

**From:** [Anne Wells](#)  
**To:** [Andy Newkirk](#)  
**Subject:** FW: SB Audubon - Goleta Streamside Protection Areas  
**Date:** Thursday, August 31, 2017 1:31:20 PM  
**Attachments:** [2017-07-31 Goleta SPA Cover Letter-signed.pdf](#)  
[Goleta Creek Protection Ordinance Outline Final.docx](#)  
[Appendix creek-SPA protections.docx](#)  
[PastedGraphic-7.pdf](#)

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NZO Public comment for the binder, electronic file, and online...

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**From:** Michelle Greene  
**Sent:** Thursday, August 31, 2017 11:01 AM  
**To:** Anne Wells <[awells@cityofgoleta.org](mailto:awells@cityofgoleta.org)>  
**Subject:** FW: SB Audubon - Goleta Streamside Protection Areas

**Michelle Greene**  
**City Manager**  
**City of Goleta**  
**(805) 961-7501**

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**From:** Cherie Topper [[cherie.sbas@gmail.com](mailto:cherie.sbas@gmail.com)]  
**Sent:** Monday, July 31, 2017 11:15 AM  
**To:** Stuart Kasdin; Kyle Richards  
**Cc:** Rick Frickmann; [sbucc@silcom.com](mailto:sbucc@silcom.com); Scott Cooper; Dolores Pollock; Aaron Kreisberg; Jessie Altstatt; Steve Ferry  
**Subject:** SB Audubon - Goleta Streamside Protection Areas

Dear Stuart and Kyle,

As requested and at your suggestion, I have attached materials developed by the Santa Barbara Audubon Society (SBAS) that are relevant to a proposed streamside protection area ordinance for the City of Goleta. The Urban Creeks Council (UCC) is joining us in these efforts and has co-signed the attached cover letter. I have attached:

1. A cover letter outlining the organization of the materials.
2. A proposed draft ordinance based on Goleta General Plan/Coastal Land Use Plan (GP/CLUP) policies, as well as relevant ordinances from other cities.
3. A background appendix, including a list of relevant Goleta GP/CLUP policies and detailed language for stream and riparian protections from other jurisdictions.

Please let me know if you have any questions or comments. SBAS and UCC greatly appreciate your ideas, time, efforts, and activities regarding the protection of our precious creeks, riparian zones, and upland streamside buffers in Goleta.

Sincerely,

Cherie Topper

Cherie Topper  
Executive Director, Santa Barbara Audubon Society  
[www.santabarbaraaudubon.org](http://www.santabarbaraaudubon.org)  
Phone: 805-451-1389



# Santa Barbara Audubon Society

*A Chapter of the National Audubon Society*

PO Box 5508  
Santa Barbara, CA 93150  
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Date: July 31, 2017

To: Goleta City Councilmembers Kyle Richards and Stuart Kasdin

Dear Stuart and Kyle,

As requested at your meeting with representatives from the Santa Barbara Audubon Society (SBAS) and Environmental Defense Center (EDC), I have attached information pertinent to a possible streamside protection area (SPA) ordinance for the City of Goleta. My understanding of your request is that you wanted information from other municipalities regarding the protection of creeks, their riparian zones, and upland buffers for human health and safety (flood protections), ecosystem services (groundwater recharge, water quality), aesthetics, recreation, and the environment (native vegetation and wildlife). Conversations with representatives from the Urban Creeks Council indicated that they also strongly supported these explorations and would like to participate in these efforts to strengthen protections for creeks and SPAs in Goleta. As a consequence, leaders from SBAS and UCC have co-signed this cover letter.

The attached documents, then, summarize information that SBAS, EDC, and UCC have culled from public repositories, as well as background information pertinent to SPA protections. I should emphasize that SPAs under Goleta General Plan/Coastal Land Use Plan (GP/CLUP) policies are defined as the stream channel, adjacent riparian zone, and associated 100' upland buffers. Our understanding is that you will pass this information to City staff and work with them to draft the proposed ordinance.

The proposed ordinance is organized into 3 major sections:

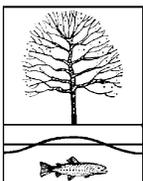
1. Clarifications and analyses regarding exceptions to Policy CE 2.2 regarding project infeasibility and no project impacts on riparian zones or the creek biota.
2. Explicit list of allowed and prohibited uses and activities in SPAs, congruent with Goleta General Plan/Coastal Land Use Plan (GP/CLUP) provisions.
3. Requirement for a Creek Protection Permit. This amounts to the "teeth" in the proposed ordinance, stipulating assessments and penalties for violations of SPA protections. This section attempts to codify and extend SPA protections stipulated in the GP/CLUP, providing an actionable, enforceable ordinance that safeguards Goleta's SPAs.

In SBAS's and UCC's analyses, we concentrated on information from other cities and on the Conservation Element in the Goleta GP/CLUP. Additional analyses will need to examine which departments would administer different sections of the proposed ordinance and how the proposed SPA ordinance would be integrated or dovetailed with other parts of the GP/CULP (shown in Appendix), with the City's Storm Water Management Program, and with the required (CE IA 3) Creek and Watershed Management Plan, which still needs to be developed. Further integration between CEQA processes, and administrative requirements and remedies would also need to be explored. City staff would be best positioned to address these issues.

Please let me know if you have any comments, questions, suggestions, etc. about the attached documents, which are primarily meant as informational documents for you and City staff. Thank you for your interest, ideas, and involvement in issues relevant to the protection of our precious creek resources.

Sincerely,

Cherie Topper  
Santa Barbara Audubon Society Executive Director



SANTA BARBARA  
AN CREEKS COUNCIL

Rick Frickman  
Urban Creeks Council

## Goleta Streamside Protection Area Ordinance Outline

The purpose of the proposed streamside protection area ordinance is to clarify, formalize, and centralize City of Goleta procedures for the protection of streamside protection areas, which are defined as the creek channel, wetlands and/or riparian vegetation related to the creek hydrology, and an adjacent upland buffer area. The proposed ordinance contains three major elements: (1) Determination of exceptions for reducing the widths of upland streamside protection buffers for reasons of project infeasibility with no attendant impacts on creeks or their riparian zones; (2) Formalization of allowed and prohibited activities and uses of streamside protection areas; (3) Requirements and process for obtaining Creek Protection Permits from the City for developments or activities potentially affecting creeks, their riparian zones, and upland protection areas. The following provisions follow the purposes, definitions, and application of GP/CULP Policy CE 2.

I. Clarifications and process for exceptions to Policy CE 2.2, allowing reductions in streamside protection areas if a project, development or activity is infeasible without such reductions, provided the proposed reductions have no significant impacts on streamside vegetation or the biotic quality of the stream. Environmental review and oversight of any project or activity potentially affecting creeks and their riparian zones must include:

- A. An economic analysis, conducted by an independent, professional economic analyst, assessing the economic feasibility of the proposed project and its alternatives.
- B. An environmental impact analysis, conducted by an independent, professional biologist, explicitly addressing the impacts of the proposed project and its alternatives on streamside vegetation and the biotic quality of the stream.
- C. A Creek Protection Permit before project construction

II. Allowable uses, prohibitions, and restrictions for streamside protection areas.

- A. Allowable uses of streamside protection areas.
- B. Prohibited uses or activities in streamside protection areas.
  - 1. Prohibition on streamside alterations.
  - 2. Prohibition on non-stormwater discharges into creeks.
  - 3. Prohibition on the modification or diversion of stream flows.
- C. Repair, but not enlargement, of existing non-conforming structures affecting SPAs.

III. Requirements and process for SPA protection and Creek Protection Permits.

- A. SPA protection requirements.
- B. Creek Protection Permit
  - 1. Submittal requirements: Creek Protection Plan including Best Management Practices, A Stormwater Control Plan, and Hydrology Report
  - 2. Approval criteria and process, subject to CEQA
  - 3. Permit conditions and posted security
  - 4. Appeals of Creek Protection Permit decisions
  - 5. Non-compliance and abatement

## Proposed Ordinance Outline

The proposed zoning ordinance would clarify the criteria for the City to reduce 100' upland buffers, but not to less than 25 feet, including definitions, analyses, and environmental review procedures for determining if a project is infeasible without SPA upland buffer reductions and that the project will not have significant impacts on streamside vegetation or the biotic quality of the stream. In addition, the proposed ordinance addresses issues related to SPA allowable uses, prohibitions, plans, permits, regulatory, and enforcement processes. Background information and alternative language for some sections of the proposed ordinance outlined below can be found in the associated Appendix.

### **Purpose:**

General: Per Policy CE 2: *Enhance, maintain, and restore the biological integrity of creek courses and their associated wetlands and riparian habitats as important natural features of Goleta's landscape*<sup>1</sup>.

Specific: The proposed ordinance addresses the analyses and procedures to be completed to ascertain whether reductions in SPAs, owing to project infeasibility and non-significant impacts on creeks and riparian zones, are justified and warranted. The proposed ordinance also addresses SPA allowable uses and prohibitions, as well as the requirements and process for obtaining Creek Protection Permits for proposed projects.

**Applicability:** Per Policy CE 2.1: The provisions of this ordinance shall apply to creeks shown in General Plan/CULP Figure 4-1 (<http://cityofgoleta.org/home/showdocument?id=11830>). These watercourses and their associated riparian areas are defined as ESHAs. They serve as habitat for fish and wildlife, provide wildlife movement corridors, provide for the flow of stormwater runoff and floodwaters, and furnish open space and passive recreational areas for city residents.

### **I. Exceptions to Policy CE 2.2: Required analyses and permitting**

#### **Definition of Streamside Protection Area (SPA) and exceptions to their protection:**

Section CE 2.2 of the Conservation Element of the City of Goleta's General Plan/ Coastal Land Use Plan (GP/CLUP) deals with Streamside Protection Areas (SPAs).

**CE 2.2 Streamside Protection Areas.** A streamside protection area (SPA) is hereby established along both sides of the creeks identified in Figure 4-1. The purpose of the designation shall be to preserve the SPA in a natural state in order to protect the associated riparian habitats and ecosystems. The SPA shall include the creek channel, wetlands and/or riparian vegetation related to the creek hydrology, and an adjacent upland buffer area. The width of the SPA

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<sup>1</sup> Some municipalities include phrases noting the importance of protecting SPAs for reasons of human health, safety, and services, particularly as pertains to flood-prone areas and for ecosystem services (e.g., groundwater recharge, water quality protection).

upland buffer shall be as follows:

- a. The SPA upland buffer shall be 100 feet<sup>2</sup> outward on both sides of the creek, measured from the top of the bank or the outer limit of wetlands and/or riparian vegetation, whichever is greater. The City may consider increasing or decreasing the width of the SPA upland buffer on a case-by-case basis at the time of environmental review. The City may allow portions of a SPA upland buffer to be less than 100 feet wide, but not less than 25 feet wide, based on a site specific assessment if (1) there is no feasible alternative siting for development that will avoid the SPA upland buffer; and (2) the project's impacts will not have significant adverse effects on streamside vegetation or the biotic quality of the stream.
- b. If the provisions above would result in any legal parcel created prior to the date of this plan being made unusable in its entirety for any purpose allowed by the land-use plan, exceptions to the foregoing may be made to allow a reasonable economic use of the parcel, subject to approval of a conditional use permit. (*Amended by Reso. 09-30, 5/19/09 and Reso. 09-59, 11/17/09*)

In short, Policy CE 2.2 stipulates that 100 foot SPAs can be reduced, but not to less than 25 feet, if a site specific assessment determines (1) there is no feasible alternative siting for development that will avoid the SPA upland buffer and (2) the project's impacts will not have significant adverse effects on streamside vegetation or the biotic quality of the stream.

#### **I. Requirements for EIR analyses and permitting for projects potentially affecting SPAs**

**A.** Projects proposing reductions in SPA buffers owing to the lack of feasible alternatives that avoid the SPA upland buffer must submit an economic analysis, completed by an independent, licensed, qualified economic analyst, as part of an environmental impact report, showing that there are no economically feasible<sup>3</sup> alternatives that avoid the upland buffers of the SPA. Such analyses would include, but not be limited to, analyses of the costs and benefits of the proposed and alternative project designs that do and do not require reductions in SPAs.

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<sup>2</sup> The stipulated 100 foot SPA is supported by recent scientific reviews (e.g., Sweeney, B. W. and J. D. Newbold. 2014. Streamside forest buffer width needed to protect stream water quality, habitat, and organisms: a literature review. *Journal of the American Water Resources Association* 50: 560-584.) that conclude that 30 meter (ca. 100 foot) stream buffers are needed to protect and support the diversity and functions of stream and riparian ecosystems.

<sup>3</sup> 2012 California Environmental Quality Act (CEQA) Statute and Guidelines: § 21061.1. FEASIBLE. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

**B.** Projects proposing reductions in SPA buffers also must include a formal environmental impact analysis in their environmental impact reports, completed by a qualified, professional, independent biologist, that addresses the possible effects of the proposed project and alternatives on streamside vegetation and stream biotic quality. As stipulated by Policy CE 2.2, project analyses showing adverse effects of proposed SPA reductions on streamside vegetation and stream biotic quality will result in project denial because the project would violate one of the two criteria allowing SPA reductions.

**C.** Requirement for an approved Creek Protection Permit before project construction may proceed (see below).

## **II. Allowed and prohibited uses and activities in SPAs**

All allowed and prohibited uses in SPAs must be consistent with the policies of the General Plan/Coastal Land Use Plan of the City of Goleta and with the provisions of the yet-to-be-completed **Creek and Watershed Management Plan** (required by Goleta GP/CULP policy CE-IA-3). The citywide Creek and Watershed Management Plan will provide detailed standards of acceptable practices for protecting the ecological function, water quality, and drainage and flood control function of Goleta's creeks and watersheds.

**A. Allowed activities and uses in SPAs:** Policy CE 2.3 allows for specific compatible land uses and activities in SPAs, subject to all other policies of the GP/CULP, including those requiring avoidance or mitigation of impacts. These land uses include (a) agricultural operations, provided they are compatible with riparian resource preservation; (b) fencing and other access barriers along property and SPA boundaries; (c) maintenance of existing roads, driveways, utilities, structures, and drainage improvements; (d) construction of public road crossings and utilities, provided that there is no feasible, less environmentally damaging alternative; (e) construction and maintenance of foot trails, bicycle paths, and similar low impact facilities for public access; (f) resource restoration or enhancement projects; (g) nature education and research activities; (h) low-impact interpretive and public access signage; and (i) other Public Works projects as identified in the Capital Improvement Plan, only where there are no feasible, less environmentally damaging alternatives. *(Amended by Reso. 09-59, 11/17/09)*<sup>4</sup>

### **B. Prohibitions on uses and activities in SPAs**

Except for the allowed uses and activities noted in II. A., all other uses and activities in SPAs will be prohibited, including:

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<sup>4</sup> Allowed and prohibited uses and activities in the proposed SPA ordinance could include more detail, as shown by examples in the Appendix, e.g., El Cerrito 19.12.060, San Ramon Zoning Ordinance Division D-5 Hillside, Creeks, and Ridgeline Areas.

**B. 1. Prohibition on SPA alterations (from El Cerrito 19.12.040)** It shall be unlawful for any person, organization, institution, corporation or the City to fill, or cause to be filled, to obliterate or cause to be obliterated, to obstruct or cause to be obstructed, to construct a building bridging a creek or cause such building to be constructed, or in any manner to interfere with or cause to be interfered with, any creek which carries off at any time of the year any storm water, or any surface waters, which have been precipitated by rains. This includes prohibitions on the alteration of creeks for purposes of road or driveway crossings, except where the alteration is not substantial and there is no feasible alternative (as per Goleta GP/CLUP CE 2.5e) and new bridges, roads, culverts, and outfalls that cause or contribute to creek bank erosion or creek or wetland siltation (as per Goleta GP/CLUP CE 10.4). This Section does not apply to structures or conditions existing in creeks, on or before the effective date of this Zoning Ordinance.

Streambed alteration exceptions shall only be permitted, subject to City Council approval and the approval of any applicable permits from the California Department of Fish and Wildlife, the U.S. Army Corps of Engineers, the California State Water Resources Control Board, and any other responsible agencies for creek restoration and public access projects. Emergency streambed alteration projects necessary to protect public health and safety from imminent flooding, erosion or landslide hazards may be permitted by the City Engineer or Public Works Director. Streambed alterations shall not be conducted unless all applicable permits have been obtained.

(Modified From City of San Ramon Zoning Ordinances, Division D5, Resource Management, D 5-4, Hillside, Creek, and Ridgeline Area Development Standards, 7. Creek Setback Development Standards)

- a. No grading or filling, planting of exotic/non-native or non-riparian plant species, or removal of native vegetation shall occur within a SPA, except where authorized for flood control purposes and by the proper permits issued by the California State Department of Fish and Game [now Wildlife] and all other applicable State and Federal agencies having authority over the SPA.
- b. Design of drainage improvements. Where drainage improvements are required, they shall be placed in the least visible locations and in manners that achieve natural appearance through the use of river rock, earthtone concrete, and landscaping with native plant materials.
- c. Use of permeable surfaces. The proposed development should incorporate permeable surfaces (for example, wood decks, sand-joined bricks, and stone walkways) where feasible, to minimize off-site flows and facilitate the absorption of water into the ground.
- d. Creek bank stabilization. Development or land use changes that increase impervious surfaces or sedimentation may result in channel erosion. This may require measures to stabilize creek banks.
  - i. SPA rehabilitation is the preferred method of stabilization, with the objective of maintaining the natural character of the SPA. Rehabilitation may include enlarging the channel at points of obstruction, clearing obstructions at points of constriction, limiting uses in areas of excessive erosion, and restoring riparian vegetation.
  - ii. Concrete channels and other mechanical stabilization measures shall not be allowed unless no other alternative exists.
  - iii. If bank stabilization requires other than rehabilitation or vegetative methods, hand-placed stone or rock rip-rap are the preferred methods
- e. Physical and visual access. The following physical and visual access standards shall apply unless a resource agency establishes a different standard for the project:
  - i. New structures or lots adjacent to creeks or creek frontage roads are prohibited.

ii. The provision of multipurpose trails and public open space is encouraged. Open space areas should include planting for SPA enhancement with native shrubs and trees, with paths, trails, lighting, benches, play and exercise equipment, and trash receptacles outside of the riparian habitat area.

**B. 2. Prohibition on non-stormwater discharges (From City of Oakland, Municipal Code, Ord SEC 13.16.070):**

Goleta GP/CULP policy 10.1 states that new development shall not result in the degradation of the water quality of groundwater basins or surface waters. As a consequence, non-storm water discharges or increases in flow to the City storm sewer system are prohibited<sup>5</sup>. All discharges of material other than storm water must be in compliance with a NPDES permit issued for the discharge. The following non-storm water discharges are exempt from this prohibition.

1. Non-storm water discharges regulated under a NPDES permit issued to the discharger and administered by the State of California under authority of the U.S. Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit and other applicable laws or regulations.

2. Non-storm water discharges from the following activities will not be considered a source of pollutants to waters of the United States when properly managed: water line flushing and other discharges from potable water sources, landscape irrigation and lawn watering, irrigation water, rising ground waters, infiltration to separate storm drains, less than 1000 gallons per day of uncontaminated pumped ground water, foundation and footing drains, water from crawl space pumps, air conditioning condensations, springs, individual residential car washings, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges or flows from fire-fighting, and accordingly are not subject to the prohibition on non-storm water discharges.

Liability for noncompliance with the City's NPDES permit shall be the responsibility of the Person(s) causing or responsible for such discharges, holding harmless the City, its public officials, officers, agents, and employees. It is prohibited to establish, use, maintain, or continue illicit drainage connections to the City storm sewer system or to a creek, and to commence or continue any illicit discharges to the City storm sewer system or to a creek.

**B. 3. Prohibition of modification or diversion of stream flows.** Any proposed activities or developments are prohibited from diverting or modifying water flows in creeks. Goleta GP/CULP policy CE 2.5 deals with the maintenance of creeks as natural drainage systems, stating that creek banks, creek channels, and associated riparian areas shall be maintained or restored to their natural condition wherever such conditions or

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<sup>5</sup> The City of Goleta's Storm Water Management program administered by the Public Works Department formalizes the plans, permits, rule, regulations, and best management practices for storm water management in Goleta (<http://www.cityofgoleta.org/city-hall/public-works/storm-water-management>). Many of these provisions are relevant to streamside protection areas and will be integrated, where germane, into the process for owner applications for City of Goleta Creek Protection Permits. For example, Stormwater Control Plans, which are currently required for proposed development, would be included in the application and approval process for Creek Protection Permits. Further, Goleta GP/CULP policy CE 10.7 requires that development proposals include Stormwater Management Plans for both construction and post-development phases, CE 10.3 deals with BMPs for Stormwater Management, and CE 10.6 stipulates Stormwater BMP requirements for specific types of development.

opportunities exist. CE 2.5 states that (a) the capacity of natural drainage courses shall not be diminished by development or other activities and that (c) measures to stabilize creek banks, improve flow capacity, and reduce flooding . . . shall not include installation of new concrete channels, culverts, or pipes except at street crossing, unless it is demonstrated that there is no feasible alternative for improving capacity. CE 2.6f prohibits the use of close-pipe drainage systems for fish-bearing creeks, unless there is no feasible, less environmentally damaging alternative. When the use of culverts is necessary in such streams, the culverts shall be oversized and have gravel bottoms that maintain the channel's width and grade. For additional requirements, see SPA protections below.

**C. Existing non-conforming structures (allow repair but not enlargement) (City of Pleasant Hills Ordinance 844 Sec. 18.65.030, El Cerrito 19.12.060):** Nonconforming Uses and Structures policies shall apply except that additions or enlargements that extend a nonconforming yard are not permitted in the SPA. A structure, or any portion of it, which is legally existing as of the time of adoption of this Zoning Ordinance, and which is located within a SPA, may be replaced in kind if the property owner obtains a building permit within a limited time to be determined by the City's Planning and Environmental Review Department (within the same building footprint and without increasing the degree of nonconformity) without the requirement of a use permit.

### **III. Streamside Protection Area Requirements and the Creek Protection Permit (Derived from City of Oakland Ord Secs 13.16.110, 120, 140, 150):**

**A. SPA protection and restoration.** Every Person owning property through which a creek passes, or such Person's lessee or tenant, shall keep and maintain in a manner satisfactory to the City's Planning and Environmental Review Department that part of the creek and its SPA within the property reasonably free of trash debris, excessive vegetation, and other obstacles which would pollute, contaminate, or significantly retard the flow of water through the creek; shall maintain existing privately owned structures within or adjacent to a creek, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse; and shall not remove healthy riparian vegetation beyond what is actually necessary for said maintenance of the SPA, nor remove said vegetation in such a manner to increase the vulnerability of the SPA to erosion. No Person shall place any loose or unconsolidated material along the side of or within a creek or so close to its sides as to cause a diversion of the flow, or to cause a probability of such material being carried away by storm waters passing through the creek.

No person shall commit or cause to be committed any of the following acts, unless a written permit has first been obtained from the Departments of Planning and Environmental Review and Public Works:

1. Discharge concentrated stormwater into, or connect any stormwater pipe or stormwater channel to, a creek (see City's Storm Water Management Program).
2. Modify the natural flow of water in a creek.
3. Carry out development within a SPA, with possible exceptions for upland buffer widths noted above.
4. Deposit in or remove any material from a creek, including its banks, except as required for necessary creek maintenance; or
5. Construct, alter, enlarge, connect to, change, or remove any structure, or alter the stream course or profile.

Goleta GP/CULP policy CE 2.5 b states that drainage controls and improvements shall be accomplished with the minimum vegetation removal and disruption of the creek and riparian ecosystems that is necessary to accomplish the drainage objective and CE 2.5 d stipulates that drainage controls in new development shall be required to minimize erosion, sedimentation, and flood impacts to creeks with required onsite treatment of stormwater through retention basins, infiltration, vegetated swales, and other best management practices.

Goleta GP/CULP 10.2 deals with watershed management and water quality.

CE 10.2 Siting and Design of New Development. [GP/CP] New development shall be sited and designed to protect water quality and minimize impacts to coastal waters by incorporating measures designed to ensure the following:

- a. Protection of areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota, and areas susceptible to erosion and sediment loss.
- b. Limiting increases in areas covered by impervious surfaces.
- c. Limiting the area where land disturbances occur, such as clearing of vegetation, cut-and-fill, and grading, to reduce erosion and sediment loss.
- d. Limiting disturbance of natural drainage features and vegetation.

Goleta GP/CULP CE 2.6 deals with creek restoration activities and includes the following provisions:

- a. Channelized creek segments and culverts shall be evaluated and removed to restore natural channel bed and bank, where feasible.
- b. Creek courses in public rights-of-way shall be uncovered as part of public works improvement projects.
- c. Barriers that prevent migration of fish such as anadromous salmonids from reaching their critical habitat shall be removed or modified.
- d. Restoration of native riparian vegetation and removal of exotic plant species shall be implemented, unless such plants provide critical habitat for monarch butterflies, raptors, or other protected animals.
- e. Creek rehabilitation projects shall be designed to maintain or improve flow capacity, trap sediments and other pollutants that decrease water quality, minimize channel erosion, prevent new sources of pollutants from entering the creek, and enhance in-creek and riparian habitat.

## **B. Creek Protection Permit**

**B. 1. Requirements** (City of Oakland SEC 13.16.140). No person shall commit or cause development or work within the boundaries of SPAs unless a Creek Protection Permit has first been obtained from the Departments of Planning and Environmental Review and Public Works. The Creek Protection Permit Submittal Requirements and CEQA provisions are as follows. In addition to normal submittal requirements related to other permits that must be obtained from regulatory agencies, a site plan must be submitted that shows the relationship between the development or work to be conducted and SPAs. A Creek Protection Plan must be submitted for review and approval that describes the Best Management Practices that will be employed to

assure construction and maintenance activity will not adversely impact the SPA or water quality. A Hydrology Report and Storm Water Management Plan<sup>6</sup> must be submitted for review and approval as part of the Creek Protection Plan. Using the City's protocols for the development of Stormwater Control Plans as a template, the City provides lists or models for "Best Management Practices" for SPAs, the Hydrology Report, and the Creek Protection Plan. The review and approval of a Creek Protection Permit is administered by the Departments of Planning and Environmental Review and Public Works, and may be subject to CEQA review.

Creek Protection Plan (SEC 13.16.150). When required, a Creek Protection Plan, including SPA protection measures, shall be submitted prior to the issuance of a Creek Protection Permit. The purpose of the Creek Protection Plan is to protect the SPAs, riparian vegetation, wildlife, surrounding habitat, and the SPAs' natural appearance. The following are the minimum elements that must be addressed in a Creek Protection Plan that is to be prepared by the applicant and submitted for City review and approval prior to the issuance of a Creek Protection Permit for development or work:

1. Property identification.
2. Name of the property owner.
3. Name of the general contractor.
4. Name of sub-contractors.
5. Telephone numbers of primary contact people.
6. List of informational material related to creek protection, provided to workers on the site
7. Litter prevention measures.
8. Dust control measures.
9. Methods of cleaning tools and equipment.
10. Construction site fencing.
11. Erosion control protection.
12. Future and ongoing siltation and erosion control.
13. Wet weather protection.
14. Stockpile locations.
15. Special circumstances/additional information.
16. Emergency preparations for construction related spills.

The required Hydrology Report associated with the Creek Protection Plan will be prepared by a licensed civil engineer with creek hydrology expertise and submitted for City review and approval prior to the issuance of a Creek Protection Permit for development or work. The Hydrology Report will include:

1. Property identification.
2. Name of the property owner.
3. California Department of Fish and Wildlife approval, if appropriate.
4. Santa Barbara County Flood Control approval, if appropriate.
5. 5 yr., 10 yr., 25 yr., and 100 yr flows and water surface levels.

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<sup>6</sup> Stormwater Control Plans are already required by the Dept. of Public Works for projects and the Storm Water Management program provides materials on BMPs for ameliorating the effects of activities or projects on creek water quality, many of which would also be applicable to non-storm water discharges.

6. If feasible, projections of how future development in the area (unrelated to the proposed work) may impact flows.
7. Creek bank stability, before and after the project.
8. Impact of the proposed work with regard to direction, as well as quantity of flow in the Creek.
9. Upstream and downstream conditions, before and after project construction.
10. Location of major drainage facilities (e.g., trash racks, culverts, discharge points, etc.).
11. Profile of stream bed across the property and upstream and downstream 100 feet in each direction.
12. Cross sections at 50 foot intervals.
13. Proposed improvements to the creek, including any vegetative or other natural screen enhancements.
14. Impacts of proposed project on existing vegetation or wildlife within the affected riparian corridor.
15. Special circumstances/additional information.

**B. 2. Approval criteria and process.** A Creek Protection Permit shall be granted if the applicant demonstrates to the satisfaction of the Departments of Planning and Environmental Review and Public Works that all the following criteria are met:

1. The proposed activity (during construction and after the project is completed) will not (directly or indirectly) adversely affect SPAs. In determining if the creek would be adversely affected by the proposed project, the Department of Planning and Environmental Review shall, at a minimum, consider the following factors:
  - a. Whether the proposed activity may discharge pollutants into the creek, its riparian zone, or its upland buffer.
  - b. Whether the proposed activity may result in modifications to the natural flow of water through the SPAs
  - c. Whether the proposed activity may deposit new material into SPAs, or cause erosion or soil instability.
  - d. Whether the proposed activity may result in alteration of the creek's capacity.
  - e. Such additional factors as the Departments of Planning and Environmental Review and Public Works deem appropriate.
2. The proposed activity will not adversely affect the SPAs, including riparian vegetation and animal wildlife or result in loss of wildlife habitat.
3. The proposed activity will not degrade the visual quality and natural appearance of the creek, its riparian corridor, and its upland SPAs.
4. The proposed activity is consistent with the intent and purposes of GP/CULP policy and the provisions of this ordinance.
5. The proposed activity will not endanger public or private property.
6. The proposed activity will not (directly or indirectly) threaten the public's health and safety.

**B. 3. Conditions, posted security:** The Departments of Planning and Environmental Review and Public Works can make approval of the Creek Protection Permit contingent on stipulated conditions. In granting a Creek Protection Plan, designated personnel in the Departments of Planning and Environmental Review and Public Works may attach such conditions thereto as she/he deems reasonably necessary to carry out the purposes and intent of GP/CULP policies, including, without limitations, protecting the SPA, safeguarding life, public and private property, and insuring all development or work is carried out in an orderly manner in conformance with all regulations and without creating a public nuisance; and she/he may add to, remove, or change such conditions from time to time during the duration of the permit as deemed reasonably necessary as a result of changed conditions or otherwise.

At the discretion of the Departments of Planning and Environmental Review and Public Works, a permit may be withheld until the applicant has posted security in an amount satisfactory to the Directors of Planning and Environmental Review and Public Works for either the faithful performance of the development or work or the cost of removing the development or work or otherwise reconstructing or restoring SPAs to conditions existing prior to such development or work in the event of default on the part of the permittee. Said security shall be in the form of cash, a certified or cashier's check, performance bond, or an irrevocable letter of credit.

**B. 4. Appeals (City of Oakland Ord. SEC 13.16.450):** Applicants can appeal the decisions of the Planning and Environmental Review, and Public Works, Departments by following appropriate procedures. Within ten (10) calendar days after the date of a written decision on an application for a Creek Protection Permit, pursuant to this ordinance, an appeal from said decision may be taken to the City of Goleta Planning Commission by the applicant or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Departments of Planning and Environmental Review and Public Works and filed with those Departments. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Departments or wherein his/her decision is not supported by the evidence in the record. Upon receipt of the appeal, the City of Goleta Planning Commission, shall set the date for consideration thereof and, not less than ten (10) days prior thereto, give written notice to: the applicant; the appellant in those cases where the applicant is not the appellant; adverse party or parties, or to the attorney, spokesperson, or representative of such party or parties; other interested groups and neighborhood associations who have requested notification; and to similar groups and individuals as the City of Goleta Planning Commission deems appropriate, of the date and place of the hearing on the appeal. In considering the appeal, the City of Goleta Planning Commission shall determine whether the proposed use conforms to the permit criteria set forth above, and may grant or deny a permit for proposed uses or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The decision of the City of Goleta Planning Commission shall be final.

**B. 5. Non-compliance and abatement (Modified from City of Oakland Ord. SEC 13.16.220 - 430):** The City is required to inspect, investigate, test, or monitor compliance with approved Creek Protection Permits and deal with any infractions. Any Person violating or failing to comply with any of the provisions of this ordinance section may be guilty of an infraction. The City will develop penalties for first time and continuing violations,

concealment of such violations, and violations deemed a public nuisance. When a designated City official finds violations of this ordinance, he or she may issue an order to abate continuing discharges, practices, operations, or conditions that result in violations, insuring that the Responsible Person is in compliance with the provisions of this ordinance in a timely manner and that the Person has taken remedial or preventive actions to prevent recurrences. Failure of the Responsible Person to respond to abatement notices or an appeal by the Person of the abatement order will result in scheduling an administrative hearing between the Responsible Person and a Hearing Officer, who will submit a report and findings to the City Council about the infraction, possible penalties, and procedures for remediation. The City Council will confirm or overrule the Hearing Officer's findings and recommendation, then direct the Hearing Officer to notify the property owner and/or business owner/operator or Person in possession of its decision. If the decision is to have the owner/operator (Person) abate such conditions, the Person may appeal the City Council decision within a reasonable time (7 days) and the City Council will overrule the findings or shall direct that the violating conditions be abated, with subsequent notification of the Person of the City Council decision by the Hearing Officer.

When abatement is stipulated, the Council shall order to be paid by the property owner and the business owner/operator of said Premises all sums which may be necessarily expended by the Hearing Officer and the Authorized Enforcement Official in abating such condition, including but not limited to, the abatement work cost, abatement contract administering costs, and abatement work supervising costs. Where necessary and when abatement work is completed, abatement costs shall be secured by a special assessment lien recorded against the subject property in the Office of the County Recorder, Santa Barbara County. If the City elects to perform the abatement work, the Hearing Officer may record a notice of prospective special assessment lien against the subject property, with such notice including a description of the proposed abatement work and an estimate of its costs. If upon recordation of the special assessment lien, the property owner and/or the business owner/operator fail to pay the abatement costs and any accrued interest, said costs and interest shall constitute a special assessment against that real property abated. In such instances, the Hearing Officer will prepare a Report of Assessment describing the work performed, the date(s) on which it was performed, the costs incurred by the City or its contractors, and any accrued interest, which will be served upon the property owner and the business owner/operator of the subject property. Said report shall be accompanied by a notice of date, time, and place of the confirmation hearing before the City Council, who will confirm said report as presented by the Hearing Officer or, after a review of the evidence in the record, find that either the work assessed was not performed or that there was an error made in calculating the amount owed. After the assessment is made and confirmed, in addition to being a personal obligation of the property owner and the business owner/operator, it shall be a special assessment on the subject property, until said sum, with interest at the maximum legal rate per annum, has been paid in full. Interest shall begin to accrue on the date of lien recordation.

The City may also seek remedies to violations of this ordinance through civil action. In any such action, the City may seek, and the Court shall grant, as appropriate, any or all of the following remedies: (1) a temporary and/or permanent injunction; (2) assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing

and bringing legal action under this subsection, including but not limited to attorney compensation; (c) costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation; and (d) compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the City to be used exclusively for costs associated with implementing or enforcing the provisions of this ordinance.

An Authorized Enforcement Official also has administrative enforcement powers for seeking remedies to violations of this ordinance, including cease and desist orders, notices to clean, and permit suspensions, with non-compliance by Responsible Persons being subject to the non-compliance penalties outlined above, such as civil penalties, property liens, and limitations on property use<sup>7</sup>.

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<sup>7</sup> The detailed language for City of Oakland Municipal Code sections on the Inspection and Enforcement of compliance with Creek Protection Permits (Article III, Secs. 13.16.220 to 13.16.430) can be found in the Appendix.

## Appendix

### Relevant policies from Goleta GP/CULP

#### CHAPTER 4.0 CONSERVATION ELEMENT: LAND, MARINE, AND AIR RESOURCES (CE)

##### 4.1 INTRODUCTION

###### Coastal Act Requirements [CP]

One of the chief objectives of the Coastal Act is preservation, protection, and enhancement of coastal resources, including marine, aquatic, and terrestrial habitats and water quality. At Section 30240 of the Public Resources Code, the Coastal Act requires the protection of environmentally sensitive habitat areas (ESHAs) against any significant disruption of habitat values. Generally, development is not allowed in any ESHA and adjacent development must be sited to avoid impacts that would degrade the quality of ESHA. In addition, creeks and associated riparian habitat are protected to maintain their biological productivity and quality of coastal waters. The Coastal Act requires that alteration of creeks and waterways be minimized and narrowly limits the purposes for which alterations may be considered.

###### Existing Marine, Land, and Air Resources—2005 [GP/CP]

###### Surface Water Resources

Within Goleta, 12 creeks drain from the foothills south to the Pacific Ocean. Most of the creeks exhibit intermittent, seasonal flows, and creek conditions vary greatly. Two creeks, Bell Canyon Creek and Tecolote Creek, form small coastal lagoons at the Pacific Ocean. Sections of some creeks are channelized to provide conveyance for flood flows such as along El Encanto, San Pedro, and Tecolotito Creeks. Creeks in areas subject to human disturbance have impaired water quality and lower biological diversity. San Jose Creek, located in the eastern portion of the city, is part of a pilot project for watershed planning. The goal of this watershed plan is to protect existing resources and identify opportunities to improve the functioning of the creek ecosystem, while protecting existing land uses and community values.

With the exception of Bell Canyon and Tecolote Creeks, the creeks within the city drain to one of two sloughs located to the south of the city boundary: Goleta Slough and Devereux Slough. Both sloughs have large expanses of wetlands and estuarine habitats and support a rich and diverse coastal ecosystem despite substantial human impacts. Goleta Slough, the larger of the two, is now less than half of its original size; this is the result of extensive fill from development of the Santa Barbara Municipal Airport, and of sedimentation from upstream land uses. Glenn

Annie, Los Carneros, San Pedro, Las Vegas, San Jose, and Maria Ignacio Creeks drain into the Goleta Slough. The total watershed area of the Goleta Slough drainage is about 45 square miles. Several smaller creeks, including Devereux and El Encanto Creeks, drain western Goleta and are tributary to Devereux Slough, which is in an area owned by the University of California, Santa Barbara. The Devereux Slough watershed, which totals about 3.5 square miles, currently experiences a greater inflow than prior to urbanization, which affects its water quality and slough dynamics.

There are 640 acres (about one square mile) within the FEMA-designated 100 year flood plain within Goleta. This is approximately 12 percent of the entire area of the city.

## **4.2 GUIDING PRINCIPLES AND GOALS [GP/CP]**

The policies of the Conservation Element are designed to preserve and protect Goleta's environmental resources, including valuable habitat areas, to the maximum extent feasible while allowing reasonable development in conformance with the provisions of the Land Use Element (see Chapter 2.0). The following principles or goals, which are not in order of priority, provide the foundation for the detailed policies in subsequent sections of this element. All policies have been established to conform with the guiding principles and goals, and future actions of the City following adoption of the plan are required to be consistent.

1. Protect, maintain, and enhance natural ecosystem processes and functions in Goleta and its environs in order to maintain their natural ecological diversity.
2. Preserve, restore, and enhance the physical and biological integrity of Goleta's creeks and natural drainages and their associated riparian and creekside habitats.
4. Identify and protect wetlands, including vernal pools, as highly productive and complex ecosystems that provide special habitats for flora and fauna as well as for their role in cleansing surface waters and drainages.
5. Protect water quality and the biological diversity of Goleta Slough and Devereux Slough.
6. Protect and enhance other important aquatic and terrestrial habitats, including those associated with rare, threatened, or endangered species of plants or animal.
9. Manage water resources at the watershed level cooperatively with other agencies to maintain high groundwater and surface water quality and to protect marine aquatic habitats.
10. Manage groundwater and surface water resources to promote water quality and quantity adequate to support natural ecosystem processes and functions.
12. Conserve soil resources as the foundation of resource production and minimize erosion and other soil-depleting processes.

### 4.3 COASTAL ACT POLICIES [CP]

The Coastal Act definitions and policies set forth below are adopted as policies of this plan for those areas of Goleta within the California Coastal Zone. The numbers refer to sections of the California Public Resources Code. The figures in this chapter show the location of the Coastal Zone boundary.

**30107.5** “Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

**30231** The biological productivity and the quality of coastal waters, creeks, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural creeks.

#### **30233**

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(4) In open coastal waters, other than wetlands, including creeks, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

(b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation.

(c) In addition to the other provisions of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary.

(d) Erosion control and flood control facilities constructed on water courses can impede the movement of sediment and nutrients which would otherwise be carried by storm runoff into

coastal waters. To facilitate the continued delivery of these sediments to the littoral zone, whenever feasible, the material removed from these facilities may be placed at appropriate points on the shoreline in accordance with other applicable provisions of this division, where feasible mitigation measures have been provided to minimize adverse environmental effects. Aspects that shall be considered before issuing a coastal development permit for such purposes are the method of placement, time of year of placement, and sensitivity of the placement area.

**30236** Channelizations, dams, or other substantial alternations of rivers and creeks shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

**30240** (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

#### **4.4 CITY POLICIES**

##### **Policy CE 1: Environmentally Sensitive Habitat Area Designations and Policy [GP/CP]**

***Objective:*** To identify, preserve, and protect the city's natural heritage by preventing disturbance of ESHAs.

**CE 1.1 Definition of Environmentally Sensitive Habitat Areas.** [GP/CP] ESHAs shall include, but are not limited to, any areas that through professional biological evaluation are determined to meet the following criteria:

- a. Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and that could be easily disturbed or degraded by human activities and developments.
- b. Any area that includes habitat for species and plant communities recognized as threatened or endangered by the state or federal governments; plant communities recognized by the State of California (in the Terrestrial Natural Communities Inventory) as restricted in distribution and very threatened; and those habitat types of limited distribution recognized to be of particular

habitat value, including wetlands, riparian vegetation, eucalyptus groves associated with monarch butterfly roosts, oak woodlands, and savannas.

c. Any area that has been previously designated as an ESHA by the California Coastal Commission, the California Department of Fish and Game, City of Goleta, or other agency with jurisdiction over the designated area. (*Amended by Reso. 09-59, 11/17/09*)

**CE 1.2 Designation of Environmentally Sensitive Habitat Areas. [GP/CP]** ESHAs in Goleta are generally shown in Figure 4-1, and Table 4-2 provides examples of the ESHAs and some locations of each. The provisions of this policy shall apply to all designated ESHAs. ESHAs generally include but are not limited to the following:

a. Creek and riparian areas.

b. Wetlands, such as vernal pools.

c. Coastal dunes, lagoons or estuaries, and coastal bluffs/coastal bluff scrub.

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l. Other habitat areas for species of wildlife or plants designated as rare, threatened, or endangered under state or federal law.

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m. Any other habitat areas that are rare or especially valuable from a local, regional, or statewide perspective. (*Amended by Reso. 09-59, 11/17/09*)

**CE 1.3 Site-Specific Studies and Unmapped ESHAs. [GP/CP]** Any area not designated on the ESHA map in Figure 4-1 that meets the ESHA criteria for the resources specified in CE 1.1 shall be granted the same protections as if the area was shown on the map. Proposals for development on sites where ESHAs are shown on the map or where there is probable cause to believe that ESHAs may exist shall be required to provide the City with a site-specific biological study that includes the following information:

a. A base map that delineates topographic lines, parcel boundaries, and adjacent roads.

b. A vegetation map that identifies species that may be indicators of ESHAs.

c. A soils map that delineates hydric and nonhydric soils, if applicable.

d. A census of animal species that indicates the potential existence of ESHAs.

e. A detailed map that shows the conclusions regarding the boundary, precise location and extent, or current status of the ESHA based on substantial evidence provided in the biological studies.

**CE 1.4 Illegal Destruction of ESHAs. [GP/CP]** Any area mapped as an ESHA in Figure 4-1 shall not be deprived of the protections granted by this plan on the basis that the habitat has been illegally removed or degraded, or because the nature or role of a species that is rare or especially valuable has been eliminated.

**CE 1.5 Corrections to Map of ESHAs. [GP/CP]** If a site-specific biological study contains substantial evidence that an area previously shown as an ESHA on Figure 4-1 does not contain habitat that meets the definition of an ESHA for reasons other than that set forth in CE 1.4, the City biologist and the Planning Commission shall review all available information and determine if the area in question should no longer be considered an ESHA and therefore not be subject to the ESHA protection policies of this plan. If the final decision-making body determines that the area is not an ESHA, a map modification shall be included in the next General Plan/Coastal Land Use Plan amendment; however, Local Coastal Program policies and standards for protection of ESHAs shall not apply, and approval of development consistent with all other requirements of this plan may be considered prior to the map revision. *(Amended by Reso. 09-59, 11/17/09)*

**CE 1.6 Protection of ESHAs. [GP/CP]** ESHAs shall be protected against significant disruption of habitat values, and only uses or development dependent on and compatible with maintaining such resources shall be allowed within ESHAs or their buffers. The following shall apply:

- a. No development, except as otherwise allowed by this element, shall be allowed within ESHAs and/or ESHA buffers.
- b. A setback or buffer separating all permitted development from an adjacent ESHA shall be required and shall have a minimum width as set forth in subsequent policies of this element. The purpose of such setbacks shall be to prevent any degradation of the ecological functions provided by the habitat area.
- c. Public accessways and trails are considered resource-dependent uses and may be located within or adjacent to ESHAs. These uses shall be sited to avoid or minimize impacts on the resource to the maximum extent feasible. Measures— such as signage, placement of boardwalks, and limited fencing or other barriers—shall be implemented as necessary to protect ESHAs.
- d. The following uses and development may be allowed in ESHAs or ESHA buffers only where there are no feasible, less environmentally damaging alternatives and will be subject to requirements for mitigation measures to avoid or lessen impacts to the maximum extent feasible: 1) public road crossings, 2) utility lines, 3) resource restoration and enhancement projects, 4) nature education, 5) biological research, and 6) Public Works projects as identified in the Capital Improvement Plan, only where there are no feasible, less environmentally damaging alternatives.
- e. If the provisions herein would result in any legal parcel created prior to the date of this plan being made unusable in its entirety for any purpose allowed by the land use plan, exceptions to the foregoing may be made to allow a reasonable economic use of the parcel. Alternatively, the City may establish a program to allow transfer of development rights for such parcels to receiving parcels that have areas suitable for and are designated on the Land Use Plan map for the appropriate type of use and development. *(Amended by Reso. 09-59, 11/17/09)*

**CE 1.7 Mitigation of Impacts to ESHAs. [GP/CP]** New development shall be sited and designed to avoid impacts to ESHAs. If there is no feasible alternative that can eliminate all impacts, then the alternative that would result in the fewest or least significant impacts shall be

selected. Any impacts that cannot be avoided shall be fully mitigated, with priority given to onsite mitigation. Offsite mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on site. If impacts to onsite ESHAs occur in the Coastal Zone, any offsite mitigation area shall also be located within the Coastal Zone. All mitigation sites shall be monitored for a minimum period of 5 years following completion, with changes made as necessary based on annual monitoring reports. Where appropriate, mitigation sites shall be subject to deed restrictions. Mitigation sites shall be subject to the protections set forth in this plan for the habitat type unless the City has made a specific determination that the mitigation is unsuccessful and is to be discontinued.

**CE 1.8 ESHA Buffers. [GP/CP]** Development adjacent to an ESHA shall minimize impacts to habitat values or sensitive species to the maximum extent feasible. Native vegetation shall be provided in buffer areas to serve as transitional habitat. All buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect.

**CE 1.9 Standards Applicable to Development Projects. [GP/CP]** The following standards shall apply to consideration of developments within or adjacent to ESHAs:

- a. Site designs shall preserve wildlife corridors or habitat networks. Corridors shall be of sufficient width to protect habitat and dispersal zones for small mammals, amphibians, reptiles, and birds.
- b. Land divisions for parcels within or adjacent to an ESHA shall only be allowed if each new lot being created, except for open space lots, is capable of being developed without building in any ESHA or ESHA buffer and without any need for impacts to ESHAs related to fuel modification for fire safety purposes.
- c. Site plans and landscaping shall be designed to protect ESHAs. Landscaping, screening, or vegetated buffers shall retain, salvage, and/or reestablish vegetation that supports wildlife habitat whenever feasible. Development within or adjacent to wildlife habitat networks shall incorporate design techniques that protect, support, and enhance wildlife habitat values. Planting of nonnative, invasive species shall not be allowed in ESHAs and buffer areas adjacent to ESHAs.
- d. All new development shall be sited and designed so as to minimize grading, alteration of natural landforms and physical features, and vegetation clearance in order to reduce or avoid soil erosion, creek siltation, increased runoff, and reduced infiltration of stormwater and to prevent net increases in baseline flows for any receiving water body.
- e. Light and glare from new development shall be controlled and directed away from wildlife habitats. Exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESHAs.
- f. All new development should minimize potentially significant noise impacts on special-status species in adjacent ESHAs.
- g. All new development shall be sited and designed to minimize the need for fuel modification, or weed abatement, for fire safety in order to preserve native and/or nonnative

supporting habitats. Development shall use fire-resistant materials and incorporate alternative measures, such as firewalls and landscaping techniques, that will reduce or avoid fuel modification activities.

h. The timing of grading and construction activities shall be controlled to minimize potential disruption of wildlife during critical time periods such as nesting or breeding seasons.

i. Grading, earthmoving, and vegetation clearance adjacent to an ESHA shall be prohibited during the rainy season, generally from November 1 to March 31, except as follows: 1) where erosion control measures such as sediment basins, silt fencing, sandbagging, or installation of geofabrics have been incorporated into the project and approved in advance by the City; 2) where necessary to protect or enhance the ESHA itself; or 3) where necessary to remediate hazardous flooding or geologic conditions that endanger public health and safety.

j. In areas that are not adjacent to ESHAs, where grading may be allowed during the rainy season, erosion control measures such as sediment basins, silt fencing, sandbagging, and installation of geofabrics shall be implemented prior to and concurrent with all grading operations. (*Amended by Reso. 09-59, 11/17/*

**CE 1.10 Management of ESHAs. [GP/CP]** The following standards shall apply to the ongoing management of ESHAs:

a. The use of insecticides, herbicides, artificial fertilizers, or other toxic chemical substances that have the potential to degrade ESHAs shall be prohibited within and adjacent to such areas, except where necessary to protect or enhance the ESHA itself.

b. The use of insecticides, herbicides, or other toxic substances by City employees and contractors in construction and maintenance of City facilities and open space lands shall be minimized.

c. Mosquito abatement within or adjacent to ESHAs shall be limited to the implementation of the minimum measures necessary to protect human health and shall be undertaken in a manner that minimizes adverse impacts to the ESHAs.

d. Weed abatement and brush-clearing activities for fire safety purposes shall be the minimum that is necessary to accomplish the intended purpose. Techniques shall be limited to mowing and other low-impact methods such as hand crews for brushing, tarping, and hot water/foam for weed control. Disking shall be prohibited.

e. Where there are feasible alternatives, existing sewer lines and other utilities that are located within an ESHA shall be taken out of service, abandoned in place, and replaced by facilities located outside the ESHA to avoid degradation of the ESHA resources, which could be caused by pipeline rupture or leakage and by routine maintenance practices such as clearing of vegetation.

f. Removal of nonnative invasive plant species within ESHAs may be allowed and encouraged, unless the nonnatives contribute to habitat values.

g. The following flood management activities may be allowed in creek and creek protection areas: desilting, obstruction clearance, minor vegetation removal, and similar

flood management methods.

## **Policy CE 2: Protection of Creeks and Riparian Areas [GP/CP]**

***Objective:*** Enhance, maintain, and restore the biological integrity of creek courses and their associated wetlands and riparian habitats as important natural features of Goleta's landscape.

**CE 2.1 Designation of Protected Creeks. [GP/CP]** The provisions of this policy shall apply to creeks shown in Figure 4-1. These watercourses and their associated riparian areas are defined as ESHAs. They serve as habitat for fish and wildlife, provide wildlife movement corridors, provide for the flow of stormwater runoff and floodwaters, and furnish open space and passive recreational areas for city residents.

**CE 2.2 Streamside Protection Areas. [GP/CP]** A streamside protection area (SPA) is hereby established along both sides of the creeks identified in Figure 4-1. The purpose of the designation shall be to preserve the SPA in a natural state in order to protect the associated riparian habitats and ecosystems. The SPA shall include the creek channel, wetlands and/or riparian vegetation related to the creek hydrology, and an adjacent upland buffer area. The width of the SPA upland buffer shall be as follows:

- a. The SPA upland buffer shall be 100 feet outward on both sides of the creek, measured from the top of the bank or the outer limit of wetlands and/or riparian vegetation, whichever is greater. The City may consider increasing or decreasing the width of the SPA upland buffer on a case-by-case basis at the time of environmental review. The City may allow portions of a SPA upland buffer to be less than 100 feet wide, but not less than 25 feet wide, based on a site specific assessment if (1) there is no feasible alternative siting for development that will avoid the SPA upland buffer; and (2) the project's impacts will not have significant adverse effects on streamside vegetation or the biotic quality of the stream.
- b. If the provisions above would result in any legal parcel created prior to the date of this plan being made unusable in its entirety for any purpose allowed by the land-use plan, exceptions to the foregoing may be made to allow a reasonable economic use of the parcel, subject to approval of a conditional use permit. (*Amended by Reso. 09-30, 5/19/09 and Reso. 09-59, 11/17/09*)

**CE 2.3 Allowable Uses and Activities in Streamside Protection Areas. [GP/CP]** The following compatible land uses and activities may be allowed in SPAs, subject to all other policies of this plan, including those requiring avoidance or mitigation of impacts:

- a. Agricultural operations, provided they are compatible with preservation of riparian resources.
- b. Fencing and other access barriers along property boundaries and along SPA boundaries.

- c. Maintenance of existing roads, driveways, utilities, structures, and drainage improvements.
- d. Construction of public road crossings and utilities, provided that there is no feasible, less environmentally damaging alternative.
- e. Construction and maintenance of foot trails, bicycle paths, and similar low-impact facilities for public access.
- f. Resource restoration or enhancement projects.
- g. Nature education and research activities.
- h. Low-impact interpretive and public access signage.
- i. Other such Public Works projects as identified in the Capital Improvement Plan, only where there are no feasible, less environmentally damaging alternatives.  
(Amended by Reso. 09-59, 11/17/09)

**CE 2.4 Dedication of Easements or Other Property Interests. [GP/CP]** In new subdivisions of land, SPAs shall not be included in developable lots but shall be within a separate parcel or parcels, unless the subdivider demonstrates that it is not feasible to create a separate open space lot for the SPA. An easement or deed restriction limiting the uses allowed on the open space lot to those set forth in CE 2.3 shall be required. Dedication of the open space lot or easement area to the City or a nonprofit land trust is encouraged.

**CE 2.5 Maintenance of Creeks as Natural Drainage Systems. [GP/CP]** Creek banks, creek channels, and associated riparian areas shall be maintained or restored to their natural condition wherever such conditions or opportunities exist. Creeks carry a significant amount of Goleta's stormwater flows. The following standards shall apply:

- a. The capacity of natural drainage courses shall not be diminished by development or other activities.
- b. Drainage controls and improvements shall be accomplished with the minimum vegetation removal and disruption of the creek and riparian ecosystem that is necessary to accomplish the drainage objective.
- c. Measures to stabilize creek banks, improve flow capacity, and reduce flooding are allowed but shall not include installation of new concrete channels, culverts, or pipes except at street crossings, unless it is demonstrated that there is no feasible alternative for improving capacity.
- d. Drainage controls in new development shall be required to minimize erosion, sedimentation, and flood impacts to creeks. Onsite treatment of stormwater through retention basins, infiltration, vegetated swales, and other best management practices (BMPs) shall be required in order to protect water quality and the biological functions of creek ecosystems.
- e. Alteration of creeks for the purpose of road or driveway crossings shall be prohibited

except where the alteration is not substantial and there is no other feasible alternative to provide access to new development on an existing legal parcel. Creek crossings shall be accomplished by bridging and shall be designed to allow the passage of fish and wildlife. Bridge abutments or piers shall be located outside creek beds and banks, unless an environmentally superior alternative exists. (*Amended by Reso. 09-59, 11/17/09*)

**CE 2.6 Restoration of Degraded Creeks. [GP/CP]** Segments of several creeks in Goleta have been covered or channelized by concrete culverts, causing degradation of the creek ecosystem. Restoration activities for improving degraded creek resources shall include the following:

- a. Channelized creek segments and culverts shall be evaluated and removed to restore natural channel bed and bank, where feasible.
- b. Creek courses in public rights-of-way shall be uncovered as part of public works improvement projects.
- c. Barriers that prevent migration of fish such as anadromous salmonids from reaching their critical habitat shall be removed or modified.
- d. Restoration of native riparian vegetation and removal of exotic plant species shall be implemented, unless such plants provide critical habitat for monarch butterflies, raptors, or other protected animals.
- e. Creek rehabilitation projects shall be designed to maintain or improve flow capacity, trap sediments and other pollutants that decrease water quality, minimize channel erosion, prevent new sources of pollutants from entering the creek, and enhance in-creek and riparian habitat.
- f. The use of closed-pipe drainage systems for fish-bearing creeks shall be prohibited unless there is no feasible, less environmentally damaging alternative. When the use of culverts is necessary, the culverts shall be oversized and have gravel bottoms that maintain the channel's width and grade.

### **Policy CE 3: Protection of Wetlands [GP/CP]**

**Objective:** *To preserve, protect, and enhance the functions and values of Goleta's wetlands.*

**CE 3.1 Definition of Wetlands. [GP/CP]** *Wetlands* are defined as any area that meets the definition of a wetland as defined by the California Coastal Commission, California Department of Fish and Game, and U.S. Fish and Wildlife Service. The most protective of definitions shall be applied and used to determine the boundary of a wetland. The City of Goleta uses the identification of a single indicator (soil, hydrology, or plants) to determine the boundary of a wetland. (*Amended by Reso. 09-59, 11/17/09*)(*Note: Under this definition, Goleta creeks and their riparian zones qualify as wetlands.*)

**CE 3.2 Designation of Wetland ESHAs. [GP/CP]** Wetland ESHAs are included on Figure 4-1. In the Coastal Zone, wetlands are lands that may be covered periodically or

permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. Goleta's wetlands are associated with small lagoons at the mouths of Bell Canyon and Tecolote Creeks, vernal pools, and freshwater marshes and ponds or impoundments, such as Lake Los Carneros. All wetlands are defined as ESHAs. Any unmapped areas that meet the criteria identified in CE 3.1 are wetlands and shall be granted all of the protections for wetlands set forth in this plan.

**CE 3.3 Site-Specific Wetland Delineations. [GP/CP]** In considering development proposals where an initial site inventory or reconnaissance indicates the presence or potential for wetland species or indicators, the City shall require the submittal of a detailed biological study of the site, with the addition of a delineation of all wetland areas on the project site. Wetland delineations shall be based on the definitions contained in Section 13577(b) of Title 14 of the California Code of Regulations. A preponderance of hydric soils or a preponderance of wetland indicator species will be considered presumptive evidence of wetland conditions. At a minimum, the delineation report shall contain:

- a. A map at a scale of 1":200' or larger showing topographic contours.
- b. An aerial photo base map.
- c. A map at a scale of 1":200' or larger with polygons delineating all wetland areas, polygons delineating all areas of vegetation with a preponderance of wetland indicator species, and the locations of sampling points.
- d. A description of the survey methods and surface indicators used for delineating the wetland polygons.
- e. A statement of the qualifications of the person preparing the wetland delineation.

**CE 3.4 Protection of Wetlands in the Coastal Zone. [CP]** The biological productivity and the quality of wetlands shall be protected and, where feasible, restored in accordance with the federal and state regulations and policies that apply to wetlands within the Coastal Zone. Only uses permitted by the regulating agencies shall be allowed within wetlands. The filling, diking, or dredging of open coastal waters, wetlands, estuaries, and lakes is prohibited unless it can be demonstrated that:

- a. There is no feasible, environmentally less damaging alternative to wetland fill.
- b. The extent of the fill is the least amount necessary to allow development of the permitted use.
- c. Mitigation measures have been provided to minimize adverse environmental effects.
- d. The purposes of the fill are limited to: incidental public services, such as burying cables or pipes; restoration of wetlands; and nature study, education, or similar resource-dependent activities. A wetland buffer of a sufficient size to ensure the biological integrity

and preservation of the wetland shall be required. Generally the required buffer shall be 100 feet, but in no case shall wetland buffers be less than 50 feet. The buffer size should take into consideration the type and size of the development, the sensitivity of the wetland resources to detrimental edge effects of the development to the resources, natural features such as topography, the functions and values of the wetland, and the need for upland transitional habitat. A 100-foot minimum buffer area shall not be reduced when it serves the functions and values of slowing and absorbing flood waters for flood and erosion control, sediment filtration, water purification, and ground water recharge. The buffer area shall serve as transitional habitat with native vegetation and shall provide physical barriers to human intrusion. *(Amended by Reso. 09-59, 11/17/09)*

**CE 3.5 Protection of Wetlands Outside the Coastal Zone. [GP]** The biological productivity and the quality of inland wetlands shall be protected and, where feasible, restored. The filling of wetlands outside the Coastal Zone is prohibited unless it can be demonstrated that:

- a. The wetland area is small, isolated, not part of a larger hydrologic system, and generally lacks productive or functional habitat value.
- b. The extent of the fill is the least amount necessary to allow reasonable development of a use allowed by the Land Use Element.
- c. Mitigation measures will be provided to minimize adverse environmental effects, including restoration or enhancement of habitat values of wetlands at another location on the site or at another appropriate offsite location within the City.

A wetland buffer of a sufficient size to ensure the biological integrity and preservation of the wetland shall be required. A wetland buffer shall be no less than 50 feet. The buffer size should take into consideration the type and size of the development, the sensitivity of the wetland resources to detrimental edge effects of the development to the resources, natural features such as topography, the functions and values of the wetland and the need for upland transitional habitat. The buffer area shall serve as transitional habitat with native vegetation and shall provide physical barriers to human intrusion. *(Amended by Reso. 09-59, 11/17/09)*

**CE 3.6 Mitigation of Wetland Fill. [GP/CP]** Where any dike or fill development is permitted in wetlands in accordance with the Coastal Act and the policies of this plan, at a minimum mitigation measures shall include creation or substantial restoration of wetlands of a similar type. Adverse impacts shall be mitigated at a ratio of 3:1 unless the project proponent provides evidence that the creation or restoration of a lesser area of wetlands will fully mitigate the adverse impacts of the fill. However, in no event shall the mitigation ratio be less than 2:1. All mitigation measures are subject to the requirements of CE 1.7.

**CE 3.7 Lagoon Protection. [GP/CP]** The lagoons at the mouths of Bell Canyon and Tecolote Creeks shall be protected. Lagoon breaching or water level modification shall not be allowed.

## **Policy CE 8: Protection of Special-Status Species [GP/CP]**

**Objective:** *To preserve and protect habitats for threatened, endangered, or other special-status species of plants and animals in order to maintain biodiversity.*

**CE 8.1 ESHA Designation. [GP/CP]** Requisite habitats for individual occurrences of special-status plants and animals, including candidate species for listing under the state and federal endangered species acts, California species of special concern, California Native Plant Society List 1B plants, and other species protected under provisions of the California Fish and Game Code shall be preserved and protected, and their occurrences, including habitat requirements, shall be designated as ESHAs.

These habitats include, but are not limited to, the following:

- a) Special-status plant species such as Santa Barbara honeysuckle (*Lonicera subspicata* var. *subspicata*), southern tarplant (*Centromadia parryi* ssp. *australis*) and black-flowered figwort (*Scrophularia atrata*).
- b) Habitat capable of supporting special-status invertebrate species, such as the globose dune beetle (*Coelus globosus*), and roosting habitat for the monarch butterfly.
- c) Aquatic habitat capable of supporting special-status fish species such as the steelhead trout (*Oncorhynchus mykiss*) and tidewater goby (*Eucyclogobius newberryi*).
- d) Habitat capable of supporting special-status amphibians and reptiles such as the red-legged frog (*Rana aurora draytonii*) and western pond turtle (*Clemmys marmorata pallida*).
- e) Nesting and roosting areas for various species of raptors such as Cooper's hawks (*Accipiter cooperii*), red-tailed hawks (*Buteo jamaicensis*), white-tailed kites (*Elanus leucurus*), and turkey vultures (*Cathartes aura*).
- f) Nesting habitat for other special-status bird species such as western snowy plover, southwestern willow flycatcher (*Empidonax traillii extimus*), loggerhead shrike (*Lanius ludovicianus*), yellow warbler (*Dendroica petechia*), or tri-colored blackbird (*Agelaius tricolor*).
- g) Nesting and foraging habitat for special-status mammals such as pallid bat (*Antrozous pallidus*), western red bat (*Lasiurus blossevillii*), Yuma myotis (*Myotis yumanensis*), and American badger (*Taxidea taxus*).

**CE 8.2 Protection of Habitat Areas. [GP/CP]** All development shall be located, designed, constructed, and managed to avoid disturbance of adverse impacts to special-

status species and their habitats, including spawning, nesting, rearing, roosting, foraging, and other elements of the required habitats.

**CE 8.3 Site-Specific Biological Resources Study. [GP/CP]** Any areas not designated on Figure 4-1 that meet the ESHA criteria for the resources specified in CE 8.1 shall be accorded the same protections as if the area were shown on the figure. Proposals for development on sites where ESHAs are shown on the figure, or where there is probable cause to believe that an ESHA may exist, shall be required to provide the City with a site-specific biological study that includes the following information:

- a. A base map that delineates topographic lines, parcel boundaries, and adjacent roads.
- b. A vegetation map that 1) identifies trees or other sites that are existing or historical nests for the species of concern and 2) delineates other elements of the habitat such as roosting sites and foraging areas.
- c. A detailed map that shows the conclusions regarding the boundary, precise location and extent, or current status of the ESHA based on substantial evidence provided in the biological studies.
- d. A written report that summarizes the survey methods, data, observations, findings, and recommendations.

**CE 8.4 Buffer Areas for Raptor Species. [GP/CP]** Development shall be designed to provide a 100-foot buffer around active and historical nest sites for protected species of raptors when feasible. In existing developed areas, the width of the buffer may be reduced to correspond to the actual width of the buffer for adjacent development. If the biological study described in CE 8.3 determines that an active raptor nest site exists on the subject property, whenever feasible no vegetation clearing, grading, construction, or other development activity shall be allowed within a 300-foot radius of the nest site during the nesting and fledging season.

#### **Policy CE 10: Watershed Management and Water Quality [GP/CP]**

***Objective:*** *To prevent the degradation of the quality of groundwater basins and surface waters in and adjacent to Goleta.*

**CE 10.1 New Development and Water Quality. [GP/CP]** New development shall not result in the degradation of the water quality of groundwater basins or surface waters; surface waters include the ocean, lagoons, creeks, ponds, and wetlands. Urban runoff pollutants shall not be discharged or deposited such that they adversely affect these resources.

**CE 10.2 Siting and Design of New Development. [GP/CP]** New development shall be sited and designed to protect water quality and minimize impacts to coastal waters by

incorporating measures designed to ensure the following:

- a. Protection of areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota, and areas susceptible to erosion and sediment loss.
- b. Limiting increases in areas covered by impervious surfaces.
- c. Limiting the area where land disturbances occur, such as clearing of vegetation, cut-and-fill, and grading, to reduce erosion and sediment loss.
- d. Limiting disturbance of natural drainage features and vegetation.

**CE 10.3 Incorporation of Best Management Practices for Stormwater**

**Management. [GP/CP]** New development shall be designed to minimize impacts to water quality from increased runoff volumes and discharges of pollutants from nonpoint sources to the maximum extent feasible, consistent with the City's Storm Water Management Plan or a subsequent Storm Water Management Plan approved by the City and the Central Coast Regional Water Quality Control Board. Post construction structural BMPs shall be designed to treat, infiltrate, or filter stormwater runoff in accordance with applicable standards as required by law. Examples of BMPs include, but are not limited to, the following:

- a. Retention and detention basins.
- b. Vegetated swales.
- c. Infiltration galleries or injection wells.
- d. Use of permeable paving materials.
- e. Mechanical devices such as oil-water separators and filters.
- f. Revegetation of graded or disturbed areas.
- g. Other measures as identified in the City's adopted Storm Water Management Plan and other City-approved regulations. (*Amended by Reso. 08-06, 2/19/08 and Reso. 09-59, 11/17/09*)

**CE 10.4 New Facilities. [GP/CP]** New bridges, roads, culverts, and outfalls shall not cause or contribute to creek bank erosion or creek or wetland siltation and shall include BMPs to minimize impacts to water quality. BMPs shall include construction phase erosion control, polluted runoff control plans, and soil stabilization techniques. Where space is available, dispersal of sheet flow from roads into vegetated areas, or other onsite infiltration practices, shall be incorporated into the project design.

**CE 10.5 Beachfront and Blufftop Development. [GP/CP]** Development adjacent to the beach or blufftop shall incorporate BMPs designed to prevent or minimize polluted runoff to the beach and ocean waters.

**CE 10.6 Stormwater Management Requirements. [GP/CP]** The following requirements shall apply to specific types of development:

- a. Commercial and multiple-family development shall use BMPs to control polluted runoff from structures, parking, and loading areas.
- b. Restaurants shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, phosphates, and suspended solids to the storm drain system.
- c. Gasoline stations, car washes, and automobile repair facilities shall incorporate BMPs designed to minimize runoff of oil and grease, solvents, car battery acid, engine coolants, and gasoline to the stormwater system.
- d. Outdoor materials storage areas shall be designed to incorporate BMPs to prevent stormwater contamination from stored materials.
- e. Trash storage areas shall be designed using BMPs to prevent stormwater contamination by loose trash and debris.

**CE 10.7 Drainage and Stormwater Management Plans. [GP/CP]** New development shall protect the absorption, purifying, and retentive functions of natural systems that exist on the site. Drainage Plans shall be designed to complement and use existing drainage patterns and systems, where feasible, conveying drainage from the site in a nonerosive manner. Disturbed or degraded natural drainage systems shall be restored where feasible, except where there are geologic or public safety concerns. Proposals for new development shall include the following:

- a. A Construction-Phase Erosion Control and Stormwater Management Plan that specifies the BMPs that will be implemented to minimize erosion and sedimentation; provide adequate sanitary and waste disposal facilities; and prevent contamination of runoff by construction practices, materials, and chemicals.
- b. A Post-Development-Phase Drainage and Stormwater Management Plan that specifies the BMPs—including site design methods, source controls, and treatment controls—that will be implemented to minimize polluted runoff after construction. This plan shall include monitoring and maintenance plans for the BMP measures.

**CE 10.8 Maintenance of Stormwater Management Facilities. [GP/CP]** New development shall be required to provide ongoing maintenance of BMP measures where maintenance is necessary for their effective operation. The permittee and/or owner, including successors in interest, shall be responsible for all structural treatment controls and devices as follows:

- a. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior

to September 30<sup>th</sup> of each year.

- b. Additional inspections, repairs, and maintenance should be performed after storms as needed throughout the rainy season, with any major repairs completed prior to the beginning of the next rainy season.
- c. Public streets and parking lots shall be swept as needed and financially feasible to remove debris and contaminated residue.
- d. The homeowners association, or other private owner, shall be responsible for sweeping of private streets and parking lots.

**CE 10.9 Landscaping to Control Erosion. [GP/CP]** Any landscaping that is required to control erosion shall use native or drought-tolerant noninvasive plants to minimize the need for fertilizer, pesticides, herbicides, and excessive irrigation.

#### **4.5 IMPLEMENTATION ACTIONS [GP]**

**CE-IA-2 Update of the *CEQA Thresholds Manual*.** The City's *CEQA Thresholds Manual* will be revised to incorporate environmental standards consistent with the policies and standards set forth in the Conservation Element.

Time period: 2008

Responsible party: Planning and Environmental Services Department

**CE-IA-3 Preparation of a Creek and Watershed Management Plan.** A citywide Creek and Watershed Management Plan will be prepared to provide detailed standards of acceptable practices for protecting the ecological function, water quality, and drainage and flood control function of Goleta's creeks and watersheds. Participate in multijurisdictional watershed management plans, where appropriate.

Time period: 2008

Responsible party: Planning and Environmental Services Department;  
Community Services Department

### **CHAPTER 2.0 LAND USE ELEMENT (LU)**

#### **Policy LU 6: Park and Open Space Uses [GP/CP]**

Objective: To provide land areas for public parks, recreation, and open space land uses and private recreational lands within the city and recognize the importance of their contribution to the overall quality of life in Goleta.

LU 6.2 Open Space/Passive Recreation. [GP/CP]

This use category is intended to identify and reserve areas with significant environmental values or resources, wildlife habitats, significant views, and other open space values. It may be used to designate both private and public open space areas. The category includes areas reserved for natural drainage courses that may be managed as part of the City's stormwater management program. The following criteria and standards shall apply to lands within this designation:

- a. Open space lands are intended to maintain the land in a natural condition in order to protect and conserve sensitive habitats.
- b. Resource management activities, including, but not limited to, habitat restorations, are permitted.
- c. Minimal improvements to accommodate passive public use, such as trails, nature education, beach access, and public viewing areas, are permitted.
- d. Except for existing facilities, active recreational uses involving structures or improvements to the land shall not be permitted.
- e. Limited parking and public access improvements may be allowed provided that any adverse impacts on the associated resources are either avoided or mitigated.

## **CHAPTER 3.0 OPEN SPACE ELEMENT: OPEN SPACE, RECREATION, AND COASTAL ACCESS (OS)**

### **3.4 CITY POLICIES**

Policy OS 4: Trails and Bikeways [GP/CP] Objective: To designate, preserve, and expand a public trail system that will provide recreation opportunities for multiple types of users in diverse and attractive environmental settings and that will connect various parks and neighborhoods with the regional trail network and to Los Padres National Forest.

OS 4.5 Creekside Trails. [GP] Trails shall be sited to minimize damage to riparian areas while allowing some public access. To the extent feasible, trail corridors should be located outside riparian areas but provide occasional contact to streams to allow public access and enjoyment of the resources. Where feasible, public trail easements should be located within the boundaries of flood control easements. All trail construction should minimize removal of riparian vegetation and utilize natural features and/or lateral fencing to discourage public access to streamside areas not directly within the trail alignment. Any fences constructed along trail corridors should allow for wildlife movement. Where necessary to prevent disturbance of nesting birds, sections of trails may be closed on a seasonal basis. At such times, alternative trail segments should be provided, where feasible. In order to protect riparian resources, the number of creek crossings should be limited and maintenance should be conducted to minimize introduction and spread of invasive plants.

OS 5.4 Protection and Enhancement of Habitat Areas. [GP/CP] Within its boundaries, the Ellwood-Devereux Open Space Area encompasses a diverse array of sensitive aquatic and

upland habitats, as shown on Figure 3-3. These habitats include beach and shoreline areas, dunes, rocky intertidal areas, coastal bluffs, monarch butterfly aggregation sites and associated eucalyptus groves, vernal pools, riparian areas along Devereux Creek and its tributaries, coastal sage and scrub areas, native grasslands, and raptor nesting and roosting areas. All environmentally sensitive habitat areas shall be managed and protected consistent with the policies and standards described in the Conservation Element of this plan. In addition, the following criteria and standards shall apply to the Ellwood-Devereux Open Space Area:

- a. Habitat management on City owned lands shall be implemented within a broad ecosystem context in which habitat management priorities will consider the role of the targeted habitats and the interrelationships with other habitats in the open space area. In addition to protection of existing habitats, management actions may include interventions to enhance or restore degraded habitat conditions. All management activities shall use an adaptive approach that includes monitoring and adjustments to ensure that self-sustaining habitats will be created that are not reliant on long-term human intervention.
- b. Priority habitat management activities include ensuring the long-term vitality of the eucalyptus groves and stability in the monarch butterfly population; restoration of native grasslands; enhancement of vernal pools and riparian habitats; and protection of special status species, including various raptors and the western snowy plover. Some examples of habitat management action areas are shown on Figure 3-4.
- c. Habitat management activities shall be designed to accommodate public access and use in or adjacent to habitat areas, where practicable, in a manner consistent with protection of the resource.
- d. In all habitat enhancement or restoration projects, genetic stock for seeds and plants from the Devereux Creek watershed shall be used, unless such use has been determined to be infeasible.

OS 5.5 Use and Management of the Open Space Area. [GP/CP]The following management policies shall apply to lands owned by the City within the Ellwood-Devereux Open Space area:

- c. Prohibited uses include, but are not necessarily limited to, the following: fireworks; camping; plant or wildlife collecting unless approved by the City; amplified music; radio-controlled motorized equipment such as model airplanes and cars; organized competitive sporting events such as track and field and bicycle races; large-scale special events and public gatherings; model rockets; fires of any kind, including in pits or in camp stoves; and archery, BB guns, pellet guns, paint guns, and firearms of all types.
- g. Use of herbicides, insecticides, and similar toxic substances shall not be permitted unless other nonchemical methods of pest control have been attempted or determined to be infeasible.

Policy OS 7: Adoption of Open Space Plan Map [GP]

Objective: To designate, preserve, and protect significant open space resources including agricultural, ecological, recreational, and scenic lands in Goleta and surrounding areas for current and future generations.

OS 7.1 Definition. [GP] Pursuant to Section 65560 of the California Government Code, open space land is defined as any area of land, parcel, or portion of a parcel that is essentially free of structures and similar improvements and that is designated by this plan to remain in an open and undeveloped status for the following public purposes:

- a. To preserve natural resources, including but not limited to, areas required for the preservation of plant and animal life, streams, lagoons, coastal beaches, and lands needed for watershed protection.
- b. To preserve lands for the managed production of resources, including but not limited to, agricultural lands, lands with soils suitable for agricultural production, streams and marshes important to maintain fishery resources, and areas required for the recharge of groundwater basins.
- c. To preserve lands for outdoor recreation, including but not limited to, areas with outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and streams, including amenities/structures that support the public's use or enjoyment of beach areas and other such open space areas; and areas that serve as links between recreation lands, including utility easements and banks of streams.
- d. To protect health and safety, including but not limited to, lands that require special management or regulation because of hazardous or special conditions such as earthquake fault zones, flood plains, tsunami run-up areas, and others.

OS 7.2 Adoption of Open Space Plan Map. [GP] Figure 3-5 designates land areas in Goleta that are planned for preservation as public and private open space.

OS 7.3 Open Space for Preservation of Natural Resources. [GP] Goleta's natural resource lands include sandy beaches and dunes; rocky intertidal areas; coastal lagoons; coastal bluffs; eucalyptus groves and monarch butterfly aggregation sites; native grasslands; streams and associated riparian areas; wetlands, lakes, and ponds; and habitats for various protected plant and animal species. Figure 3-5 designates all ESHAs as protected open space. The following standards shall apply to these areas:

- a. The designated natural resource areas shall be managed by the City in accord with the policies described in the Conservation Element.
- b. The City may require dedication of open space easements as a condition of approval of development on sites that have open space resources as shown in Figure 3-5.
- c. The City encourages the donation of easements or fee-simple interests in open space lands to the City or other appropriate nonprofit entity, such as a land trust.

OS 7.6 Open Space for Protection of Public Health and Safety. [GP] Although lands that provide open space for public health and safety are not specifically designated on Figure 3-5, the following land areas that are subject to hazardous conditions shall be considered to be designated open space as if fully depicted on the map:

- a. Lands situated along streams identified on the latest edition of the Flood Insurance Rate Maps (FIRM) published by the Federal Emergency Management Agency (FEMA), or any successor agency, as falling within the area of inundation caused by a 100-year flood event.

**CHAPTER 5.0**  
**SAFETY ELEMENT: COASTAL AND OTHER HAZARDS (SE)**

5.3 COASTAL ACT POLICIES [CP]

30236 Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to (1) necessary water supply projects, (2) flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development, or (3) developments where the primary function is the improvement of fish and wildlife habitat.

30253 New development shall: (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard. (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

5.4 CITY POLICIES

Policy SE 6: Flood Hazards [GP/CP] Objective: To minimize damage to structures and the danger to life caused by stream flooding, dam failure inundation, and other flooding hazards.

SE 6.4 Avoidance of Flood Hazard Areas. [GP/CP] The City shall discourage any new intensive development in any flood hazard area. Similarly, the City shall require appropriate flood mitigation for intensification of existing development in any flood-prone area. The City shall not approve development within areas designated as the 100-year floodplain that would obstruct flood flow (such as construction in the designated floodway), displace floodwaters onto other property, or be subject to flood damage. The City shall not allow development that will create or worsen drainage problems.

SE 6.6 Enforcement of Watercourse Setback Ordinance. [GP/CP] A minimum 50-foot setback shall be required from streambanks and flood control channels for all new development (see related CE 2.2). For projects that would be rendered infeasible by the application of such minimum setbacks, the project applicant shall provide a site-specific engineering study with

recommended mitigation measures to allow for a reduced setback that would not expose development to unacceptable risk. Furthermore, in these cases, the City shall consult with the Santa Barbara County Flood Control District to determine whether the proposed lesser setback would be appropriate, in that it would allow access for flood control maintenance and enable proper operation of the channels. The City shall maintain and enforce the policies and standards within a Water Course Setback Ordinance.

SE 6.8 Flood Control Projects. [GP/CP] The City shall seek funding for and implement capital improvement projects to mitigate hazards for low-lying flood-prone areas. The City shall require restoration of natural processes in drainage ways where appropriate and feasible. For these flood control projects, methods that employ native plantings and natural-looking, “soft” stabilization shall be preferred over methods that rely solely on concrete channelization and other “hard” stabilization methods.

SE 6.9 Restoration of Armored or Channelized Stream Beds. [GP/CP] The City shall pursue opportunities to eliminate or soften existing concrete channels and/or rock- or concrete-stabilized banks from streams. (See CE 2.5.).

## **CHAPTER 6.0 VISUAL AND HISTORIC RESOURCES ELEMENT (VH)**

### **6.3 COASTAL ACT POLICIES [CP]**

The Coastal Act policy set forth below is adopted as a policy of this plan for those areas of Goleta within the California Coastal Zone. The number refers to the section of the California Public Resources Code. The plan maps show the location of the California Coastal Zone boundary.

30251 The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

### **6.4 CITY POLICIES**

Policy VH 1: Scenic Views [GP/CP]

Objective: To identify, protect, and enhance Goleta’s scenic resources and protect views or vistas of these resources from public and private areas. (Amended by Reso. 08-30, 6/17/08)

#### **VH 1.1**

Scenic Resources. [GP/CP]

An essential aspect of Goleta's character is derived from the various scenic resources within and around the city. Views of these resources from public and private areas contribute to the overall attractiveness of the city and the quality of life enjoyed by its residents, visitors, and workforce. The City shall support the protection and preservation of the following scenic resources:

d. Creeks and the vegetation associated with their riparian corridors.

Web site for Goleta Stormwater Management Program: <http://www.cityofgoleta.org/city-hall/public-works/storm-water-management>

Includes information on developing Stormwater Control Plans, best management practices, etc.

### **Examples of SPA ordinance language from other cities**

#### **Purpose:**

From El Cerrito Municipal Code Section 19.12.010 - Purpose.

The City Council finds that public health and safety require creek and watershed management and planning in order to control flood and erosion damages and to preserve natural watercourses as an important public asset that provides environmental, recreational and aesthetic value within the city.

Accordingly, the purposes of the -CP Creek Protection overlay district is to delineate creeks and major drainages and ensure that development or other activities in these sensitive areas achieves the following goals:

- A. Preserves, enhances and restores natural drainage ways as parts of the storm drainage system, minimizing any alterations or structures within the natural stream channel and streambed.
- B. Preserves riparian vegetation and protects wildlife habitat and wildlife corridors along natural drainage ways.
- C. Protect lands adjacent to riparian areas as public or private permanent open space through dedication or easements.
- D. Protects property owners and the public from erosion and flooding.
- E. Increases access to creeks for maintenance purposes and for potential public access to creek-side amenities.
- F. Ensures that projects are consistent with City Council adopted guidelines and resolutions for creek restoration and improvement, including designated creeks as natural corridors with habitat enhancement.
- G. Furthers the Joint Watershed Goals Statement of restoring creeks by removing culverts, underground pipes, and obstructions to fish and animal migration, and daylighting creeks where they can be enjoyed by people and wildlife.

## **Allowed activities and uses:**

### **Derived and modified from El Cerrito Municipal Code Sections 19.12.060 – 19.12.080:**

19.12.060: No new structures, additions to existing structures, and new impervious surfaces, including driveways and patios, shall be placed in the immediate vicinity of (a) an open creek or (b) a culverted creek designated at the passage of this ordinance or in the future by the City Council for future daylighting (as shown on the map of the -CP Creek Protection Overlay District), except as provided in this Section

**SPAs.** Except as provided above, all new structures, additions to existing structures, and new impervious surfaces, including driveways and patios, in the vicinity of (a) an open creek or (b) a culverted creek designated at the passage of this ordinance or in the future by the City Council for future daylighting (as shown on the map of the -CP Creek Protection Overlay District), shall be set back as follows:

A minimum of 100 feet from the top of a creek bank or the upland edge of riparian vegetation, whichever is greater, provided the bank or edge of riparian vegetation can be clearly determined, or a minimum of 100 feet from the top of a creek bank or the upland edge of riparian vegetation as determined by the City Engineer if the bank or edge of riparian vegetation cannot be clearly determined.

**II. A. Allowed Uses Within SPAs.** Permitted uses within the setback area are limited to the following: 1. Passive recreational, educational, and existing non-structural uses, including private open space and public open space with pedestrian or bicycle paths, in accordance with best management practices.  
2. Utility lines, pipelines, drainage and flood control facilities.  
3. Public bridges and public road approaches to bridges to cross a creek.

**Conditionally Permitted Uses Within SPA.** Parking associated with permitted uses on the property and private bridges and private road approaches to bridges to cross a creek may be permitted in the creek setback area, with the approval of a Conditional Use Permit, and so long as all of the following conditions are met:

1. Extreme Hardship. The creek setback requirement results in an extreme hardship to the property owner such that alternative locations for parking are physically infeasible or more environmentally damaging.
2. Pervious Surfaces. An NPDES permit has been obtained for any parking areas located within the setback, and the project complies with any conditions of the NPDES permit.

**Minor Unroofed Structures Within SPA.** Minor unroofed structures such as fences, walls, decks, or benches may be allowed within the creek setback subject to approval by the City Engineer and the Zoning Administrator and provided that all of the following findings are met:

1. The structure does not add any new impervious surface except for vertical structural elements such as posts or columns.

2. There is no grading required, and no alterations to drainage that will intensify or channelize water drainage into the creek.
  3. Construction of the structure will not remove or alter riparian vegetation.
  4. Best management practices are used to prevent erosion during construction.
  5. No structural elements are located closer than 15 feet from the top of the creek bank.
- Exceptions may be granted with a conditional use permit.

**Roofed Structures Within Setback.** Structures having a roof supported by columns or walls, including dwellings, garages, other accessory buildings and commercial buildings, are not permitted within the creek setback. Exceptions may be granted with a Conditional Use Permit, provided that all of the following findings are met:

1. Alternative locations outside the setback area or within the existing building footprint have been studied and found to be physically infeasible or more environmentally damaging.
2. Adverse environmental effects are mitigated to the maximum extent feasible and all feasible measures for creek protection are incorporated, including measures to protect riparian vegetation and prevent erosion, pursuant to the requirements of a creek protection and riparian habitat plan.
3. The exception is necessary to allow a principal permitted use of the property, and without an exception the size of the project would be limited to less than half of the lot coverage allowed under the Zoning Ordinance and/or the use and development of the property similar to that enjoyed by other similarly zoned properties in the vicinity would not be possible.

**Required Submittals for Roofed Structures.** An application for an exception to creek setback requirements for roofed structures shall include all of the following:

1. A creek assessment report that delineates the location of the creek centerline, the top of the creek bank and the creek setback area, includes a description of the needs and purposes of the proposed project, and includes a site plan of the proposed development that shows all pervious and impervious areas and percentages. The report shall describe the existing site conditions, the extent of riparian vegetation including trees, and other existing conditions that allow assessment of the impacts of the construction on the creek. The report shall be prepared by a licensed surveyor, civil engineer, or other licensed professional registered by the State of California, and approved by the Zoning Administrator.
2. Justification for seeking the adjustment, including why other alternative locations are infeasible, and how setback encroachment will be minimized to the greatest extent possible.
3. Soil reports, surveys, hydrology studies, or civil engineering drawings, as required by the Zoning Administrator, to determine whether the proposed project will have an adverse impact on the creek and to propose revisions or conditions of approval that mitigate the impact to the maximum extent feasible.
4. Any environmental review or reports required pursuant to the California Environmental Quality Act, including a description of any applicable exemptions.

5. A creek protection and riparian habitat plan that meets all of the following requirements shall be prepared by a landscape architect, hydrologist, biologist, environmental review professional, or other professional approved by the Zoning Administrator:
- a. Site development plan that minimizes impervious surfaces, vegetation loss and site disturbance to the maximum extent feasible;
  - b. The volume and velocity of storm water runoff to creeks or storm drains is not increased by the project. Storm water detention and treatment facilities are incorporated, such as: permeable products such as porous pavement, modular pavers and decks instead of asphalt or concrete; installation of vegetation and vegetated swales, bio-filtering, infiltrative landscaping, etc.; cistern or other detention/retention structure; infiltration trench; storm drain energy dissipaters; and runoff routed to landscaped areas;
  - c. Erosion control and slope stability measures are incorporated, such as native tree and vegetation planting; erosion control fabric such as jute netting; terracing or berms; and crib walls with slope stabilization native vegetation planting. Slope stabilization both along and within creek channels use bio-engineering techniques rather than concrete, metal, and grouted rock elements;
  - d. Best management practices will be employed to assure that construction activity will not adversely impact creek bank, riparian corridor, water flow, or water quality. Such practices shall address issues including, but not limited to: protection of trees and riparian vegetation to be retained, including physical barriers; location of debris and construction materials away from the creek; erosion control devices around construction areas; dust control; litter control; and prohibition of use of hazardous materials;
  - e. The plan provides for vegetation indigenous to the site or plant community to be restored, enhanced and monitored in areas affected by construction activities. Plans shall describe all restoration and enhancement vegetation proposed for all surfaces to be exposed during development activities, including any graded areas. Temporary vegetation, sufficient to stabilize the soil, may be required on all disturbed areas as needed to prevent soil erosion. Plants which minimize fire hazards shall be utilized adjacent to buildings and structures and new plantings shall be given sufficient water, fertilizer and protection to ensure re-establishment. Protection of tree crowns and root zones shall be required for all trees planned for retention.

Exceptions to Required Submittals. Exceptions to submittal requirements may be made by the Zoning Administrator for projects which will not result in disturbance to the land or where on-site conditions clearly demonstrate that the site is not occupied by a creek and/or riparian habitat vegetation. An applicant requesting a waiver of submittal requirements shall submit sufficient information to substantiate the waiver.

Conditions of Use Permit Approval for Roofed Structures Within Setback. Approval of any roofed structure within the creek setback area is subject to the following requirements:

1. All measures specified in the creek and riparian habitat protection plan and any environmental mitigation measures shall become conditions of approval for the project. In addition, all such measures shall be carried out prior to final clearance of the building permit or concurrently with the installation of site improvements in the case of a subdivision map.
2. All required permits from the California Department of Fish and Game, the U.S. Army Corps of Engineers, the California State Water Resources Control Board, or other applicable agency shall be obtained prior to, or concurrently with the approval of any city permits.
3. A construction management plan shall be submitted, reviewed, and approved with all building permit applications that demonstrates how creek and riparian habitat protection measures will be implemented throughout construction.

19.12.070 - Culverts, walls, and other structures within creeks:

A. Permit Required. Culverting and riprapping shall be prohibited unless there is strong evidence that there is no other reasonable means to prevent the erosion of adjacent supports, foundations, or property. A permit from the City Engineer and Zoning Administrator shall be required to construct or cause to be constructed, any wall, culvert, drain, bulkhead or other structure in any natural watercourse or creek in the city, or to place riprap or any debris in the channel or on the banks.

B. Required Submittals. The City Engineer and Zoning Administrator shall require the applicant to submit plans and specifications for such a wall, bulkhead, culvert, drain, structure or bank protection work that specifies the exact location and extent of the project. Any work that has been granted a permit shall be carried out under the supervision of the City Engineer, or his or her designated representative.

C. No Alternatives. A permit to construct any wall, culvert, drain, bulkhead or other structure pursuant to this Section shall not be granted if an alternative is available to solve the problem, including:

1. Excavating to restore a natural meander, stream geometry and channel roughness.
2. Clearing debris.
3. Flood proofing such as minor redesign of buildings, relocation of porches or other minor structures, sheds, garages, raising of such structures, or raising the grade of adjacent land.
4. Removing structures where feasible.
5. Stabilizing the bank using vegetation or a combination of revegetation construction (soil bio-engineering) that does not degrade the existing natural environment. This may include the use of vegetated and dirt filled bagions, vegetated wood cribwalls, live and dead brush matting, fascines, brush layering and cuttings, and other similar strategies based on employing plants as the long-term stabilizing materials.

6. Vegetation management that can include selective clearing that retains a riparian canopy and root structure to preserve riparian habitat, control unwanted undergrowth and stabilize banks.
7. Setback levee construction or flood wall construction on the flood plain.
8. Changes in site design, including but not limited to removal of impervious surface area.

D. Coordination with Other Permit Requirements. All required permits from the California Department of Fish and Game, the U.S. Army Corps of Engineers, the California State Water Resources Control Board, or other applicable agency shall be obtained, and all required environmental review pursuant to the California Environmental Quality Act shall be satisfied prior to, or concurrently with the approval of a permit by the City Engineer.

E. Appeals. Decisions by the Zoning Administrator and/or the City Engineer may be appealed to the Planning Commission, subject to the provisions of Appeals policies.

#### 19.12.080 - Grading or alterations to riparian vegetation.

No grading, alteration of the natural contours of the land, cutting or alteration, or removal of creek bank vegetation, within the creek or creek setback area shall be permitted except in any of the following instances:

A. Approved Structures. It is required for the construction of an approved structure and the building permit for such structure has been issued.

B. Public Health and Safety Projects. The City Engineer and Zoning Administrator determines such grading is for emergency purposes, or a maintenance or capital improvement project that is necessary to protect public health and safety and any required environmental review is completed. An administrative use permit will be required for cutting back and/or replacing existing vegetation for safety purposes.

C. Other Projects. For other projects, such as creek restoration and enhancement, with the approval of a Conditional Use Permit and if the project meets all of the following requirements:

1. Provides equal or better habitat and creek protection as compared to current conditions.
2. Does not impair the functional capacity of the habitat.
3. Does not cause significant creek bank erosion.
4. Does not have a detrimental effect on water quality or quantity.
5. Is in accordance with applicable permits required by the Department of Fish and Game and/or any other applicable local, State or Federal agency.

## **II. City of San Ramon Zoning Ordinances, Division D5, Resource Management (effective Nov. 30, 2015)**

## D5 - 4, Hillside, Creek, and Ridgeline Areas Development Standards

Under the City of Ramon's D 5-4 zoning ordinances, riparian corridors or associated vegetated areas of creeks, intermittent streams, perennial streams, or lakes are considered undevelopable land and building is prohibited on undevelopable land. Streets, driveways, non-residential accessory structures, park and recreation facilities and utilities may be constructed on undevelopable land, however. The zoning ordinances provide for creek setbacks and say that no habitable structures may be located within creek setback areas. Improvements to the setbacks shall be limited to open space and recreation amenities and access roads incidental to achieving effective circulation patterns.

### 7. Creek Setback Development Standards

Development within a creek setback shall meet the following development standards:

- a. Alteration of natural features. No grading or filling, planting of exotic/non-native or non-riparian plant species, or removal of native vegetation shall occur within a creek or creekside setback area, except where authorized for flood control purposes and by the proper permits issued by the California State Department of Fish and Game [now Wildlife], all other applicable State and Federal agencies having authority over the creek
- b. Design of drainage improvements. Where drainage improvements are required, they shall be placed in the least visible locations and in manners that achieve natural appearance through the use of river rock, earthtone concrete, and landscaping with native plant materials.
- c. Use of permeable surfaces. The proposed development should incorporate permeable surfaces (for example, wood decks, sand-joined bricks, and stone walkways) where feasible, to minimize off-site flows and facilitate the absorption of water into the ground.
- d. Creek bank stabilization. Development or land use changes that increase impervious surfaces or sedimentation may result in channel erosion. This may require measures to stabilize creek banks.
  - i. Creek rehabilitation is the preferred method of stabilization, with the objective of maintaining the natural character of the creek and riparian area. Rehabilitation may include enlarging the channel at points of obstruction, clearing obstructions at points of constriction, limiting uses in areas of excessive erosion, and restoring riparian vegetation
  - ii. Concrete channels and other mechanical stabilization measures shall not be allowed unless no other alternative exists.
  - iii. If bank stabilization requires other than rehabilitation or vegetative methods, hand-placed stone or rock rip-rap are the preferred methods
- e. Physical and visual access. The following physical and visual access standards shall apply unless a resource agency establishes a different standard for the project:
  - i. Public access and visibility to creeks should be provided through the use of single-lane width frontage roads adjacent to creeks, but outside of the creek setback. Structures or lots that back-up to creeks or creek frontage roads are discouraged.
  - ii. The provision of multipurpose creekside trails and public open space is encouraged. Open space areas should include planting for riparian enhancement with native

shrubs and trees, paths and trails, lighting, benches, play and exercise equipment, and trash receptacles outside of the riparian habitat area, where appropriate.

iii. Where streets are not used, frequent access to creekside trails and public open space should be provided at least every 300 feet, and may occur at the end of cul-de-sacs.

### **III. B. 5. City of Oakland Municipal Code, SECs 13.16.220 to 13.16.430, dealing with (Article III) Inspection and Enforcement of Creek Protection Permits**

#### Article III. - Inspection and Enforcement

##### 13.16.220 - Authority to inspect.

Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the authorized enforcement official has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this chapter, the enforcement official may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the enforcement official by this chapter; provided that (i) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (ii) if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of an inspection warrant by a duly authorized judicial officer. In the event the owner and/or occupant refuses entry after such request has been made, the enforcement official is empowered to request such inspection warrant from any court of competent jurisdiction to obtain such entry.

Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this chapter, including but not limited to dye testing to determine illicit connections, random sampling and/or sampling or metering in areas with evidence of storm water contamination, illicit discharges, increase in flow, discharge of non-storm water to the storm water system, or similar factors.

Notwithstanding the above, in exigent circumstances, where there is an imminent threat to the public's health or safety, the emergency procedures outlined in [Section 13.16.330](#), Emergency work by the city, shall be followed.

A. Authority to Sample and Establish Sampling Devices. The city shall have the right to establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the authorized enforcement official may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities onsite.

B. Notification of Spills. As soon as any person in charge of a facility or responsible for emergency response for a facility has knowledge of any confirmed or unconfirmed release of materials, pollutants or waste which may result in pollutants or non-storm-water discharges entering the city storm sewer system, such person shall take all necessary steps to ensure the discovery and containment and cleanup of such release and shall contact the appropriate state and local regulatory agencies which have jurisdiction. If hazardous materials are involved, the person in charge of a facility or responsible for emergency response for a facility shall contact immediately, as a minimum, the Oakland Fire Department and Alameda County Hazardous Materials Division and other state and local agencies.

In addition, any person with confirmed or unconfirmed knowledge of release of materials which may result in non-storm-water discharges entering the city storm system shall notify the city of the occurrence by telephoning the Environmental Services Manager and confirming the notification by written correspondence to the Environmental Services Manager within twenty-four (24) hours of said occurrence. During non-business hours, such person shall notify the city of the occurrence by contacting the Oakland Fire Department.

C. Requirement to Test or Monitor or Provide Reports. Any authorized enforcement official may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution or contamination, illicit discharges, increase in flow, and/or discharge of non-storm water to the storm water system, undertake, at that person's own cost and expense, such monitoring or testing activities and/or analyses and/or furnish such reports and/or documentation as the official may specify. Such reports and/or documentation may include but are not limited to: interpretation of the results of such monitoring activities or tests; description and/or design data or as-built plans for the facility's storm water conveyance system; and/or the facility's waste disposal documentation or records. The burden, including costs, of these activities, analyses and reports shall bear a reasonable relationship to the need for the monitoring, analyses and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analyses, reports and/or documentation requested. Failure to undertake and provide such monitoring, analyses, reports and/or documentation may result in the city undertaking such and assessing a lien against the property as described in Sections [13.16.300](#), [13.16.310](#), [13.16.320](#) and [13.16.340](#), in addition to other penalties described in this chapter.

13.16.230 - Violations constituting infractions. Any person violating or failing to comply with any of the provisions of this chapter may be guilty of an infraction. (Ord. 12024 § 1 (part), 1997)

13.16.240 - Penalty for violation. Any person convicted of an infraction under the provision of this chapter may be punished upon a first conviction by a fine of not more than one hundred dollars (\$100.00) and, for a second conviction within a period of one year, by a fine of not more than two hundred dollars (\$200.00) and, for a third or any subsequent conviction within a one-year period, by a fine of not more than five hundred dollars (\$500.00). Any violation beyond the third conviction within a one-year period may be charged by the City Attorney or the District Attorney as a misdemeanor and the penalty for conviction of the same may be punishable by a

fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the County Jail for a period of not more than six months or by both. (Ord. 12024 § 1 (part), 1997)

13.16.250 - Continuing violation. Unless otherwise provided, a person shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued or permitted by the person and shall be punishable accordingly as herein provided. (Ord. 12024 § 1 (part), 1997)

13.16.260 - Concealment. Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation of such provision. (Ord. 12024 § 1 (part), 1997)

13.16.270 - Acts potentially resulting in violation of federal Clean Water Act and/or Porter-Cologne Act. Any person who violates any provision of this chapter, any provision of any permit issued pursuant to this chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, may also be in violation of the federal Clean Water Act and/or Porter-Cologne Act and may be subject to the sanctions of those Acts including civil and criminal penalty. Any enforcement action authorized under this article may also include notice to the violator of such potential liability. (Ord. 12024 § 1 (part), 1997)

13.16.280 - Violations deemed a public nuisance. In addition to the penalties herein provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety and welfare, and is declared and deemed to be a dangerous condition and a nuisance, and may be summarily abated and/or restored by any authorized enforcement official pursuant to the provisions of [Section 13.16.290](#) et. seq. In addition to or in lieu of the abatement procedures authorized by the enforcement official, civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken by the city attorney.

If any violation of this chapter constitutes a seasonal and recurrent nuisance, the City Council shall so declare. Thereafter, such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.

(Ord. 12024 § 1 (part), 1997)

13.16.290 - Order to abate.

A. When an authorized enforcement official finds that a non-storm-water discharge or increase in flow has taken place or is likely to take place in violation of this chapter, and/or when an authorized enforcement official finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind in or upon any parcel of land or grounds, which may result in an increase in pollutants entering the city storm sewer system in violation of this chapter, the enforcement official may declare and deem the violation a nuisance and issue an order to abate such discharge, or practice, or operation, or condition likely to cause such

discharge or increase in flow, or result in an increase in pollutants entering the storm drain system and direct that those persons not complying shall:

1. Comply with the requirement;
  2. Comply with a time schedule for compliance; and/or
  3. Take appropriate remedial or preventive action to prevent the violation from recurring.
- B. Upon declaring and deeming a violation of this chapter a nuisance, an authorized enforcement official shall send a notice of abatement to the property owner and to the business owner/operator. The notice of abatement shall contain the following:
1. The street address and a legal description of the property sufficient for identification of the premises or property upon which the nuisance is located.
  2. A statement that the enforcement official has determined pursuant to this article that the property owner and the business owner/operator of the subject property are in violation of this chapter.
  3. A statement specifying the dangerous condition.
  4. A statement ordering the property owner and the business owner/operator to abate the dangerous condition, and specifying the manner in which the same shall be abated, and the period within which such abatement shall be accomplished. (In determining said period within which said property owner and said business owner/operator shall abate said dangerous condition, the enforcement official shall consider the nature of said condition and its effect on life, safety, and property together with the time reasonably required by said property owner and said business owner/operator to comply with said order.)

C. Service of said notice may be made by delivery to the property owner and to the business owner/operator or person in possession personally or by enclosing the same in a sealed envelope, addressed to the occupant at such premises, or to the property owner at his/her last known address as the same appears on the last equalized assessment rolls of the county, postage prepaid, registered or certified mail, return receipt requested, and depositing same in the United States mail. Service shall be deemed complete at the time of the deposit in the United States mail.

D. It is unlawful for the property owner and/or business owner/operator to fail or neglect to comply with such order or notice of abatement. In the event that the property owner and/or the business owner/operator shall not promptly proceed to abate said dangerous condition, as ordered by the enforcement official, the following abatement procedure may be undertaken. (Ord. 12024 § 1 (part), 1997)

13.16.300 - Notice of administrative hearing, administrative hearing and appeal.

A. Notice of Administrative Hearing. The enforcement official, upon failure of the property owner and/or the business owner/operator to promptly proceed to abate said dangerous condition as ordered and/or upon receipt of a written notice from the subject property owner and/or the business owner/operator stating that they wish to appeal the enforcement official's violation determination, may forthwith fix a time and place for an administrative hearing of the matter. In all such cases, the enforcement official shall serve, or cause to be served, notice of said hearing upon the person in possession of such premises, upon the property owner and the business owner/operator thereof, not less than seven days prior to the time fixed for such hearing. The

notice shall specify the hour, date and place of the hearing and the dangerous condition that is the subject of the hearing. Service of said notice may be made by delivery to the property owner and to the business owner/operator or person in possession personally or by enclosing the same in a sealed envelope, addressed to the occupant at such premises, or to the property owner at his last known address as the same appears on the last equalized assessment rolls of the county, postage prepaid, registered or certified mail, return receipt requested, and depositing same in the United States mail. Service shall be deemed complete at the time of the deposit in the United States mail.

B. Administrative Hearing. At the time and place set for the hearing, the Hearing Officer shall hear such evidence as may be presented by said property owner and/or said business owner/operator, person in possession or their representative. Such hearing may be continued from time to time by the Hearing Officer, provided that notice is given in the manner provided in Section 13.16.300A to said property owner and to said business owner/operator or person in possession. Service of said notice shall be deemed complete at the time of deposit in the United States mail. The findings of the Hearing Officer shall be rendered at the time of such hearing and thereupon shall be announced to such property owner and to such business owner/operator, person in possession or their representative, provided that such person(s) appears at the hearing. Failure to appear at the administrative hearing shall constitute, unless good cause is shown, a waiver of the right to appeal to the City Council.

C. Appeal. Within three days of the administrative hearing and the announced findings of the Hearing Officer, said property owner and/or said business owner/operator or person in possession may notify in writing the Hearing Officer that he or she wishes to appeal such findings to the City Council. Failure to give the required written notice within the three-day period or failure to appear at the administrative hearing shall constitute, unless good cause is shown, a waiver of the right to appeal to the City Council. Upon timely receipt of notice of an intent to appeal, the Hearing Officer shall give the appellant not less than seven days' prior written notice of the date, place and hour of the appeal to the City Council. Service shall be made in the manner described in Section 13.16.300A of this chapter and shall be deemed complete at the time of deposit in the United States mail.

(Ord. 12024 § 1 (part), 1997)

#### 13.16.310 - Abatement procedure.

A. Nonappearance and Untimely Appeals. In those cases where the property owner and/or the business owner/operator or person in possession either does not appear for the administrative hearing, or appears for the administrative hearing but does not give timely notice of an intent to appeal, and there is no good cause shown, the Hearing Officer may present his report and findings to the City Council for confirmation at the earliest available City Council meeting after the date set for the administrative hearing. Said reports and findings shall be placed on the City Council's agenda and shall be confirmed or overruled by the Council. If the reports and findings are confirmed, the City Council shall direct that the dangerous condition be abated.

Thereafter the Hearing Officer shall forthwith give or cause to be given written notice, in the manner provided in Section 13.16.300A, to the property owner and to the business owner/operator or person in possession of said premises to abate such condition forthwith.

Service of said notice shall be deemed complete at the time of deposit in the United States mail. If such abatement is not commenced within seven days thereafter and diligently prosecuted to completion, the Hearing Officer shall, at the property owner's and/or business owner's/operator's expense, cause the same to be abated.

B. Hearing of Appeal. Upon the date and at the place and hour fixed for the Hearing of Appeal and findings of the Hearing Officer, the Council of the city shall hear such evidence as may be presented by the property owner and/or the business owner/operator, person in possession or other representative. Such hearing may be continued from time to time by the City Council. Upon the completion of such hearing, the City Council shall either overrule the findings or shall direct that the dangerous condition be abated.

Upon direction of the City Council to abate, the Hearing Officer shall give written notice, in the manner provided in Section 13.16.300A, to the property owner and to the business owner/operator or person in possession of said premises to abate such condition forthwith. Service of said notice shall be deemed complete at the time of deposit in the United States mail. If such abatement is not commenced within seven days thereafter and diligently prosecuted to completion, the Hearing Officer shall at the property owner's and business owner's/operator's expense cause the same to be abated.

C. Abatement. The Council shall order to be paid by the property owner and the business owner/operator of said premises all sums which may be necessarily expended by the Hearing Officer and the authorized enforcement official in abating such condition, including but not limited to the abatement work cost, abatement contract administering costs, and abatement work supervising costs. In lieu of employing a contractor or other person to abate such condition, the Hearing Officer may call upon the Public Works Agency, Maintenance Services Division, or other departments of the city to abate such condition. Upon completion of the abatement work said abatement costs shall be secured by a special assessment lien recorded against the subject property in the office of the County Recorder, Alameda County. Said special assessment lien shall substantially comply with the form outlined in [Section 13.16.340](#). At the time that the city elects to perform the abatement work, the Hearing Officer may record a notice of prospective special assessment lien against the subject property. Such notice shall include a description of the proposed abatement work and an estimate of its costs. The notice shall indicate that the actual costs may exceed the city's estimate. (Ord. 12024 § 1 (part), 1997)

13.16.320 - Expense of abatement against property. If upon recordation of the special assessment lien the property owner and/or the business owner/operator fail to pay the abatement costs and any accrued interest, said costs and interest shall constitute a special assessment against that real property abated. The Hearing Officer shall prepare a report of assessment. Said report shall describe the work performed, the date(s) on which it was performed, the costs incurred by the city and any accrued interest. The Hearing Officer shall cause a copy of the report of assessment to be served upon the property owner and the business owner/operator of the subject property. Said report shall be accompanied by a notice of date, time and place of the confirmation hearing before the City Council. Said notice and report shall be served on the property owner and the

business owner/operator of the subject property not less than five days prior to the time fixed for confirmation of said assessment, service shall be made in the manner described in Section 13.16.300A, and service shall be deemed complete at the time of deposit in the United States mail.

A copy of the report of assessment shall be posted in the office of the City Clerk at least three days prior to the time when the report will be submitted to the City Council.

At the time set forth in the notice, the City Council shall hear the matter and either modify or confirm the report of assessment. The Council shall confirm said report as presented by the Hearing Officer, unless the Council, after a review of the evidence in the record, finds that either the work assessed was not performed or that there was an error made in calculating the amount owed. After the assessment is made and confirmed, in addition to being a personal obligation of the property owner and the business owner/operator, it shall be a special assessment on the subject property, until said sum, with interest at the maximum legal rate per annum, has been paid in full. Interest shall begin to accrue on the date of lien recordation.

After confirmation of said report, a certified copy of the resolution of confirmation shall be filed with the County Auditor, Alameda County, on or before August 10th. The description of the parcel reported shall be that used for the same parcel as the County Assessor's map books for the current year. The County Assessor shall enter each assessment on the county tax roll opposite the parcel of land. The amount of the assessment shall be collected, and shall be subject to the same penalties and the same procedure for foreclosure and sale in case of delinquencies as provided for ordinary municipal taxes. (Ord. 12024 § 1 (part), 1997)

13.16.330 - Emergency work by the city.

A. Emergency Abatement. Whenever, in the opinion of the authorized enforcement official, an imminent threat to the public's health or safety exists, the enforcement official is authorized to proceed with all necessary work to abate the condition. The official may take whatever reasonable steps are necessary to inspect or abate such imminent hazard without resort to notice, obtaining permission of entry or an inspection warrant. Such official shall, however, provide such pre-inspection or abatement notice and seek permission as appropriate in the circumstances and document the hazard and the reasons it needs to be immediately abated. A post-inspection or abatement hearing shall be held by the Hearing Officer as soon as practical thereafter.

B. Hearing. At the time and place set for the post-inspection or abatement hearing, the Hearing Officer shall hear such evidence as may be presented by said property owner and/or said business owner/operator, person in possession or their representative, including evidence that no emergency existed. Such hearing may be continued from time to time by the Hearing Officer; provided, that notice is given in the manner provided in Section 13.16.300A to said property owner and to said business owner/operator or person in possession. Service of said notice shall be deemed complete at the time of deposit in the United States mail. The findings of the Hearing Officer shall be rendered at the time of such hearing and thereupon shall be announced to such property owner and to such business owner/operator, person in possession or their representative, provided that such person(s) appears at the hearing. Failure to appear at the administrative

hearing shall constitute, unless good cause is shown, a waiver of the right to appeal to the City Council.

C. Confirmation Hearing. The Hearing Officer or his or her designee shall keep an itemized account of the costs of the abatement work. A report of the costs shall be submitted to the Council for confirmation. The property owner and the business owner/operator shall be given written notice of the confirmation hearing in the manner provided in Section 13.16.300A of this chapter. Service of said notice shall be deemed complete at the time of deposit in the United States mail.

Upon the date and at the place and hour fixed for the confirmation hearing, the Council of the city shall receive said report and hear such evidence as may be presented by the property owner and/or the business owner/operator, including evidence that no emergency existed. Such hearing may be continued from time to time by the City Council. Upon completion of such hearing, the City Council shall either overrule the Hearing Officer's report or shall confirm it; provided, that the City Council, if good cause exists, may adjust downward the cost of abatement. After the abatement cost is confirmed, it shall be secured by a special assessment lien recorded against said property in the office of the County Recorder, Alameda County, until said sum with interest at the maximum legal rate per annum has been paid. Said special assessment lien shall substantially comply with the form outlined in [Section 13.16.340](#). Interest shall begin to accrue on the date that the special assessment lien is recorded.

If upon recordation of the lien the property owner and/or the business owner/operator fail to pay the confirmed sum and any accrued interest, said sum and interest shall constitute a special assessment against the real property abated and the Hearing Officer shall follow the procedures outlined in [Section 13.16.320](#) to place such assessment on the county tax roll opposite said property. The amount of assessment shall be collected, and shall be subject to the same penalties and the same procedures for foreclosure and sale in case of delinquencies as provided for ordinary municipal taxes. (Ord. 12024 § 1 (part), 1997)

13.16.340 - Notice of special assessment lien. The special assessment lien mentioned in [Section 13.16.330](#) and [Section 13.16.310](#) shall substantially comply with the following form:

#### Notice of Special Assessment Lien

Pursuant to authority vested in me by Resolution No. \_\_\_\_\_ C.M.S., of the Council of the City of Oakland, passed on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, and the provisions of Chapter \_\_\_\_\_, of the Oakland Municipal Code, I did, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_, cause a dangerous condition located upon the hereinafter described real property to be abated at the expense of the property owners thereof, in the amount of \$ \_\_\_\_\_, and that said amount has not been paid nor any part thereof, and the City does hereby claim a special assessment lien upon the hereinafter described real property in said amount; the same shall be a special assessment lien upon the said real property until said sum with interest thereon at the legally allowable rate from the date of the recordation of this special assessment lien in the office of the County Recorder of the County of

Alameda, State of California, has been paid in full. The real property hereinabove mentioned and upon which a special assessment lien is claimed is that certain parcel of land lying and being in the City of Oakland, County of Alameda, State of California, and particularly described as follows, to wit:

(Insert Description of Property)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_

(Title of Hearing Officer)

City of Oakland

(Ord. 12024 § 1 (part), 1997)

13.16.350 - Civil actions. In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the city. In any such action, the city may seek, and the court shall grant, as appropriate, any or all of the following remedies:

A. A temporary and/or permanent injunction.

B. Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection, including but not limited to attorney compensation.

C. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.

D. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life. Assessments under this subsection shall be paid to the city to be used exclusively for costs associated with monitoring and establishing storm water discharge pollution control systems and/or implementing or enforcing the provisions of this chapter. (Ord. 12024 § 1 (part), 1997)

13.16.360 - Administrative enforcement powers. In addition to the other enforcement powers and remedies established by this chapter, any authorized enforcement official has the authority to utilize the following administrative remedies:

A. Cease and Desist Order. When an authorized enforcement official finds that a non-storm-water discharge has taken place or is likely to take place in violation of this chapter, the enforcement official may issue an order to cease and desist such non-storm-water discharge, or practice, or operation likely to cause such discharge, and direct that those persons not complying shall: (1) comply with the requirement; (2) comply with a time schedule for compliance; and/or (3) take appropriate remedial or preventive action to prevent the violation from recurring.

Any person failing to comply with said cease and desist order shall be guilty of an infraction and may be subject to the penalties outlined in [Section 13.16.240](#), Penalty for violation, and to all other enforcement procedures outlined in this chapter. In addition, failure to undertake the

activities described in said cease and desist order may result in the city undertaking an abatement action and assessing a lien against the property in accordance with the procedures outlined in Sections [13.16.290](#) through [13.16.340](#) of this chapter.

B. Notice to Clean. Whenever an authorized enforcement official finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds, which may result in an increase in pollutants entering the city storm sewer system or a non-storm-water discharge to the city storm sewer system, he or she may give notice to remove such oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or other material, in any manner that he or she may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice.

Any person failing to comply with said notice to clean shall be guilty of an infraction and may be subject to the penalties outlined in [Section 13.16.240](#), Penalty for violation, and to all other enforcement procedures outlined in this chapter. In addition, failure to undertake the activities described in said notice to clean may result in the city undertaking an abatement action and assessing a lien against the property in accordance with the procedures outlined in Sections [13.16.290](#) through [13.16.340](#) of this chapter.

C. Suspension of Permits. Failure of any person engaged in an activity, development or work, and/or owning or operating any facility which may cause violations of this chapter to cease such activities or comply with corrective measures upon receipt of notice from an authorized enforcement official, shall be cause for revocation or suspension of any permit issued by the city and/or its boards, commissions, departments, officers and the City Council.

When any person is found to be in violation of this chapter, the enforcement official may request the permit issuing authority to suspend or revoke any building permit, grading permit, encroachment permit, conditional use permit and any other permit issued by the city and/or its boards, commissions, departments, officers and the city council associated with the subject property until such time that applicant is found to be in compliance with the provisions of this chapter. The procedures that govern the suspension, revocation and appeal process of the individual permit shall be followed. (Ord. 12024 § 1 (part), 1997)

13.16.370 - Administrative civil penalties. When an authorized enforcement official finds that a violation of this chapter has taken place or is likely to take place, the enforcement official may assess civil penalties pursuant to the standards and procedures established in [Chapter 1.08](#) of this code and any amendments or revisions thereto. (Ord. 12024 § 1 (part), 1997)

13.16.380 - Administrative citations. When an authorized enforcement official finds that a violation of this chapter has taken place or is likely to take place, the enforcement official may

issue administrative citations pursuant to the standards and procedures established in [Chapter 1.12](#) of this code and any amendments or revisions thereto. (Ord. 12024 § 1 (part), 1997)

13.16.390 - Property use limitation. When an authorized enforcement official finds that a violation of this chapter has taken place or is likely to take place, the enforcement official may record a notice of violation limiting the use of the property pursuant to the standards and procedures established in [Chapter 1.16](#) of this code and any amendments or revisions thereto. (Ord. 12024 § 1 (part), 1997)

13.16.400 – Re-inspection fees. Whenever an authorized enforcement official determines that upon re-inspection of the premises there has been a failure to comply with any orders, notices or directions of the city, the enforcement official may charge a reinspection fee. (Ord. 12024 § 1 (part), 1997)

13.16.410 - Authority to issue citations. Authorized enforcement officials or employees may issue a citation and notice to appear in the manner prescribed by Chapter 5c of [Title 3](#), Part 2 of the Penal Code, including Section 853.6 (or as the same may hereafter be amended). It is the intent of the City Council that the immunities prescribed in Section 836.5 of the Penal Code be applicable to public officers or employees or employees acting in the course and scope of employment pursuant to this chapter. (Ord. 12024 § 1 (part), 1997)

13.16.420 - Remedies not exclusive. Remedies under this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive. The enforcement official shall have the discretion to select a particular remedy to further the purposes and intent of the chapter, depending on the particular circumstances. The enforcement official's decision to select a particular remedy is not subject to appeal. (Ord. 12024 § 1 (part), 1997)

13.16.430 - Joint and several liability. The property owner and the business owner/operator shall be jointly and severally liable for violations of this chapter. (Ord. 12024 § 1 (part), 1997)