
30.81.010 – Purpose	New	Best practice language that provides transparency and establishes the intent of the accompanying provisions.
30.81.020 – Procedures	30.51.30 Public hearing.	Reorganized into sections for ease of use.

Division 30.82 – Appeals		
<u>New Section</u>	Existing Section	Overview of Changes
30.82.010 – Purpose	New	Best practice language that provides transparency and establishes the intent of the accompanying provisions.

30.82.020 – Eligibility to Appeal	30.51.50 Appeal procedure.	• Some new language. • Transparency regarding new info provided after decision rendered.
30.82.030 – Appeal Procedures	30.51.50 Appeal procedure. 30.51.60 City council public hearing.	
