

**VENTURA COUNTY
LOCAL COASTAL PROGRAM (LCP)
COASTAL ZONING ORDINANCE**

**Phase 2C Amendments:
ENVIRONMENTALLY SENSITIVE HABITAT AREAS (ESHA)**

Public Review Draft

April 30, 2018

Project Team:

Tricia Maier – Planning Manager

Abigail Convery – Staff Biologist

Rosemary Rowan – Senior Consulting Planner

Linda Blackburn – Senior Planner

DRAFT COASTAL ZONING ORDINANCE

Environmentally Sensitive Habitat Areas (ESHA)

[Staff Explanation: The Local Coastal Program (LCP) includes two documents: Coastal Area Plan (CAP) and Coastal Zoning Ordinance (CZO). This document contains draft revisions to the CZO for Environmentally Sensitive Habitat Areas (ESHA), which implement policies in the CAP through standards or permitting requirements. Revisions are proposed for the following sections:

Section 1: Article 2 – Definitions

Section 2: Article 3 – Purposes of Zones

Section 3: Article 4 – Permitted Uses

Section 4: Article 5 – Development Standards/Conditions – Uses

Section 5: Article 7 – Standards for Specific Zones

Section 6: Article 8 – General Development Standards/Conditions – Resource Protection

Section 7: Article 9 – Zoning Maps

Section 8: Article 11 – Entitlements – Process and Procedures

Section 9: Appendices

Most of the proposed revisions are located in Article 2 and Article 8, Section 8178-2 – Environmentally Sensitive Resource Areas (ESHA). Please note that sea level rise and climate change are not addressed in this set of LCP amendments. Those subjects are being addressed through the County’s General Plan Update (GP2040) and a separate project focused on sea level rise in the coastal zone, funded through a grant from the California Coastal Commission. If changes to ESHA regulations are warranted to address sea level rise, they will occur during a separate LCP amendment process.

Legislative Format:

All draft text is shown in “legislative format” as follows:

- Certified CAP text that will be retained is shown as plain black text (not underlined).*
- Text that is being proposed is shown as black underlined text.*
- Existing, certified text that is being deleted is shown as “~~strike through~~” across the word/sentence.]*
- Text in **black italics** is a defined term. Defined terms are in Article 2 – Definitions of the Coastal Zoning Ordinance.]*

Section 1

ARTICLE 2 – DEFINITIONS

Article 2, Section 81782-1 – Application of Definitions, of the Ventura County Ordinance Code, is hereby amended by the addition of the following definitions in their appropriate alphabetical order:

Abut – To touch physically, to border upon, or to share a common property line with. Lots that touch at corners only shall not be deemed abutting. Adjoining and contiguous shall mean the same as abutting. (AM.ORD.4451-12/11/12)

Acquisition Area – Biologically significant areas that are identified for permanent conservation protection within planning documents of a natural resource agency or conservation organization.

Adjacent – A building, lot or geographic area that is nearby or in proximity to another building, lot or geographic area. Does not mean touching or adjoining (see “abut”).

DRAFT COASTAL ZONING ORDINANCE

Agency – Any federal, state or local governmental *agency* created by statute or official action.

Alluvial Scrub – A distinctive and rare plant community found mainly on the alluvial fans and floodplains (a mass of sediment, especially silt, sand, and gravel deposited by water) emanating from the coastal side of the Transverse ranges and in certain portions of the Peninsular ranges.

Beach Grooming - The removal of driftwood, debris and seaweed from beaches, which may include leveling sand.

Beach Wrack - Organic material (e.g., kelp, seagrass, and wood) that is cast up onto the beach by surf, tides, or wind.

Best Management Practices (BMPs) - A practice, or combination of practices, that constitute an effective and practicable means of conducting *development* in a manner that prevents or reduces impacts on the environment.

Biodiversity - The variety of life and its processes. Biodiversity includes the variety of living organisms, the genetic differences among them, and describes the variability within species, between species, and between the *ecosystems* in which they occur. Implicit in the concept of biodiversity is the interrelationship among organisms and the *ecological functions* they collectively perform such as pollination, seed dispersal, and decomposition.

Biogeographic Regions – The grouping of similar plants and wildlife species and their spatial distribution on earth. Ventura’s Coastal Zone contains seven biogeographic regions (listed north to south): Rincon Mountain, Red Mountains, Lower Ventura River, Pierpont Bay, Santa Clara River, Oxnard Plain, and the Santa Monica Mountains (See mapped regions at right).



*Biogeographic Regions (Part)
(Credit: David Magney)*

Bird-Safe Glazing/ Window Treatments: Treatments that reduce the reflectivity of glass, windows or other similar surfaces to eliminate or significantly reduce bird mortality associated with birds striking the surface in flight.

Buffer Zone Area – An area that provides distance and serves as a protective barrier between two incompatible uses. A *buffer zone* that protects ESHA is a transitional habitat between human activity or *development* and an environmentally sensitive habitat area (ESHA) or a protected parkland/open space area acquired by *natural resource agencies* or *conservation organizations* for habitat protection. Such *buffer zones* are sized and designed to protect the sensitive habitat species, or protected parkland/open space area, from significant disruption or degradation. The area within 100 feet of the boundary of any environmentally sensitive habitat area (ESHA). (ADD.ORD. 4451-12/11/12)

Building Envelope—The area of a proposed parcel that contains all structures, including but not limited to: the primary residential structure, other accessory residential structures, barns, garages, swimming pools, and storage sheds. Specifically excluded are fences and walls. (AM.ORD4451-12/11/12).

[Staff explanation: This definition will be replaced by “building site” below.]

Building Site – The primary, developed area of a *legal lot* that contains all structures for a residential, commercial, or industrial use, including but not limited to the building pad, all primary structure(s) and accessory structures/uses (e.g., barns, garages, parking areas, deck/patio, swimming pool, storage sheds, animal enclosures). For industrial use, the *building site* includes oil/gas drilling operations (e.g., drilling pad, equipment storage areas, processing facilities, pumps or well sites, associated equipment). For agricultural use, the *building site* includes equipment storage areas, greenhouses, sales facilities, farmworker housing, row crops, and orchards. The *Building Site* is included in the *Development Envelope*. (Also, see definition for *Development Envelope*).

DRAFT COASTAL ZONING ORDINANCE

California Natural Diversity Database (CNDDDB) – The program and associated GIS database through which the California Department of Fish and Wildlife inventories the status and locations of rare and special status plants and animals in California.

Campground, Low-Impact – Camping sites that do not significantly alter the physical setting nor disturb the overall function of the surrounding ecosystem. Low-impact camping sites are used for carry-in, carry-out tent camping accessed by foot and have no access roads, no permanent structures, and few or no support facilities or services (e.g., picnic areas, trash removal, restrooms).

Chaparral – A vegetation type common to coastal areas of central and southern California that is dominated by drought-tolerant, woody shrubs with evergreen leaves adapted to the region’s Mediterranean climate.

Chokepoint – A narrow, impacted, or otherwise tenuous wildlife movement corridor or linkage (like the chokepoint of an hourglass). See photo to right, which depicts an example of a chokepoint (the bridge over the freeway is a narrow point in the habitat connectivity corridor).



Example of chokepoint

Coastal Bluff – An escarpment or steep face of rock, decomposed rock, or soil that is near or adjacent to the ocean and is caused by erosion, earthquake faults, or folding of the land mass and is 10 feet or more in height. The toe of a coastal bluff is now, or was historically (generally within the last 200 years), subject to marine erosion.

Coastal Mitigation Lot – An undeveloped lot containing intact ESHA that is established to provide off-site mitigation for development projects. Such lots are also established for the preservation of the lot in its natural, scenic, and open space condition. (See Sec. 8178-2.10 for specific requirements).

Coastal Sage Scrub (CSS) – A vegetation type found in discontinuous coastal areas of central and southern California dominated by semi-woody, low-statured, drought-tolerant, aromatic shrubs with drought-deciduous leaves adapted to the region’s Mediterranean climate.

Conservation Easement – A legally-binding instrument that retains the land predominantly in its natural, scenic, agricultural, forested, or open space condition or that preserves and protects native plants, animals and biotic communities. A conservation easement creates an interest in real property, is recorded in a deed and granted to a third party by, or on behalf of, the landowner and such easements are binding upon successive owners of such land. Conservation easements must be held by a natural resource agency, a County-approved conservation organization, or the County of Ventura.

Conservation Instrument – A legal mechanism used to ensure the protection of coastal resources from development in the form of a deed restriction or other similar mechanism executed by, or on behalf of, the owner of the land that is binding upon successive owners of the land. Such instruments shall contain a written description of the legal arrangements – including site ownership, management, and enforcement of any use restrictions – and be legally sufficient, enforceable, properly recorded in the chain of title, and able to ensure the protection of the coastal resource in perpetuity.

Conservation Organization – A natural resource agency or a private, non-profit organization, whose primary purpose is the preservation and protection of land in its natural, scenic, historical, recreational or open space condition. Qualifying private, non-profit organizations must be chartered under the U.S. Code, Title 26, Part 501(c)(3) and must operate as an international, national, or statewide organization or, if the organization operates as a local or community-based organization, then its membership must include at least 500 individuals and/or businesses. Qualifying private, non-profit organizations also must have owned or managed natural resource/open space property, at least 50 acres in area, for at least one year and must have the institutional and economic ability to conserve and maintain property.

DRAFT COASTAL ZONING ORDINANCE

[Staff explanation: This definition is based on the board-adopted definition for a conservation organization, which is contained in the County's Subdivision Ordinance. Minor revisions were made based on input from active conservation organizations.]

Core Habitat Areas – Extensive areas of habitat, usually containing more than one habitat type and supporting multiple wildlife species.

Critical Life Stage – A stage in the life cycle of a species where the species is vulnerable to disturbance. Disturbance to an individual animal/plant during its critical life stage can decrease its reproductive success or threaten its survival.

Cumulative Effect – A term used to describe the incremental environmental effects of an individual project in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

Development Envelope – The full extent of allowable development on a legal lot. In addition to structures or other development within a building site, the development envelope may include, but is not limited to, the access driveway or road, fire department turnarounds, fire/fuel modification zone(s), entry gate/fences, utility trenches and other site grading, septic systems, wells, and drainage improvements. (Also, see definition for Building Site.)

Dune, Habitat – A fragile habitat that contains accumulations of sand in ridges, hummocks, or mounds supported and stabilized by native and/or non-native species of vegetation located landward of the beach. Also, see Appendix E1, Sec. AE-1.2.3(b) for additional information on the definition of a dune habitat.

Ecological Integrity - The long-term capacity of an ecosystem to support and maintain its biological diversity, natural resources, and the full range of ecosystem function.

Ecosystem – An ecosystem is the combination of all living organisms (biotic) and the nonliving (abiotic) physical features of their environment (e.g., air, water and soil), which work or interact together as a system. An ecosystem is defined by the network of interactions among its organisms, and between those organisms and their environment. The biotic and abiotic components of an ecosystem are linked together through nutrient cycles and energy flows. While an ecosystem can be of any size, it usually comprises a specific geographic area.

Ecosystem Function – The interaction between the components (e.g., plants, animals, water, air, and soil) or processes (e.g., water cycle, nutrient cycle) of an ecosystem. Ecosystem function is measured through changes in the types, numbers, and distribution of plants and animals that occupy the ecosystem and by changes to the water quality/quantity and soil types within the ecosystem.

Ecosystem Services - Ecosystem functions provide environmental services to human communities and are grouped into four broad categories: (1) provisioning (e.g., production of food, water, raw materials, genetic resources, minerals); (2) regulating (e.g., carbon sequestration, pollination, pest and disease control, waste decomposition and detoxification, air and water purification); (3) supporting (e.g., soil formation, water cycling); and (4) cultural (e.g., recreational, scientific and educational benefits).

Environmentally Sensitive Habitat Area (ESHA) - 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 development. (For a definition of habitats classified as ESHA, see Sec. 8178- 2.4). including but not limited to: Areas of Special Biological Significance as identified by the State Water Resource Control Board; rare and endangered species habitats identified by the State Department of Fish and Game; all coastal wetlands and lagoons; all marine, wildlife, and education and research reserves; nearshore reefs; streams, corridors; lakes; tidepools; seacaves; islets and off shore rocks; kelp beds; significant coastal dunes; indigenous dune plant habitats; and wilderness and primitive areas. (AM.ORD.4451 12/11/12)

DRAFT COASTAL ZONING ORDINANCE

Estuary - A partially enclosed coastal body of brackish water, with one or more rivers or streams flowing into it, that is connected to the open sea. Estuaries form a transition zone between river and maritime environments. They are subject to riverine influences (e.g., influx of fresh water and sediment) and marine influences (e.g., tides, influx of saline water). The inflows of both sea water and fresh water provide high levels of nutrients, making estuaries among the most productive natural *habitats* in the world.

Feature-Related Hazards (Bird Mortality) - A structure or specific hazard known to create conditions that result in bird mortalities. Examples of feature-related hazards are glass greenhouses, glass balcony walls, and atriums or courtyards ringed in glass.

Financial Assurance - A cash-equivalent deposit posted with the County by a permittee to ensure that required mitigation measures (or other conditions of approval) will be implemented in the event the permittee fails to do so. Financial assurances can be cash deposits, certifications of deposit, escrow accounts, irrevocable letters of credit, or other mechanisms approved by the County.

Fire Frequency - The average interval between fires in an *ecosystem* or area of habitat. Plant species in naturally, fire-prone landscapes are evolutionarily adapted to a particular fire frequency, and their survival and reproduction may be adversely affected when fire frequency is altered by human actions.

Forb - An herbaceous flowering plant (not woody like a shrub or tree) that is not a grass.

Fuel Modification Overlap Zone - The area where an ESHA or ESHA *buffer zone* is removed to accommodate a *fuel modification zone* associated with permitted development.

Functional Connectivity - Describes the degree to which a physical setting (landscape) facilitates or impedes the movement of organisms. *Functional connectivity* is a product of both the features of the physical setting (e.g., vegetation, physical *development*) and the response of plants and animals to these physical features.

Groundwater - Water that occurs beneath the land surface and fills the pore spaces of the alluvium, soil, or rock formation in which it is situated. It excludes soil moisture, which refers to water held by capillary action in the upper unsaturated zones of soil or rock.

Habitat Connectivity Corridor - An area of contiguous natural habitats of sufficient width to facilitate the movement, migration, foraging, breeding, and dispersal of multiple animal or plant species between two or more *core habitat areas*. *Habitat connectivity corridors* facilitate important *ecological functions* such as seed and wildlife dispersal or pollination. *Riparian habitats, streams, canyons, and wooded ridgelines* function as *habitat connectivity corridors* and in some cases, areas of natural vegetation within developed areas may function as a movement corridor for certain species.

Habitat Fragmentation - The process by which habitat loss results in the division of large, continuous habitats into smaller, more isolated remnants.

Habitat Management Plan - A written document that establishes the steps necessary to acquire and permanently preserve and maintain an undeveloped lot or lots containing intact ESHA using legal instruments, such as a *conservation easement* or other legal means.

Habitat Value - An area's ability to support one or more species, including both the physical and biological features necessary for the life of a plant or animal - such as suitable temperature and moisture levels, food, water, shelter, protection from predators, and mates.

High-Value Habitat - A habitat that exhibits a high *ecological value* due to its physical and biological features. *Habitat value* is measured by species diversity and abundance, biological productivity, size, and *ecosystem services*. For example, *wet environments* are considered *high-value habitats* because of their overall biological productivity and *ecosystem services*.

DRAFT COASTAL ZONING ORDINANCE

Home Range – A biological term used to indicate the estimated area in which an animal lives and moves. Home range size is determined by the spatial distribution of the population and by the type/quality of resources required for that organism to survive.

Important Bird Area (IBA) – Sites that provide essential habitat for one of the following: (a) rare, threatened or endangered birds or at least 10 *special status species* birds; or (b) 1% or more of the global or 10% of the California population of one or more *special status species* birds (i.e., breeding or wintering or exceptionally large congregations of shorebirds, where 10,000 or more shorebirds were observed in one day); or (c) exceptionally large congregations of waterfowl (i.e., 5,000 or more waterfowl were observed in one day). The IBA program is administered through The American Bird Conservatory and the National Audubon Society.

In-lieu Fee – A payment to a *natural resource agency* (state, federal, or local) or a County-approved *conservation organization* to conduct *compensatory mitigation*. The in-lieu-fee is used to satisfy *compensatory mitigation* requirements for a Coastal Development Permit.

Integrated Pest Management (IPM) – The use of non-chemical methods (e.g., physical controls, such as preventing access; biological controls, such as use of natural predators; or mechanical controls, such as setting traps for pest prevention/management). IPM also uses least-toxic pesticides that are biodegradable for pest control, but only after other reasonable, non-chemical methods are found infeasible for pest management.

Intertidal Area – The transition zone between land and sea, which is defined as the area between the ocean's highest high tide and its lowest low tide.

Lagoon – A shallow body of salt water close to the ocean but separated from it by other shoreline features – such as a sand bar, rocks, or a narrow strip of land. Coastal lagoons are partly or entirely enclosed, and many show variations of salinity throughout the year. Also, lagoons can be a shallow pond or lake close to a larger lake or river but separated from it by a barrier, such as a levee.

Land Division – The division of improved or unimproved land including subdivisions (e.g., parcel or tract maps, parcel map waivers), *lot line adjustments*, and any other divisions of land, including but not limited to lot splits, re-divisions, mergers, reversions to acreage, and legalization of lots purported to be created by a method that was not in compliance with applicable laws.

Lot, Legal – A lot which met all local, Subdivision Map Act, and California Coastal Act of 1976 requirements when it was created, and which can be lawfully conveyed as a discrete unit separate from any continuous lot; or a lot which has been issued a coastal development permit and a certificate of compliance pursuant to the Subdivision Map Act and the Ventura County Subdivision Ordinance, and which can lawfully be conveyed as a discrete unit separate from any contiguous lot. A lot for which only a conditional certificate of compliance has been issued, pursuant to the Subdivision Map Act and County Subdivision Ordinance, is not defined as a legal lot under the LCP (see Sec. 8174-4.4; Sec. 8181-2, "Legal Lot Requirement").

[Staff Explanation: Currently, Sec. 8174-4.4 of the Coastal Zoning Ordinance states: "No permit or entitlement shall be issued for any use or construction on a lot that is not a legal lot. Sec. 8181-2, "Legal Lot Requirement," likewise states: "No permit shall be issued for construction on a lot that is not a legal lot." Note that "permit," as used in Sec. 8181-2, refers not only to discretionary permits, but also to ministerial zoning clearances. By amending the definition of legal lot as proposed, the LCP will prohibit the issuance of any permit or entitlement for a lot for which only a conditional certificate of compliance has been issued. Thus, to "legalize" a lot and make it eligible for permitting under the LCP, the property owner must obtain another subdivision approval, such as a parcel map, that must be processed and approved concurrently with a requested coastal development permit that must comply with all policies and provisions of the LCP.]

Lot Line Adjustment – A lot reconfiguration that includes the modification of one or more lines that form the boundary(ies) between two or more adjacent lots, where the number of lots remains the same or is fewer than existed prior to the *lot line adjustment*.

DRAFT COASTAL ZONING ORDINANCE

Low-Intensity Vegetation Removal Techniques - Techniques to remove vegetation (e.g., hand-pulling, targeted herbicide applications) that do not disturb the surrounding habitat or ecosystem when compared to alternative techniques, such as bulldozing.

Luminaire - A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply. Not included are the support components, such as an arm, tendon, or pole; the fasteners used to secure the luminaire; control or security devices; or power supply conductors. May also be called a lighting fixture.

[Staff Explanation: This definition is from the Illuminating Engineers Society (IES). While the term "lighting fixture" is a commonly used term, the term "luminaire" is the proper technical term used in existing standards, in the dictionary, and online.]

Mitigation Bank - A *mitigation bank* is a natural resource area that has been *restored, established, enhanced, or (in certain circumstances) preserved* for the purpose of providing off-site compensation for unavoidable impacts to a similar resource. A *mitigation bank* may be created when a government agency, corporation, nonprofit organization, or other entity undertakes these activities under a formal agreement with the California Department of Fish and Wildlife, US Fish and Wildlife, or US Army Corps of Engineers.

Mitigation, Enhancement - The manipulation of the physical, chemical or biological characteristics of an existing habitat to heighten, intensify, or improve a specific ecosystem function(s). Examples of *enhancement* activities include planting native vegetation or controlling non-native or invasive species. *Enhancement* results in improvements to specific ESHA functions, but it does not result in increased acreage of ESHA.

Mitigation, Establishment - The manipulation of the physical, chemical, or biological characteristics of a site to create *ecologically functional*¹ habitat where it did not previously exist. When used as compensatory mitigation, the *establishment* of new ESHA may result in an increase in ESHA acreage.

Mitigation, In-kind - The replacement of adversely impacted habitat with similar habitat of equal or higher quality containing the same plant and animal species/communities and providing similar ecological functions as the impacted habitat.

Mitigation, Preservation - The protection of existing ESHA in perpetuity using legal instruments such as a *conservation easement*.

Mitigation, Restoration - The manipulation of the physical, chemical, and biological characteristics of a site to bring back the site's original natural or historic habitat, species, and *ecological functions*. May include the *re-establishment* of habitat at sites where *ecological function* was wholly or partially lost or degraded.

Monarch Butterfly Aggregation/Overwintering Sites or Roosts - Groves of native or non-native trees, and associated understory plants, occupied by groups of monarch butterflies typically during the October through March overwintering period. Roosts are typically (but not always) occupied every year, although the number of butterflies may fluctuate from year to year.

Natural Resource Agency - Any federal, state or local governmental agency created by statute or official action to protect natural resources. Such agencies include, but are not limited to, the U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE), the California Department of Fish and Wildlife (CDFW), State Parks, Regional Water Quality Control Board, and the Ventura County Watershed Protection District.

¹ The term "ecologically functional" refers to a habitat that contains the physical and biological conditions necessary for the sustainability of species within the habitat. See Appendix E1, Sec. A.2.2(e) for additional information.

DRAFT COASTAL ZONING ORDINANCE

Noise Sensitive Receptors – Within ESHA, this includes wildlife species sensitive to noise disruption (bird, mammal, insect, etc.) or locations that contain or support species that elicit a negative biological response to specific types or levels of noise.

Outdoor Festivals – Events such as amusement rides, animal and art shows, concerts, craft fairs, and itinerant shows and religious revival meetings.

Qualified Storm Water Designer - A licensed civil engineer, Qualified Stormwater Pollution Prevention Plan (SWPPP) Practitioner (QSP), Qualified SWPPP Developer (QSD), or Certified Erosion and Sediment Control Specialist (CPESC).

Reasonable Economic Use: A level of economic use or development of real property, that would not otherwise constitute a nuisance or be prohibited pursuant to other background principles of property law (e.g., public trust doctrine), sufficient to avoid a legal claim that government regulations have resulted in an unconstitutional taking of private property without just compensation under applicable law.

Resource-Dependent Uses – A use that is reliant on the resource (i.e., ESHA) to function. Resource-dependent uses include nature observation, research/education, and passive recreation, including low-impact camping and hiking.

Ridgeline - A ridge or mountain ridge is a geological feature consisting of a chain of mountains or hills that form a continuous elevated crest for some distance. A ridgeline is the line along the crest of this geological feature, which is formed by the highest points, with the terrain dropping down on either side of the ridgeline.

Riparian Habitat – The zone or strip of vegetation adjacent to a wet environment (e.g., creeks, streams, rivers) which, is dependent on the existence of perennial, intermittent, or ephemeral surface or subsurface water.

Rocky Outcrop Habitat: An outcropping of rock that provides habitat to many specialized and endemic species that are adapted to persist on generally dry, nutrient poor soils or that require rocky formations for different critical life stages. Also, a visible exposure of bedrock or ancient superficial deposits on the surface of the earth that forms a natural topographic feature of scenic or historic value.

Roosting Sites - Sites used by birds or other winged animals for nesting, breeding, resting, or sleeping.

Season, Breeding/Nesting (Bird) – Times during the calendar year when bird species nest and breed. While the breeding/nesting season varies for different species of birds, January through Mid-September of each calendar year is generally considered the breeding/nesting season for birds.

Season, Non-Breeding/Non-Nesting (Bird) – Times during the calendar year when bird species are not nesting or breeding. While this period varies for different species of birds, Mid-September through December of each calendar year is generally considered the non-breeding/nesting season for birds.

Second Generation Rodenticides – Products used to poison certain types of rodents (e.g. rats, mice) containing the active ingredients brodifacoum, bromadiolone, difethialone, and difenacoum.

Service Infrastructure - Roads, electrical cable lines, water wells or pipes, sewer pumps and leach fields, and other development that provides essential services to a dwelling, business, or government facility.

Shorebird Colony - A large congregation of shorebirds of one or more species that nest or roost in proximity at a particular location.

Shoreline Protective Device - A seawalls, revetments, breakwaters, bluff retaining wall, or other permanent or semi-permanent structure intended to reduce or prevent coastal erosion due to wave action and other natural forces construction that alter shoreline processes.

DRAFT COASTAL ZONING ORDINANCE

Sky glow - The brightness of the night sky caused by artificial lights used for development, which is most often noticed as a glowing dome over cities.



Example of sky glow

Sound Measurements, dB and dBA - Measured in decibels, these units on the logarithmic scale are based on the ratio between the actual measured sound pressure and the reference sound pressure. The dBA measurement for sound is adjusted to represent the way the human hearing system responds to sound/noise.

Sound Measurements, Leq(h) and L(max) - Measurements for sounds that vary over time. Leq(h) is the energy equivalent level of sound within a given time period. Lmax is the maximum sound level measured within a given time period.

Special Status Species - A term used in the scientific community for species that are considered sufficiently rare that they require special consideration and/or protection. Groups categorized as special status species are recognized by federal, state and local natural resource agencies as threatened, endangered, rare, candidate species/species of special concern, California fully protected species, or are species listed as of "greatest conservation concern" due to the decline of the species. See Sec. 8178-2.4 for specific ranks and groups classified as special status species.

Stepping Stones- Isolated patches of suitable habitat used by a species, often only for temporary occupancy, to facilitate movement through the larger landscape.

Stopover/Staging Sites - A stopover area is a site used by birds to rest and feed during migration, while a staging area is a site that contains abundant, predictable food resources that attract large numbers of birds.

Stream - A topographic feature that conveys water over the land perennially, intermittently, or ephemerally through a bed or channel with banks. This term also applies to watercourses having a surface or subsurface flow that support or have supported riparian or alluvial vegetation. Also, referred to as "creek". A perennial or intermittent watercourse mapped by the U.S. Geological Survey or identified in the LCP. (AM-ORD. 4451-12/11/12).

Third-Party Provider - A natural resource agency, County-approved conservation organization or specialized business that is contracted by the permittee to implement compensatory mitigation.

Tidepools - Rocky pools of water on the shoreline that are subject to the ebb and flow of ocean tides and which may exist as isolated pools at low tide or when the ocean recedes.

Unbroken, Glass/Glazed - The glass surface of a fence or building that is not visually (or physically) broken up by mullions or solid building materials.

Watercourse/Drainage, Ephemeral - A natural watercourse, or portion thereof, which only flows after a rainfall and whose channel is always above the groundwater reservoir. An ephemeral watercourse/drainage is referred to as a stream.

Watercourse/Drainage, Intermittent - A well-defined channel that only flows continuously at certain times of the year. An intermittent watercourse may flow when it receives water from a spring or a ground-water source. A seasonal, intermittent watercourse may flow when water is received from melting snow or winter rains. At low flow, the watercourse may have dry segments that alternate with flowing segments. An intermittent or seasonally intermittent watercourse may also be a stream.

Wet Environment - Terrestrial environments that are associated with the presence of water, either perennially or ephemerally. Wet environments include wetlands, rivers, lakes, streams, estuaries, lagoons, seeps, springs, and the vegetative communities associated with these physical settings. Does not include beaches that abut the sea, except where the beach includes an estuary, lagoon or wetland.

DRAFT COASTAL ZONING ORDINANCE

Wetland – Land which may be covered periodically or permanently with shallow water and include, but are not limited to, saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, vernal pools, and fens.

Wildlife-Permeable Fence – Fencing that allows native wildlife (e.g. deer, coyotes, bobcats, mountain lions, ground rodents, amphibians, reptiles and birds) to freely pass through.

Wildlife-Safe Crossings – Structural passages that allow wildlife to move through areas where movement is impeded by a barrier (e.g., roadways, cliffs, water diversion facilities). These crossings, typically located above or below the barrier, are designed to facilitate safe wildlife movement using techniques such as fencing that funnels animals to a safe crossing, tunnels or bridges, and associated habitat creation or restoration within or adjacent to the crossing.

Section 2

ARTICLE 4 – PERMITTED USES

Article 4, Section 8174-4 – Environmentally Sensitive Habitat Areas (ESHA), of the Ventura County Coastal Zoning Ordinance Code, is hereby amended to read as follows:

8174-4 – Environmentally Sensitive Habitat Areas (ESHA)

[Staff explanation: The existing text in Sec. 8174-4 and 8174-5 related to ESHA will be consolidated into one section, shown below. Also, the existing text in Sec. 8174-4 for allowable uses in ESHA will be moved to Sec. 8178-2.5 – Allowable Uses in ESHA or Buffer Zones, and a reference to that section is provided below.]

Except as allowed by Sec. 8174-6 – Statutory Exemptions and Categorical Exclusions, a coastal development permit is required for new development within an environmentally sensitive habitat area (ESHA) or buffer zone. Sec. 8174-6 also provides permitting requirements for the repair, maintenance or replacement of existing development in ESHA or buffer zone. However, If a property lot is determined to be all or in part within an environmentally sensitive habitat area (ESHA) or buffer zone area, only limited uses are permitted, in accordance with Sec. 8178-2.5 – Allowable Uses in ESHA or Buffer Zone.

Additionally, ~~properties~~ lots located within the Santa Monica Mountains Overlay Zone (denoted by /M after the base zoning) are subject to specific *development* standards (see Sec. 8177-4). Lots that contain ESHA or buffer zone, or new developments that could adversely impact ESHA, are subject to specific development standards (see Sec. 8178-2).

~~Within an ESHA, as defined in Article 2, or a buffer area, only the following uses, subject to all applicable standards and policies, are permitted:~~

- ~~a. Nature study;~~
- ~~b. Developments where the primary function is habitat *enhancement or restoration*;~~
- ~~c. *Shoreline protective devices*;~~
- ~~d. Passive recreational uses not involving structures;~~
- ~~e. Uses dependent on *habitat values* such as aquaculture and scientific research;~~
- ~~f. Public Works facilities in accordance with the Article and Section 8175-5.9, and all other applicable provisions of the Chapter and the LCP Land Use Plan.~~

~~Exceptions:~~

~~Within the buffer area, no new principal structures will be permitted unless prohibition of the structure from the buffer will preclude the utilization of the larger parcel for its designated use. When it is necessary to allow structures within the buffer, they shall be located as far from the habitat resource as possible and~~

DRAFT COASTAL ZONING ORDINANCE

mitigations shall be required to eliminate or reduce their impacts on an insignificant level. If a principal structure exists as of the adoption of this Plan, it may be rebuilt within the buffer zone if it is destroyed by fire or a natural disaster. If it is an otherwise nonconforming use, it shall not be rebuilt within the buffer.

[Staff explanation: The deleted text above was moved to Sec. 8178-2.5 – Allowable Uses in ESHA or Buffer Zone.]

Article 4, Section 8174-5 – Permitted Uses by Zone, of the Ventura County Coastal Zoning Ordinance Code, is hereby amended to read as follows:

Sec. 8174-5 – Permitted Uses by Zone

The following zoning matrix (Table 8174-5) establishes the type of permit required for land uses permitted in each zoning district as well as the decision-making authority for each type of permit. Also, see Sec. 8174-4 for permitting requirements in an ESHA or buffer zone and Sec. 8178-2.5 for allowable uses in an ESHA or buffer zone. However, if a property is determined to be all or in part within an environmentally sensitive habitat area (ESHA) or buffer area, only limited uses are permitted. (See Sec. 8174-4 for uses permitted in an ESHA, and Sec. 8178-2 for specific standards applicable to an ESHA.)

Additionally, properties located within the Santa Monica Mountains Overlay Zone (denoted by /M after the base zoning) are subject to specific development standards (see Sec. 8177-4).

[Staff explanation: The deleted text above was moved to Sec. 8174-4, and a reference was added to that section.]

LAND USE CATEGORY	PERMIT REQUIREMENTS BY ZONE											
	COS	CA	CR	CRE	CR1	CR2	RB	RBH	CRPD	CC	CM	HPD
SUBDIVISIONS LAND DIVISIONS:	See Sec. 8178-2.9 for land divisions in ESHA or buffer zone.											
Parcel Map Waivers	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD
• Lot Line Adjustments	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD
• If exempt per Sec. 8174-6.3.6	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC
Tentative Tract Maps (TM)	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Tentative Parcel Maps (TPM)	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD
All other Land Divisions	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	PD	

[Staff explanation: The proposed changes to the use matrix would add a line to clarify that, within the coastal zone, all types of land divisions require a discretionary permit unless exempted by the County’s Categorical Exclusion Order (Sec. 8174-6.3.6). See definition for “land division” in Article 2. Also, a reference was added to Sec. 8178-2.9, which contains specific regulations for land divisions in ESHA or buffer zones. These legal clarifications are recommended by County Counsel. Due to the modified title, this information will be relocated alphabetically within the use matrix. See separate handout for information on the proposed deletion of the HPD zone.]

DRAFT COASTAL ZONING ORDINANCE

Section 3

ARTICLE 5: DEVELOPMENT STANDARDS/CONDITIONS - USES

Article 5, Section 8175-3 – General Requirements, of the Ventura County Coastal Zoning Ordinance Code, is hereby amended to read as follows:

Sec. 8175-3 - General Requirements

Sec. 8175-3.11 - Fences, Walls, and Hedges

The following standards apply to fences, walls and hedges within the coastal zone. Also, see Sec. 8178-2.6.14 for standards that apply to fences and walls in an ESHA, buffer zone, and the Santa Monica Mountains (M) overlay zone which, in the event of a conflict, shall take precedence over standards in this Section.

- a. No fences, walls or hedges over three feet high may be placed in the required setback area adjacent to a street. A maximum six-foot-high wall, fence or hedge may be located anywhere on the lot except in the *clear sight triangle* or required setback area adjacent to a street. On vacant land in the CC or CM zones, fences, walls and hedges are subject to this six-foot height limit, to any specific setback requirements of Sec. 8175-2, and to the clear sight triangle regulations of Sec. 8175-3.11a above. On through lots, the setback regulations given for structures in ~~Section~~ Sec. 8175-4.1(d) shall apply to fences over three feet in height.
- b. A maximum eight-foot-high, see-through fence may be located on any lot zoned COS or CA that contains an agricultural operation, or in a subdivision that *abuts* an agricultural operation in a COS or CA zone, provided that such fence is located at or near the boundary line separating such properties.
- c. A maximum twelve-foot-high see-through fence may be located around a tennis court anywhere on a lot, except in a required setback area adjacent to a street or within any public view to or along the coast.
- d. When there is a difference in the ground level between two *abutting* lots, the height of any wall or fence constructed along any property line may be determined by using the lot level line of the higher lot, as measured within five feet of the lot line separating such lots.
- e. The provisions of this Section shall not apply to a fence or wall necessary as required by any law or regulation of the United States or State of California or any *agency* thereof.
- f. New fences and walls shall not be constructed of, or topped with, spikes, barbs, broken glass, razors, or any other similar material. Barbed-wire fencing is prohibited, except when used to secure permitted telecommunication, industrial or utility facilities. When such fencing is allowed, it shall be sited as close as possible to the secured facility.

[Staff explanation: The existing text would be modified to include a reference to proposed fencing standards for fencing in ESHA, buffer zones, and the Santa Monica Mountains (M) overlay zone. In addition, certain types of fences shown to result in high mortality for animals would be prohibited. For example, most deer (69% of juveniles and 77% of adults) that die in fencing get caught in the top two wires when trying to jump a fence. Additionally, 90% of carcasses found near fences were baby fawns, separated from their mothers and unable to cross (Harrington 2005, Harrington and Conover 2006). This standard is also contained in the L.A. County and Malibu LCP's.]

DRAFT COASTAL ZONING ORDINANCE

Article 5, Section 8175-5 – Standards and Conditions for Uses, of the Ventura County Coastal Zoning Ordinance Code, is hereby amended to read as follows:

Sec. 8175-5 - Standards and Conditions for Uses

Sec. 8175-5.2 - Standards Relating to Animals

Sec. 8175-5.2.4 - Animals and Fowl

b. Farm Animals – Farm animals are permitted in accordance with the following table:

Zone	Minimum Lot Area Required (c)	Maximum Number of Animals (a)	Minimum Setbacks (b)
<u>Santa Monica Mountains (M) Overlay Zone</u>	<u>1 Acre</u>	<u>Two (2) animal units for first acre, one (1) animal unit for each additional acre, and a maximum of ten (10) animal units per lot.</u>	<u>Farm animals and fowl shall not be housed, stabled, lodged, kept, maintained, pastured or confined within ESHA or 100 feet of ESHA, except as permitted by Sec. 8178-2.6.11 – Confined Animal Facilities).</u>
<u>COS, except Santa Monica Mountains (M) Overlay Zone</u> CA	20,000 sq. ft.	Lots of 10 acres or less: one animal unit for each 10,000 sq. ft. of lot area (more with a Conditional Use Permit). Lots over 10 acres: no limit.	Farm animals and fowl shall not be housed, stabled, lodged, kept, maintained, pastured or confined within 40 feet of any school, church, hospital, public place, business, dwelling or other structure used for human habitation, other than the personal residence of the owner or keeper thereof.
CR	20,000 sq. ft.	One animal unit for each 10,000 sq. ft. of lot area	

One Animal Unit Equals:

- 1 cow, bull, horse, pony, llama, mule or donkey;
- or 3 sheep and/or female goats (or a combination thereof totaling 3);
- or up to 6 of any combination of geese, swans or turkeys;
- or up to 10 of any combination of chickens, ducks or game hens;
- or 2 ponies miniature horses, pigs, male goats, ostriches, peacocks or guinea fowl (or a combination thereof totaling 2);
- or 20 fur-bearing animals, such as rabbits, and others of a similar size at maturity.

Notes to Animal Unit Table:

- a) In calculations for permitted animals, fractional numbers are to be rounded to the lower whole number.
- b) These separation requirements do not apply to *pet animals*.
- c) *Abutting lots* that are under unified control, either through ownership or by means of a lease, may be combined in order to meet minimum area requirements for animal-keeping or to keep a larger number of animals, but only for the duration of such common ownership or lease, and only in zones that allow the keeping of animals as a principal use.
- d) Within the Santa Monica Mountains (M) overlay zone, or within 500 feet of habitats identified as habitat connectivity corridors (see Sec. 8178-2.7.5 - Habitat Connectivity Corridors), the conditions of approval for new development shall include a requirement that any small to mid-

DRAFT COASTAL ZONING ORDINANCE

size animal (e.g. chickens, goats, sheep, and llamas) that is subject to predation from wild animals (e.g., mountain lion, coyote, bobcat) will be provided a County-approved wildlife-proof structure. Exceptions to this requirement may be granted by the *Planning Director* if the applicant proposes a recognized, alternative method for protecting livestock (e.g., use of Anatolian Shepard Dog). Also, see **Sec. 8178-2.6.11** – Confined Animal Facilities for additional standards associated with animal keeping in ESHA or *buffer zones*.

[Staff explanation: The proposed regulations for farm animals include a separate line item for land in the Santa Monica Mountains (M) overlay zone, which contains a high level of environmentally sensitive habitat areas (ESHA). The current animal unit regulations allow a use that is not compatible with ESHA, as animals such as horses, cows and goats can degrade or destroy ESHA. The modified animal regulations for the Santa Monica Mountains would bring the animal regulations into alignment with the ESHA policies in the CAP. Additionally, standards are provided for animal containment structures for small to mid-sized livestock in the Santa Monica Mountains or in identified habitat connectivity corridors. The purpose of these standards is to reduce the odds of livestock predation by mountain lions and the need for a take permit to kill a mountain lion within a population that is currently struggling. Finally, additions were made to the list of animals that constitute an animal unit, with animals grouped by average weight.]

Sec. 8175-5.6 – Film Production, Temporary (Excerpts)

Sec. 8175-5.6.1.2.1 – Temporary Filming on the Sandy Beach

- a. Outside the peak summer months between Memorial Day and Labor Day, *film production activities* on all sandy beach areas within the County's permit jurisdiction shall be authorized by a Zoning Clearance, provided that all of the following criteria are met:
 1. The *film production activities* will be 14 days or less in duration;
 2. The *film production activities* are located at least 100 feet from all tide pools, ~~sand~~ *coastal dune habitats*, and tributaries that discharge into the ocean;
 3. The *film production activities* are located outside any ESHA or ESHA buffer;
 4. *Public access* will be maintained to and along the coast; and
 5. Adequate coastal access parking is available for the general public.
- b. During the peak summer months between Memorial Day through Labor Day, a Zoning Clearance shall only be approved if the film production activities meet all of the following criteria:
 1. The *film production activities* comply with all requirements of Sec. 8175-5.6.1.2.1(a) above;
 2. *Film production activities* that occupy a portion of the sandy beach area is scheduled on weekdays only, and not on any holiday; and
 3. An off-site *base camp* will provide sufficient space for trailers, vehicles, equipment, catering services, etc.
- c. To avoid adverse impacts on the federally protected Western Snowy Plover (*Charadrius alexandrinus nivosus*) and California Least Tern (*Sterna antillarum browni*), no filming shall be permitted on Hollywood Beach during the species' breeding season (March 1 – September 31).

[Staff Explanation. This standard was introduced to avoid disturbance of a federally protected species during its nesting season. Over the last two years (2015 and 2016), Hollywood Beach's least tern colony and Western snowy plover population experienced an alarming decline in reproductive success due to human disturbance. A prohibition on filming at this location was selected because most film permits are issued as a zoning clearance.]

DRAFT COASTAL ZONING ORDINANCE

Sec. 8175-5.6.4 – Standards for Film Production Activities in all Zones

Film production activities shall be carried out in accordance with the following regulations:

a. Hours

1. All film production activities shall occur between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and between the hours of 8:00 a.m. and 8:00 p.m. on weekends.
2. Film production activities that occur outside the hours identified in (1) above require neighborhood consent (see Section 8175-5.6.5).

b. Film Permit Area

1. All film production activities, including but not limited to the operation of a film base camp, film equipment placement and operation, catering, film production preparation, striking, and filming, shall be confined to the boundaries of the film permit area(s) designated on the site plan approved with the film permit.
2. Removing, trimming or cutting of native vegetation or protected native and non-native trees is prohibited except where such activities are authorized pursuant to Sec. 8178-7, Tree Protection Regulations.
3. Film production activities shall not change, alter, modify, remodel, remove or significantly affect any eligible or designated cultural heritage site.
4. Film production activities shall not result in permanent alteration to the filming location or surrounding area. The permittee shall restore the filming location to a condition equivalent to its pre-filming condition following film production, striking.
5. Production vehicles, cast, and crew responsible for the production of a motion picture, television show, music video, advertisement, web production or film still photography shall not arrive at the film location prior to the hours specified in the permit.
6. All film production activities, including but not limited to the film base camp, film equipment placement and operation, catering, film production preparation, striking and filming, shall comply with the provisions of Sec. 8175-5.6, and all other applicable provisions of this Chapter and the certified Local Coastal Program.
7. Film production activities shall not remove or alter vegetation or landforms within ESHA, its 100-foot *buffer zone*, or otherwise adversely impact an ESHA.
8. Except where permitted by a Planned Development Permit, film production activities shall not occupy a public recreational area in a manner that would preclude use by the general public.
9. Film production activities conducted at any time between Memorial Day through Labor Day, and located within one mile of the beach, shall not cause traffic delays that exceed three minutes on any public road.
10. Film production activities shall maintain public access to and along the coast including areas upcoast and downcoast of the subject film permit area and where feasible, passage around the site on wet sand or dry sand areas.
11. Film production activities shall minimize grading and landform alteration.

c. Noise and Lighting

Noise and lighting shall not create a nuisance upon nor otherwise negatively impact neighboring areas or ESHA as follows:

1. Film pyrotechnics and film special effects that emit sound associated with gunfire or similar devices shall be prohibited in ESHA or within 100 feet of ESHA.

DRAFT COASTAL ZONING ORDINANCE

2. Except as permitted with neighborhood consent (see Section 8175- 5.6.5), lighting used for the illumination of film production activities (such as perimeter lighting, flood lighting, and external lighting) shall only be permitted when the light source is hooded or shielded so that no direct beams from the film production activities fall upon public streets, highways or private property not located within the film permit area(s).
3. Temporary exterior night lighting is prohibited in ESHA. Within areas adjacent to ESHA, temporary exterior night lighting may be allowed if the light source is hooded ~~or~~ and shielded so that no ~~direct beams~~ light spillover from the film production activities fall upon ESHA.

Sec. 8175-5.9 - Public Works Facilities

Public Works facilities are subject to the provisions of this Section and all other provisions of this Chapter and the LCP land use plan. The types of facilities include, but are not limited to, the following: Roads, turnouts for emergency vehicles, reservoirs, drainage channels, watercourses, flood control projects, fire control measures, pump stations, utility lines, septic systems, water wells and water storage tanks.

- a. New or expanded *public works facilities* (including roads, flood control measures, water and sanitation) shall be designed to serve only the potential population of the unincorporated and incorporated areas within LCP boundaries, and to avoid eliminate impacts on *agriculture*, open space lands, and environmentally sensitive *habitats to the maximum extent feasible*.

[Staff Explanation. The proposed revisions add public safety-related facilities to the list of Public Works facilities. Other revisions provide a balanced approach to potential conflicts between the preservation of coastal resources and needed public works facilities.]

- b. New service extensions required beyond the stable urban boundary (as shown on the LCP Land Use Plan maps) must be designed to mitigate any effects on agricultural viability.
- c. Electrical transmission line rights-of-way shall be routed to minimize impacts on the viewshed in the *coastal zone*, especially in scenic rural areas, and to avoid locations that are on or near sensitive habitats (*ESHA*), or recreational or *archaeological resources*, whenever *feasible*. Scarring, grading, or other vegetative removal shall be repaired and the affected areas revegetated with plants similar to those in the area to the extent that safety and economic considerations allow. (AM.ORD.4451-12/11/12)
- d. In important scenic or environmentally sensitive habitat areas (ESHA), where aboveground transmission line placement would unavoidably affect views or sensitive environmental resources, undergrounding shall be required where it is technically and economically *feasible* unless it can be shown that other alternatives are less environmentally damaging. When aboveground facilities are necessary, design and color of the support towers shall be compatible with the surroundings to the extent that safety and economic considerations allow.

Also, see Sec. 8174-6.3.6(a)(9) for information on restrictions applicable to the replacement of an existing Public Works Facility. For Public Works Facilities in ESHA or buffer zone, also see Sec. 8178-2 – Environmentally Sensitive Habitat Areas (ESHA).

Sec. 8175-5.17 - Grading and Brush/Vegetation Removal

The following standards shall apply to all *development*, ~~involving more than 50 cubic yards of grading or more than one half acre of brush removal.~~ except where the development is subject to the General Exclusions in Sec. 8174-6.3.6 and does not require a coastal development permit. The Public Works Agency and Resource Management Agency staff shall review all proposals in the *coastal zone* for conformance with these standards. ~~(REPEALED AS 8175-5.4 AND RE-ENACTED AS 8175-5.17 BY ORD.3882-12/20/88)~~ Also, see Sec. 8178-2 – Environmentally Sensitive Habitat Areas (ESHA) for permitting requirements and standards for grading or brush/vegetation removal in an ESHA or buffer zone.

DRAFT COASTAL ZONING ORDINANCE

Sec. 8175-5.17.1

Grading plans shall minimize ~~cut and fill operations~~ all areas of earth disturbance. If it is determined that a project is feasible with less alteration of the natural terrain than is proposed, that project shall be denied.

Sec. 8175-5.17.2

All earth disturbance development shall be designed to minimize impacts and alterations of physical features and processes of the site (i.e., geological, soils, hydrological, siltation, water percolation, runoff, the spread of invasive species and adverse impacts on biological resources, to the maximum extent feasible. During the winter rainy season (~~November~~ October 1 – April 15), the clearing of land (grading and brush/vegetation removal) shall be avoided is prohibited, except when such activities are conducted in accordance with best management practices, and the Planning Director, in consultation with the Public Works Agency, determines that one or more of the following circumstances apply:

- a. Grading or brush/vegetation removal is necessary to remediate or prevent hazardous geologic conditions that endanger public health and safety;
- b. A grading permit was issued, and grading was initiated prior to the rainy season, but was not completed due to unforeseen circumstances or construction delays, and completion of grading would be more protective of sensitive environmental resources or would reduce erosion and sedimentation; or
- c. Identified, active bird nesting/roosting areas at the project site prevented grading or brush/vegetation removal during the prior non-rainy season (April 16 – Sept. 30).

If none of the circumstances listed above apply, then grading or brush/vegetation removal activities shall be halted at the onset of the winter rainy season, and installed erosion control measures shall be maintained, in accordance with the approved permit, until grading resumes after the winter rainy season. (Also, see Sec. 8175-5.17.5 for stormwater protection measures required during winter rainy season.)

[Staff Explanation. This regulation was amended to address grading during the rainy season, particularly during drought conditions. At times, construction projects are midway through grading, and the permittee is obligated to halt grading. Thus, barren areas are exposed and subject to erosion and sediment runoff. By prohibiting vegetation disturbance, rather than grading, during the rainy season, the County would be assured that no new areas are disturbed during the rainy season while allowing grading to be completed on areas that are vulnerable to erosion, in accordance with the protection measures specified in the regulation.]

Sec. 8175-5.17.3

For permitted grading or brush/vegetation removal operations on hillsides (slopes that exceed twenty-percent gradient), the smallest practical area of land shall be exposed at any one time during *development*, and the length of exposure shall be kept to the shortest practicable amount of time. All erosion control measures, per the approved permit, ~~for removing sediments and stabilizing slopes~~ shall be in place installed prior to ~~or concurrent with~~ any on-site grading or brush/vegetation removal activities.

[Staff Explanation. This regulation was revised to address conflicts with existing state MS-4 and County code requirements. When a grading permit is required, appropriate measures must be implemented by a Civil engineer, QSD, QSP or Certified Erosion Professional, not a licensed landscape architect. Additionally, text was amended to clarify which County department handle grading permits.]

Sec. 8175-5.17.4

~~Where appropriate,~~ Sediment containment systems and erosion control methods basins (e.g., ~~debris basins,~~ desilting basins, or silt traps) shall be installed, per the approved grading permit, on the project site prior to or concurrent with the initial grading operations and maintained by the

DRAFT COASTAL ZONING ORDINANCE

applicant through the development process to ~~remove~~ capture sediment from runoff waters. All captured sediment shall be retained on-site unless removed to an appropriate approved dumping location.

Sec. 8175-5.17.5

All stormwater protection measures shall be installed, per the approved grading permit, prior to any grading or brush/vegetation removal and prior to the winter rainy season (October 1 – April 15). Also, all stormwater protection measures shall be maintained to function as designed throughout the winter rainy season. Where construction will extend into the winter rainy season, temporary vegetation, seeding, mulching, or other the following standards shall apply:

- a. Suitable stabilization methods shall be used to protect all areas of disturbance from soils subject to erosion. The appropriate methods shall be prepared by a licensed landscape architect *qualified storm water designer* and approved by the Ventura County Public Works Agency; and

[Staff Explanation. This regulation was updated to be consistent with existing state MS-4 and County code requirements. Text was also added to clarify which County department handles grading permits.]

- b. The smallest practical area of land shall be exposed at any one time during development, and the length of exposure shall be kept to the shortest practicable amount of time.

[Staff Explanation. This existing text is in Sec. 8175-3, which applies to hillsides, but it was added here because the same requirement is applicable to winter rainy season grading.]

- c. Stormwater quality protection measures for hillsides (slopes exceed twenty-percent gradient) or areas with ESHA or ESHA buffer zone shall be consistent with the standards required for "high risk sites".

[Staff Explanation. This regulation clarifies that grading in steep slopes or ESHA must be conducted using the highest-level stormwater protection standards, consistent with existing state MS-4 and County code requirements.]

Sec. 8175-5.17.6

~~Cut and fill slopes~~ All areas of disturbance shall be fully stabilized at the completion of final rough grading. Within 90 days of rough grading, at least 60 percent of the disturbed areas shall be covered with native plantings, and all remaining areas shall be covered with mulch, rock lining, or similar materials to control erosion. ~~To the greatest extent feasible,~~ Within ESHA or ESHA buffer zones, revegetation planting shall be of native grasses and shrubs or appropriate nonnative plants, using accepted planting procedures and completed in accordance with Sec. 8178-2.7.5.2 – Native Grasslands, Sec. 8178-7 - Tree Protection Regulations, and Sec. 8178-8 - Water Efficient Landscaping Requirements. Outside ESHA or ESHA buffer zones, restoration planting shall be conducted in accordance with Sec. 8178-8.4 – Landscape Area Development Standards. Such planting shall be adequate to provide 90 percent coverage within 90 days, and shall be repeated if necessary to provide such coverage. This requirement shall apply to all disturbed soils.

[Staff Explanation. This regulation was modified to reference recent changes to ESHA and Tree LCP updates. Also, the 90% coverage requirement was modified because it's a difficult standard to meet in the 90-day timeframe, especially given drought and variable site/soil conditions that do not support such a high coverage requirement. Site stabilization requirements will prevent impacts associated with erosion.]

Sec. 8175-5.17.7

~~Provisions shall be made to conduct surface water runoff to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Where feasible and appropriate, water runoff shall be retained on site to facilitate groundwater recharge, unless to do so would require significant grading or brush removal not otherwise necessary, and the cumulative impacts of~~

DRAFT COASTAL ZONING ORDINANCE

such on-site retention would be greater than the cumulative impacts of not facilitating recharge, within the same drainage area.

Development shall be designed so that any difference (i.e., increase) in storm flow rate or amount must either be percolated into the ground onsite or released at the undeveloped flow rate from the site. Site discharge shall occur in a manner that avoids adverse impacts downstream (in velocity or duration) as follows:

- a. Grading permit applications must include a hydrology and hydraulics report, prepared by a civil engineer, that includes a map showing the entire drainage area and the estimated runoff of the area;
- b. The report shall examine several frequencies of storms (2-year, 10-year, 50-year, and 100-year events) and demonstrate that the proposed site drainage design will either retain or detain the difference between the pre-development storm flow rate and post-development storm flow rate for the storm events listed above; and
- c. The civil engineer preparing the hydrology and hydraulics report shall consider alternative, low impact design methods to handle and improve stormwater quality runoff.

All stormwater management practices shall be updated as necessary to prevent erosion and control construction related pollutants from discharging from the site. Erosion and sediment controls shall be maintained in good working order. Erosion control plans shall describe the measures to minimize erosion and control runoff such that the transport of sediment from the work site to watercourses, other sensitive habitat areas (ESHA), or offsite property is minimized and peak stormwater flow rate/amount does not exceed peak flow rate/amount under the preconstruction conditions.

[Staff Explanation. This regulation was updated to reflect the existing code. As currently written, it's in direct conflict with the state MS-4 and County code requirements. Conducting surface water to storm drains does not prevent erosion or protect ESHA or coastal water quality. Proposed language mirrors the building code (Appendix J in Building Code Sec. J105.2.2, subsection (3)).]

Sec. 8175-5.17.10

Degradation of the water quality of *groundwater* basins, ~~near streams~~, or ~~wetlands~~ wet environments shall not result from *development* of the site. Pollutants such as chemicals, fuels, lubricants, raw sewage, ~~and~~ or other harmful waste shall not be discharged into or alongside coastal *streams*, *wetlands* or other wet environments either during or after construction.

[Staff Explanation. This regulation was updated to reflect updated terms within the ESHA section.]

Sec. 8175-5.17.11

The Ventura County Resource Conservation District and the State Department of Fish and Wildlife Game shall be consulted for grading of hillsides and brush clearance in excess of one-half acre. In all cases, best accepted management practices shall be used.

(Repealed as 8175-5.4 and re-enacted as 8175-5.17 by ORD.3882-12/20/88, AM.ORD. 4451-12/11/12)

[Staff Explanation. This regulation is updated to reflect Agency name changes.]

Sec. 8175-5.17.12

When an approved grading permit expires for a construction site, the permittee shall be responsible for the installation and maintenance of permitted, permanent erosion and sedimentation measures.

[Staff Explanation. This regulation addresses construction sites where grading is not finished but permits have expired. Permanent erosion control measures are required if the site will be left in that condition for an undefined amount of time.]

DRAFT COASTAL ZONING ORDINANCE

Section 4

ARTICLE 7:

STANDARDS FOR SPECIFIC ZONES

Article 7, Section 8177 – Standards for Specific Zones, of the Ventura County Coastal Zoning Ordinance Code, is hereby amended to read as follows:

Sec. 8177-4 – Standards and Procedures for Santa Monica Mountains (M) Overlay Zone

[Staff explanation: This section contains regulations for environmentally sensitive habitat areas (ESHA) in the Santa Monica Mountains (M) overlay zone. Most of those regulations will be removed from this section and relocated to the ESHA regulations in Article 8, Sec. 8178-2 – Environmentally Sensitive Habitat Areas. Existing text related to visual and recreational uses will be retained in this section.]

The standards and procedures found in this Article shall apply to all property in the Santa Monica Mountains overlay zone whose zoning district carries the (M) suffix [example: COS(M)]. ~~(AM.ORD.4451-12/11/12)~~. All other pertinent standards in this Chapter shall also apply, including the applicable resource-protection standards in Article 8, Sec. 8178-2 – Environmentally Sensitive Habitat Areas.

Sec. 8177-4.1 – Development Standards

The following additional resource protection standards shall apply to *developments* proposed in the Santa Monica Mountains overlay zone (M). ~~(AM.ORD.4451-12/11/12)~~ Also, see applicable resource-protection standards for the (M) overlay zone in Sec. 8178-2 – Environmentally Sensitive Habitat Areas.

Sec. 8177-4.1.1

New *development*, including all private and public recreational *uses*, shall preserve all *unique vegetation* such as *Coreopsis gigantea* (giant coreopsis) and *Dudleya cymosa* ssp. *Marcescens* (marcescent dudleya). (AM.ORD.4451-12/11/12)

[Staff explanation: The deleted text below was replaced by regulations within Sec. 8178-2 – Environmentally Sensitive Habitat Areas (ESHA). The updated regulations for ESHA generally apply throughout the Santa Monica Mountains (M) overlay zone because most of that area is classified as ESHA or ESHA buffer zone.]

Sec. 8177-4.1.2

All new *upland development* shall be sited and designed to avoid adverse impacts on *environmentally sensitive habitat areas* (ESHA). See Sec. 8178-2 – Environmentally Sensitive Habitat Areas (EHSA) for development standards in ESHA, ESHA buffer zone, and Santa Monica Mountains (M) overlay zone.

~~a. In cases where *environmentally sensitive habitat areas* are located on a project site where the impacts of *development* are mitigated consistent with the LCP Land Use Plan, the County shall assure that all *habitat areas* are permanently maintained in open space through a recorded easement or deed restriction.~~

[Staff explanation: See Sec. 8178-2.6.3 – General Siting and Building Design Standards for updated regulations that require on-site development restrictions for areas with ESHA, buffer zones, and 30% slopes.]

~~b. When such impacts of *development* would be unavoidable, the County shall ascertain within the specified project review period whether any public agency or nonprofit organization, including the National Park Service, Coastal Conservancy, the Santa Monica Mountains Conservancy, State Department of Parks and Recreation, County Property Administration Agency, and Trust for Public Lands, is planning or contemplating acquisition of any portion of the subject property to preserve it in open space. The permit may not be approved if such agency or organization has been~~

DRAFT COASTAL ZONING ORDINANCE

~~specifically authorized to acquire any portion of the property that would be affected by the proposed *development* and funds for the acquisition are available or could reasonably be expected to be available within one year of the date of application for the permit. If the permit is denied for such reasons and the property has not been acquired by such *agency* or organization within a reasonable time, a permit may not be denied again for the same reasons.~~

~~(AM.ORD.4451-12/11/12)~~

[Staff explanation: The item above was moved to the Coastal Area Plan, Section 4.1.3 – Environmentally Sensitive Habitat Areas, ESHA Policy 2.2. In the CZO, a related permit finding was added to the Article 11, Sec. 8181-3.5.3 – Required Permit Findings for Development in ESHA or Buffer Zone.]

~~Sec. 8177-4.1.3~~

~~Construction and/or improvements of driveways or accessways that would increase access to any property shall be permitted only when it has been determined that environmental resources in the area will not be adversely impacted by the increased access. Grading cuts shall be minimized by combining the accessways of adjacent property owners to a single road where possible. The intent is to reduce the number of direct ingress-egress points from *public roads* and to reduce grading. At *stream* crossings, driveway access for nearby residences shall be combined. Hillside roads and driveways shall be as narrow as is *feasible* and shall follow natural contours. (AM.ORD.4451-12/11/12)~~

[Staff explanation: See Sec. 8178-2.6.8 for updated regulations for access roads and Sec. 8178-2.6.7 for updated grading regulations for ESHA and ESHA buffer zones.]

~~Sec. 8177-4.1.43~~

~~All For proposals for land divisions in the Santa Monica Mountains, shall be evaluated to assure that any future *development* will be consistent with the *development* policies contained in the LCP Land Use Plan. Where potential *development* cannot occur consistent with the LCP, the request for division shall be denied. Environmental assessments shall accompany tentative map applications and shall evaluate the *ecological* resources within and adjacent to the site and the consistency of the proposed division and *development* with the standards of the LCP. In addition, the following shall apply:~~

- ~~a. Future *building envelopes* shall be identified on all applications and on the final subdivision map.~~
- ~~b. All identified *environmentally sensitive habitat areas* and/or *slopes* over 30 percent shall be permanently maintained in their natural state through an easement or deed restriction that shall be recorded on the final map, or on a grant deed as a deed restriction submitted with the final map. *Development* shall not be permitted in areas over 30 percent *slope*.~~

[Staff explanation: This regulation was moved to Sec. 8178-2.6.3(d).]

- ~~c. All offers of dedication for trail easements shall be recorded on the final map. Trail easements established by deed restriction shall be recorded on the deed no later than final map recordation. Also, see Sec. 8178-2.9.2 – Requirements for Land Divisions in ESHA or Buffer Zone.~~

~~(AM.ORD.4451-12/11/12)~~

[Staff explanation: See Sec. 8178-2 – Environmentally Sensitive Habitat Areas for updated regulations related to environmental assessments and permit application requirements.]

~~Sec. 8177-4.1.54~~

~~New *development* shall be sited and designed to protect public views to and from the shoreline and public *recreational areas*. Where *feasible*, *development* on sloped terrain shall be set below road *grade*. (AM.ORD.4451-12/11/12)~~

~~Sec. 8177-4.1.65~~

~~*Development* shall not be sited on ridgelines or hilltops when alternative sites on the *parcel* are available, and shall not be sited on the crest of major ridgelines. (AM.ORD.4451-12/11/12)~~

DRAFT COASTAL ZONING ORDINANCE

Sec. 8177-4.1.-76

Except within the existing South Coast community, as shown on the south coast subarea Land Use Plan map, all *development* proposals located within 1000 feet of publicly owned park lands shall be sited and designed to mitigate potential adverse visual impacts upon park lands. Appropriate mitigation measures include additional landscaping, use of natural materials, low *building* profiles, earth tone colors, and the like. *Development* shall not be sited within 500 feet of a park boundary unless no alternative siting on the property is possible consistent with the policies of the Plan. (AM.ORD.4451-12/11/12)

Sec. 8177-4.1.-87

Development shall neither preclude continued use of, nor preempt, the option of establishing inland recreational trails along routes depicted on the LCP Land Use Plan maps. A recorded offer of dedication or a deed restriction creating a trail easement shall be required as a condition of approval on property crossed by trails shown on the LCP Land Use Plan maps. (AM.ORD.4451-12/11/12)

Sec. 8177-4.1.-98

All new trail corridors, with the exception of Coastal Trail corridors, shall be a minimum of 25 feet in width, with a larger corridor width for major feeder trails. The routing of trails shall be flexible in order to maintain an adequate buffer from adjacent *development*. Where *feasible*, *development* shall be sited sufficiently distant from the trail so as not to interfere with the trail route. (AM.ORD.4451-12/11/12)

Sec. 8177-4.1.-109

Before a permit for *development* of any *lot* is approved, the suitability of that *lot* for public recreational *use* shall be evaluated within the specified project review period by the County in consultation with the State Department of Parks and Recreation and the National Park Service. If the County determines that the property may be suitable for such *use*, the County shall ascertain whether any public *agency* or nonprofit organization (see Sec. 8177-4.1.2b for examples) is planning or contemplating acquisition of any part of the subject property, or whether such agencies are specifically authorized to acquire any portion of the property that would be affected by the proposed *development*, or whether funds for the acquisition are available or could reasonably be expected to be available within one year from the date of application for permit. If a permit has been denied for such reasons and the property has not been acquired by such *agency* or organization within a reasonable time, a permit may not be denied again for the same reasons.

(AM.ORD.4451-12/11/12)

Sec. 8177-4.1.-1110

Any areas within the Santa Monica Mountains used for private recreational purposes shall continue to be so used unless it becomes unfeasible to do so. These properties are subject to the following:

- a. The only *principally-permitted uses* (not appealable to the Coastal Commission) on such properties are recreational *uses*. Planned Development Permits for new recreational *uses*, or the expansion of existing recreational *uses*, shall be reviewed for conformance with Sec. 8178-2 – Environmentally Sensitive Habitat Areas, and may be issued by the *Planning Director* in accordance with Article 11. Permits for all other uses shall be decided upon in accordance with Articles 4 and 11, and all other applicable provisions of this Chapter and the certified LCP Land Use Plan.
- b. Prior to the granting of a permit that allows a conversion of recreational *uses* to non-recreation *uses*, Sec. **8177-4.1.-109** shall be followed.

(AM.ORD.4451-12/11/12)

[Staff explanation: The second part of subsection (a) addresses new or expanded recreational uses, which will be subject to the updated ESHA regulations in Sec. 8178-2.]

DRAFT COASTAL ZONING ORDINANCE

Section 5

ARTICLE 8 – GENERAL DEVELOPMENT STANDARDS/CONDITIONS – RESOURCE PROTECTION

Article 8, Sections 8178 – General Development Standards/Conditions – Resource Protections, of the Ventura County Coastal Zoning Ordinance Code, is hereby amended to read as follows:

[Staff Explanation. This section contains a comprehensive update of the County's ESHA protection regulations, which date from the 1980s. Existing regulations are integrated into the new section and are shown as deleted text at the end of the section. Updated regulations reflect federal/state laws related to the protection of ESHA (see Coastal Area Plan, Section 2.2, for a summary of relevant Coastal Act policies) and the Coastal Commission's LCP Guidance for ESHA. Where applicable, updated regulations adopted by L.A. County in 2014 were used as the basis for new regulations.]

Sec. 8178-2 – Environmentally Sensitive Resource Areas (ESHA)

Sections:

- 8178-2.1 Purpose
- 8178-2.2 Applicability
- 8178-2.3 Environmental Reviews
- 8178-2.4 ESHA and Buffer Zone Determination and Delineation
- 8178-2.5 Allowable Uses in ESHA or Buffer Zones
- 8178-2.6 Development Standards in ESHA and Buffer Zone
- 8178-2.7 Additional Standards for Specific Coastal Habitats
- 8178-2.8 Standards for Use of Hazardous Chemicals in ESHA
- 8178-2.9 Land Divisions and ESHA Preservation Incentives
- 8178-2.10 Compensatory Mitigation
- 8178-2.11 Processing Permits for Development in ESHA or Buffer Zone

Sec. 8178-2.1 – Purpose

The purpose of this section is to provide regulatory provisions for the protection of sensitive biological resources in the coastal zone and to ensure that *development* is sited and designed to avoid impacts to, and to be compatible with, the long-term preservation of these coastal resources.

[Staff Explanation. A purpose statement was added to reflect changes to ESHA protection regulations since the 1980s, including a requirement that ESHA be avoided and buffered from adverse impacts from development.]

Sec. 8178-2.2 – Applicability

~~The provisions of this section apply to all areas of the County's coastal zone that fall within the definition of "environmentally sensitive habitat areas," or within the designated buffer areas around such habitats. (AM.ORD.4451-12/11/12)~~

The provisions of this section apply to all coastal development permit applications² for new *development*³

² For information on coastal development permit requirements, see Sec. 8174-4 – Environmentally Sensitive Habitat Areas, Sec. 8174-5 – Permitted Uses by Zone, and Sec. 8174-6 – Statutory Exemptions and Categorical Exclusions. In Ventura County, the Planned Development Permit (PD, PDP), Conditional Use Permit (CUP), and Public Works Permit (PW) are classified as coastal development permits.

³ See Article 2 for a definition of "development". For the purpose of this Section, a 100-foot fuel modification zone for existing, legally-permitted uses/structures (or a wider fuel modification zone when specified by the permit) is classified as existing *development*. The annual dredging operation at Channel Islands Harbor, when conducted by the U.S. Army Corps of Engineers (USACE), is reviewed by

DRAFT COASTAL ZONING ORDINANCE

with the potential to result in adverse impacts to an ESHA or a *buffer zone*, which includes but is not limited to the following:

- a. Property that contains habitats that meet the definition of "*environmentally sensitive habitat areas* (ESHA)" (see Sec. 8178-2.4.1 – Definition of ESHA). For informational sources, see aerial photographs and habitat/wildlife information available from federal/state/local *natural resource agencies* (e.g., National Park Service or other vegetation maps, wildlife tracking GIS data, monarch butterfly overwintering sites, California Natural Diversity Database);
- b. Property that contains mapped ESHA, as depicted on the certified ESHA maps in the Coastal Area Plan (see Figures 4.1.3-1 through Figure 4.1.3-7);
- c. Proposed *development* is: (1) within a designated ESHA *buffer zone*; (2) within 100 feet of protected parkland/open space areas acquired by *natural resource agencies* or *conservation organizations* for habitat protection (e.g., Point Mugu State Park); (3) within 100 feet of mapped ESHA on an abutting/adjacent property, as depicted on a certified ESHA map; or (4) within 100 feet of ESHA, as indicated on one or more of the informational sources listed in subsection (a) above; and
- d. Proposed *development* in the following areas are subject to standards in the specified sections: (1) within 500 feet of a *wet environment*, see standards in Sec. 8178-2.7.3; (2) within a *breeding, staging and stopover bird habitat*, see standards in Sec. 8178-2.7); (3) within a *marine mammal rookery/hauling ground*, see standards in Sec. 8178-2.7.9; and (4) within 1000 feet of a *cluster of monarch butterfly aggregation sites*, see standards in Sec. 8178-2.7.8. In all cases, a Site Specific Environmental Assessment (Sec. 8178-2.3(a)) is required, and any impacts to ESHA or ESHA *buffer zone* are subject to the compensatory mitigation requirements in Sec. 8178-2.10.

Sec. 8178-2.3- Environmental Reviews

To ensure that adverse impacts on ESHA are avoided to the maximum extent feasible, all permit applications for new *development* shall be evaluated for compliance with all applicable ESHA policies and provisions of the LCP. During environmental review, if multiple environmental resource (ESHA) regulations are applicable to the proposed project, the regulation that is the most protective of the ESHA *ecosystem* shall be used to regulate the *development*. Environmental reviews shall include a site-specific environmental assessment and a least damaging alternatives analysis, and shall be based on an evaluation of the following:

- a. **Site-specific environmental assessment:** A site-specific environmental assessment shall be prepared that includes the following:
 1. **Site-specific ESHA Map** - To accurately identify and assess the impacts of proposed new *development* on ESHA, a site-specific ESHA map is required that delineates all ESHA and *buffer zones*. The geographic area covered by a site-specific map shall be adequate to determine all potentially adverse *direct, indirect and cumulative* impacts to ESHA resources. With the exception of minor *development*⁴, the minimum geographic extent of a site-specific ESHA map shall be the area within a 500-foot radius of the proposed *development envelope*. If the County finds that the geographic extent of a site-specific map is inadequate to confirm that the proposed *development* represents the least damaging alternative, a larger site-specific ESHA map shall be required. All areas mapped as ESHA or *buffer zone* on a site-specific ESHA map shall be accorded all protections for ESHA required by the policies or provisions of the LCP. (Also, see Appendix E1, Sec. AE-1.3.1(b) – Geographic Extent of CISBA for information on the geographic extent for specific types of surveys.)
 2. An analysis of all potentially adverse *direct, indirect, and cumulative impacts* on ESHA resources.

the Federal Consistency Unit of the Coastal Commission (see Sec. 8174-6.3.1 of the Coastal Zoning Ordinance for the maintenance dredging exemption, which is applicable to the USACE's annual dredging operation at Channel Islands Harbor).

⁴ The geographic extent of field surveys/maps may be reduced to a 100-foot perimeter zone around the edge of the *development envelope* for minor *development* (e.g., a fence or small accessory structure) if the development includes no grading and no vegetation clearance (including fuel modification) that exceeds ¼-acre (see Appendix E1, Sec. AE-1.3.2(g)). The geographic extent of field surveys/maps for monarch butterflies is the area within a 1000-foot radius of the proposed *development envelope*.

DRAFT COASTAL ZONING ORDINANCE

See Appendix **E1** for a detailed description of the required contents and procedures for a site-specific ESHA map and site-specific environmental assessment (i.e., Coastal Initial Study Biological Assessment (CISBA)). See Sec. **8178-2.4** for information on the determination and delineation of ESHA and *buffer zones*.

[Staff Explanation. A site specific environmental assessment (CISBA) is needed to determine the location of and potential impacts to ESHA. Such assessments are currently required by the County's adopted Initial Study Assessment Guidelines. Detailed information on the contents of a CISBA will be located in Appendix E1. To help reduce applicant costs for landowners with large lots, the geographic area for site-specific surveys is generally limited to a 500-foot radius around the proposed development, a distance that reflects current requirements for surveying wet environments (streams, creeks, etc.) that could be impacted by the development. A smaller radius (100-feet) is also identified for specific types of minor projects.]

- b. **Least Damaging Alternatives Analysis:** If the proposed project will potentially result in adverse impacts to ESHA or *buffer zone*, an alternatives analysis shall be provided with each application for *development* to determine whether the proposed project constitutes the least environmentally damaging alternative. That analysis shall include the following:
1. Written description and graphic depiction of two or more project locations and/or design alternatives on a site plan;
 2. Table that includes comparative data for the project design alternatives. The data provided shall include cubic yards of cut/fill for grading and acres of impacts on ESHA or *buffer zone*, sorted by habitat type; and
 3. Written summary that explains how the proposed project meets the requirements of Sec. **8178-2.6.1** – Least Damaging Alternative. If the proposed use is only allowed pursuant to *reasonable economic use* (see Sec. **8178-2.4.3**), include a list of LCP policies and standards that are not met by the project design alternatives.

Project design alternatives shall provide a reasonable range of options that minimize direct and indirect, adverse impacts on ESHA and *buffer zones*. Project design alternatives shall depict all proposed *development* and shall include different *building site* locations, different structure sizes/locations within the *building site*, and all related fuel modification zones, driveway/access road(s), and water/wastewater system locations. If County staff cannot determine that the proposed project constitutes the least damaging alternative, the applicant will be required to submit one or more additional project design alternatives.

- c. **Natural Resource Agency Consultations:** County staff and applicants for *development* projects shall consult with the California Department of Fish and Wildlife, US. Fish and Wildlife Service, NOAA Fisheries, U.S. Army Corps of Engineers, and other *natural resource agencies*, as applicable, to ensure that any potential impacts to *wetlands, streams, or other specific coastal resources* under their jurisdiction are avoided or minimized in a manner consistent with state and federal laws. In addition, in the Santa Monica Mountains (M) Overlay Zone, new *development* applications shall be provided to the National Park Service for review and comment.

Sec. 8178-2.4 – ESHA and Buffer Zone Determination and Delineation

Sec. 8178-2.4.1 - Definition of ESHA

ESHA is defined as 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*. The following landforms and habitat types constitute ESHA. This list shall be used in conjunction with the detailed information on ESHA determinations in Appendix **E1**:

DRAFT COASTAL ZONING ORDINANCE

- a. Areas of Special Biological Significance as identified by the State Water Resource Control Board (i.e., Mugu Lagoon to Latigo Point Area of Special Biological Significance State Water Quality Protection Area);
- b. Coastal bluff habitats;
- c. Coastal dune habitats⁵;
- d. Coastal sage scrub (CSS) and chaparral plant communities in the Santa Monica Mountains (also, see coastal sage scrub and chaparral in special status species habitats);
- e. Critical life stages - Habitats supporting the following, critical life stages of a species:
 1. Monarch butterfly aggregation sites
 2. Raptor and bird nesting and roosting sites
 3. Bat roosts for special status species
 4. Occupied pinniped haul-out areas
 5. Occupied grunion spawning sites
 6. Denning or breeding sites for bears, mountain lions, bobcats, coyotes, and other special status species identified in this subsection;
- f. Habitat Connectivity Corridors (see Sec. 8178-2.7.5 for corridor types/widths);
- g. Native grasslands and savannahs consisting of perennial native needlegrasses (purple needlegrass, foothills needlegrass, nodding needlegrass) and their associated native forb species. Site-specific determinations are required to determine if non-native annual species characteristic of California annual grassland represent ESHA, and such determinations will depend on factors that include the size of native grass patches, number of patches, and their connectivity;
- h. Oak and other native tree savanna and woodland communities;
- i. Rock outcrop habitats;
- j. Special Status Species Habitats:
 1. Habitat that supports rare/special status plant and animal species, including species listed as endangered, threatened, or rare under the Federal or State Endangered Species Acts;
 2. Habitat that supports federal or state candidate species for listing;
 3. Habitat that supports California Fully Protected Species
 4. U.S. Fish and Wildlife Service designated Critical Habitat that is occupied or has a history of being occupied;
 5. Habitat that supports plant communities ranked G1 or S1 (critically imperiled globally or within the state), G2 or S2 (imperiled), or G3 or S3 (vulnerable to extirpation or extinction) in the California Department of Fish and Wildlife's California Natural Diversity Database (CNDDDB) and by NatureServe's Natural Heritage Program;
 6. Habitat that supports plant species assigned a California Rare Plant Rank of 1 (plants presumed extinct in California, or rare, threatened, or endangered in California and elsewhere), 2 (plants that are rare, threatened, or endangered in California but more common elsewhere), or 4 (plants of limited distribution in California) by the California Native Plant Society;

⁵ Sand accumulations on privately-held inland properties within an existing community (i.e., lots that do not adjoin a beach in Rincon Point, Mussel Shoals, Seacliff, Faria, Solimar, Hollywood-by-the-Sea, Silverstrand, and Solromar) are not defined as a dune habitat. For more information on dune habitats, see Appendix E1, Sec. AE-1.2.3(b).

DRAFT COASTAL ZONING ORDINANCE

7. Habitat that supports species tracked by the California Natural Diversity Database that are classified as species of greatest conservation concern;
8. Habitat that supports California Species of Special Concern; and
9. Habitat that supports species on the Ventura County Locally Important Species List.

ESHA supporting special status species constitute ESHA at the scale necessary for that species to be supported over its critical life stages or home range. Gaps or degraded areas within a contiguous stretch of ESHA may be included as part of the protected area for the special status species;

- k. Wet Environments: Wetlands⁶, estuaries, lagoons, lakes, rivers, streams, seeps, springs, and their associated riparian or alluvial scrub habitat, including unimproved reaches of Ventura County Water Bodies listed on the Clean Water Act 303(d) List.

~~All marine, wildlife, education, and research reserves;~~

~~Wilderness and Primitive areas;~~

~~Nearshore reefs, tidepools, seacaves, islets and offshore rocks, and kelp beds;~~

[Staff Explanation. Sec. 8178-2.1 - Definition of ESHA incorporates PRC Section 30107.5 and it includes examples of ESHA to provide clarification. Pursuant to PRC Section 30107.5, in order to determine whether an area constitutes an ESHA, the California Coastal Commission (CCC) found that the habitat area must be sensitive to human-introduced disturbance or degradation and meet either of these two conditions: 1) there are rare species/habitat in the subject area; or 2) the species or habitat is considered an especially valuable ESHA habitat. Certain species habitats are considered valuable when they support overall critical life stages for special status species. When either of these two conditions are met and the habitat is sensitive to human-introduced disturbance or degradation, regardless if it is shown on a map, the Commission found the area to be ESHA. At the end of the list above, three categories were removed from existing certified text because the habitats are located outside the County's jurisdiction (i.e. nearshore environments - reefs, tidepools, seacaves, islets and offshore rocks, and kelp beds) and are covered by the Marine Resource section of the Coastal Act or outside the jurisdiction of the coastal zone (designated wilderness or primitive areas).]

Sec. 8178-2.4.2 – ESHA Determinations

ESHA shall be mapped and protected, in accordance with the ESHA policies and provisions of the LCP, as follows:

- a. Areas that previously met the definition of ESHA but were damaged or destroyed by illegal removal or degradation of the habitat;
- b. Areas that previously met the definition of ESHA, but were damaged or destroyed by natural disaster (e.g., fire, landslide, drought, disease or insect infestation), shall be mapped as ESHA, except when the decision-making authority finds that substantial evidence is provided within the site-specific environmental assessment (CISBA) that, ten or more years after the natural disaster, the ESHA was permanently damaged or destroyed by the natural event (i.e., was replaced by alternative habitat not defined as ESHA);
- c. If the applicant's CISBA contains substantial evidence that an area mapped as ESHA on a certified ESHA map does not contain habitat that meets the definition of ESHA, then the County shall determine the physical extent of ESHA on the project site based on information in the CISBA and standards in subsections (a) and (b) above. If the County determines that an area is not ESHA, the LCP policies and standards for the protection of ESHA shall not apply. The County shall maintain a record of ESHA determinations (see Appendix E1, Sec. AE-1.X), and such records shall be used to support periodic updates of the certified ESHA map; and
- d. Areas occupied by existing, legally-established development shall not constitute ESHA.

⁶ See Appendix E1 for information on wetlands defined as ESHA.

DRAFT COASTAL ZONING ORDINANCE

Sec. 8178-2.4.3 – Site-Specific ESHA Maps

When a site-specific ESHA map is required, all areas that meet the definition of ESHA shall be mapped and protected as ESHA. The precise boundaries of ESHA on a site-specific map shall be based on the following:

- a. Areas that meet the definition of ESHA, as set forth in Sec. 8178-2.4.1 and the ESHA determination/delineation criteria and procedures set forth in Sec. 8178-2.4.2 and Appendix E1, shall be mapped as ESHA. Such determinations shall be based on substantial evidence and information obtained from site-specific biological surveys, aerial photographs, and federal/state/local *natural resource agency* resources;
- b. *Wetland* delineations shall be conducted according to the definitions of *wetland* boundaries contained in Section 13577(b) of Title 14 of the California Code of Regulations, and in conformance with the 1987 Army Corps of Engineers Wetland Delineation Manual and the 2008 Arid West Supplement.

As required by Sec. 8181-3.5.3 – Additional Findings for Development in ESHA or Buffer Zone, the County shall make findings as to the physical extent of *habitat* meeting the definition of ESHA on the project site, based on the applicant's site-specific environmental assessment, available independent evidence, and review by the Planning Staff Biologist.

[Staff Explanation. Coastal Commission interpretations of the PRC hold that the actual presence of ESHA on the site, not previously prepared maps, dictate whether ESHA policies apply. The proposed standards related to natural disasters and the illegal removal of ESHA are similar to those adopted for L.A. County, and they are consistent with the Coastal Commission's LCP Update Guide for ESHA (2013). The standard for natural disasters, such as fires, reflects the fact that such events are part of the natural cycle and rarely lead to permanent damage/removal of the ESHA. For example, fire is a natural part of the life cycle of plant communities, and habitat impacted by fire is still present in the form of root systems that will re-sprout and generate new growth following the rainy season. A provision is also provided that allows the County to make a determination that an area previously classified as ESHA was permanently destroyed by a natural disaster. In Appendix E2, an ESHA mapping methodology is provided that was developed by Planning Division staff as part of the Coastal Biology project, and it will be used to facilitate ESHA mapping during permit reviews.]

Sec. 8178-2.4.3 – Buffer Zone Delineations

ESHA *buffer zones*⁷ (also called "*buffer zones*") are required to provide distance and physical barriers to human disturbance. New development that abuts or is adjacent to ESHA, or to parkland/open space areas acquired by *natural resource agencies* or *conservation organizations* for habitat protection (e.g., Point Mugu State Park), shall include *buffer zones* designed to protect the adjacent resources and be compatible with the continuance of the *habitat*.

Sec. 8178-2.4.3.1 – Width of Buffer Zones

Buffer zones required on a proposed project site shall be of sufficient width to avoid adverse impacts to *abutting* or *adjacent* ESHA or parkland/protected open space areas. The width of a *buffer zone* shall be delineated as follows:

- a. The minimum width of a *buffer zone* shall be 100 feet, with the exception of a *habitat connectivity corridor*, which does not require a *buffer zone*⁸;
- b. A *buffer zone* that exceeds 100 feet is required when necessary to avoid adverse impacts to *special status species* (including habitats supporting *critical life stages* for such species), *monarch butterfly overwintering roosts*, and to the following sensitive coastal *habitats*: *coastal bluffs*, *habitat connectivity corridors*, *wetlands* and other *wet environments* (see Sec. 8178-2.7 – Additional Standards for Specific Coastal Habitats). *Buffer zone* widths greater than 100 feet shall

⁷ Within Sec. 8178-2, the term "*buffer zone*" means an ESHA *buffer zone* or a *buffer zone* used to protect parkland/open space areas acquired for habitat protection.

⁸ Habitats classified as ESHA, when located within a *habitat connectivity corridor*, do require their own *buffer zone*.

DRAFT COASTAL ZONING ORDINANCE

be identified during the environmental review process, pursuant to a site-specific environmental assessment (CISBA).

Also, see Sec. 8177-4.1.7 for information on buffer zones required when new *development* is located within 1000 feet of publicly owned parklands; Sec. 8178-2.6.2(b) for information on the application of buffer zones for off-site ESHA in existing shoreline communities; and Sec. 8178-2.7.1.1 for information on buffer zones for limited sand removal.

Sec. 8178-2.4.3.2 – Measurements for Buffer Zones

When buffer zones are required under this Article, the buffer zone widths shall be measured from the outer extent of the vegetation that makes up the habitat or as follows:

- a. Riparian Areas: The outer edge of the cover of riparian vegetation community, or the outer edge of the bank of the subject stream if riparian vegetation is not present;
- b. Alluvial Scrub: Edge of Riverwash and Soboba Association soils;
- c. Native woodland: The outer edge of the woodland tree canopy stand;
- d. Wetland: The upland limit of wetland habitat. In the case of wetlands without vegetation or soils, the setback shall be the boundary between land that is flooded or saturated at times (during years of normal precipitation) and land that is not;
- e. Rocky Outcrops: The outer extent of the plant community supported by the rocky outcrop habitat; and
- f. Protected Parkland/Open Space: The outer edge of the boundary for parkland/ open space areas acquired by natural resource agencies or conservation organizations for habitat protection.

[Staff Explanation. The Coastal Commission requires a transitional zone of habitat adjacent to the outer edge of the ESHA, called a buffer zone, to ensure that sensitive habitats are protected against any significant disruption of habitat values. The proposed, 100-foot standard is consistent with other LCPs and with research studies, which show that buffers at 100 feet or more can significantly improve water quality by trapping sediments and pollutants (McElfish, J.M. et. al., 2008) while also minimizing adverse impacts from surrounding development and activity. The proposed standards also specify that a wider buffer may be required to protect special-status species and specific types of ESHA, such as a wetland, which is consistent with PRC Sections 30231 and 30240 and existing General Plan Policy 4 – buffer areas, which allows an increase in buffers upon evaluation and recommendation by a qualified biologist and approval by the decision-making body. The proposed standards provide a high level of certainty while maintaining some flexibility to establish a wider buffer zone due to the specific characteristics of the project site (e.g., slope, vegetation type, soil types, substrate coarseness, etc.) or the buffer's function (e.g., protection of water quality in a wetland). For example, factors such as adjacent land use and water source, volume, or flow patterns can influence buffer sizes around a wetland. Nesting birds, haul out areas, and dispersal corridors may require a buffer that exceeds 100 feet to protect the resource from human disturbance. Such determinations will be based on site-specific evidence and, where appropriate, consultation with natural resource agencies.]

Sec. 8178-2.5 - Allowable Uses in ESHA or Buffer Zones

[Staff Explanation. The existing text, shown below, is from Sec. 8174-4, which will be replaced by the expanded set of standards in this Section.]

~~Within an ESHA, as defined in Article 2, or a buffer area, only the following uses, subject to all applicable standards and policies, are permitted:~~

- ~~a. Nature study;~~
- ~~b. Developments where the primary function is habitat *enhancement* or *restoration*;~~
- ~~c. Shoreline protective devices;~~

DRAFT COASTAL ZONING ORDINANCE

- d. ~~Passive recreational uses not involving structures;~~
- e. ~~Uses dependent on *habitat values* such as aquaculture and scientific research;~~
- f. ~~Public Works facilities in accordance with the Article and Section 8175-5.9, and all other applicable provisions of the Chapter and the LCP Land Use Plan.~~

Exceptions:

~~Within the buffer area, no new principal structures will be permitted unless prohibition of the structure from the buffer will preclude the utilization of the larger parcel for its designated use. When it is necessary to allow structures within the buffer, they shall be located as far from the habitat resource as possible and mitigations shall be required to eliminate or reduce their impacts on an insignificant level. If a principal structure exists as of the adoption of this Plan, it may be rebuilt within the buffer zone if it is destroyed by fire or a natural disaster. If it is an otherwise nonconforming use, it shall not be rebuilt within the buffer.~~

~~The only new uses (or *development* associated with such uses) allowed in areas designated as ESHA or buffer zones are uses that are dependent on the biological resource, except where a non-resource dependent use is allowed pursuant to this Section. All uses allowed in ESHA or buffer zones shall be meet the standards for a least damaging alternative (see Sec. 8178-2.6.1), and such uses shall be sited, designed, and mitigated in a manner consistent with the standards in Sec. 8178-2.6 – Development Standards in ESHA and Buffer Zone, Sec. 8178-2.7 – Additional Standards for Specific Coastal Habitats, and Sec. 8178-2.10 – Compensatory Mitigation.~~

Sec. 8178-2.5.1 – Allowable Resource-Dependent Use in ESHA or Buffer Zones

~~Within an ESHA, as defined in Article 2, or an ESHA buffer area zone, only the following new resource-dependent uses are may be permitted:~~

- a. ~~Nature study and environmental research or education; interpretive signage designed to provide information about the value and protection of resources;~~
- b. ~~Passive recreational uses, not involving structures, such as public access-ways, trails for hiking or horseback riding, and low-impact campgrounds;~~
- c. ~~Directional, education, and interpretive signs or displays; and~~
- d. ~~Habitat restoration, preservation, or enhancement, including the following:
 - 1. ~~Temporary fencing deemed necessary to prevent encroachment in the ESHA or buffer zone;~~
 - 2. ~~Vegetation management, including the removal of non-native vegetation, planting native species, weeding, supplemental plantings, and other maintenance measures when conducted for the purpose of ESHA restoration, establishment, or enhancement pursuant to an approved Habitat Restoration Plan (see Sec. 8178-2.10.9); and~~
 - 3. ~~The placement/repair of site features within coastal dunes (e.g., raised walkways, fencing, predator-exclusion cages for shorebird nests), or the restoration of dune topology using sand replenishment or contouring or non-native invasive plant removal to facilitate the protection of native species reliant on a dune ecosystem. In all cases, coastal dune habitat modification or disturbance shall be the minimum amount necessary to accommodate the identified uses.~~~~

[Staff Explanation. This proposed regulation is similar to existing CZO standards in Article 4 – Permitted Uses, Sec. 8174-4 – Environmentally Sensitive Areas. It is consistent with State law (PRC 30240), which restricts development within ESHA to uses that are dependent on the resource.]

Sec. 8178-2.5.1.1 – Allowable Uses in Streams and Rivers

~~In addition to resource-dependent uses, the following uses may be permitted within streams and rivers:~~

- a. ~~Necessary water supply projects; necessary to agricultural operations or to serve developments permitted by the LCP Land Use Plan designations~~

DRAFT COASTAL ZONING ORDINANCE

- b. 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; and
- c. ~~Restoration projects or d-~~ Developments where the primary function is the improvement of fish and wildlife habitat.

Channelization or other substantial alterations to river or stream, ~~or creek~~ corridors shall be conducted in a manner that minimizes impacts to coastal resources and that mitigates unavoidable impacts to the maximum extent feasible, including the depletion of groundwater.

[Staff Explanation: This section is based on existing text from Sec. 8178-2.4 - Specific Standards and Public Resource Code 30236, which defines allowable types of development in streams, rivers, and creeks. The standards are also based on Public Resource Code 30236, which defines allowable types of development in streams and rivers.]

Sec. 8178-2.5.1.2 – Allowable Uses in Wetlands and Open Coastal Waters

In addition to resource-dependent uses, the diking, dredging, or filling of ~~development~~ in wetlands, open coastal waters, lakes and estuaries may be permitted for the following uses: mitigation measures shall, at a minimum, include those listed in Section 30607.1 of the Coastal Act. Other reasonable measures shall also be required as determined by the County to carry out the provisions of Sections 30233(b and c) of the Coastal Act.

- a. New or expanded port, energy, and coastal-dependent industrial facilities;
- b. Mineral extractions, including sand for beach restoration, except in ESHA;
- c. New or expanded boating facilities, and the placement of structural pilings for public recreational piers (this use excludes wetlands);
- d. Nature study, aquaculture, or similar resource-dependent activities;
- e. Habitat restoration or enhancement;
- f. Water extractions from lakes/ponds by the Ventura County Fire Department (or authorized emergency response personnel) when necessary to protect public health/safety during a wildfire event;
- g. 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; and
- h. Maintenance of existing, or restoration of previously dredged depths, in existing navigational channels, turning basins, vessel berthing/mooring areas, and boat launching ramps.

The uses listed above may only be permitted if otherwise consistent with the LCP and where there is no feasible, less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects.

[Staff Explanation. This proposed regulation is similar to existing CZO standards and it is consistent with State law (PRC 30607.1 and 30233), which restricts development in wetlands and coastal waters.]

Sec. 8178-2.5.2 – Allowable Non-Resource Dependent Use in ESHA or Buffer Zones

Within ESHA or a buffer zone, the following non-resource-dependent uses may be permitted, provided that such uses are the minimum necessary, meet the standards for a least damaging alternative (see Sec. 8178-2.6.1), and are sited, designed, and mitigated in a manner consistent with the standards in Sec. 8178-2.6, Sec. 8178-2.7, and Sec. 8178-2.10:

- a. New, wireless communication facilities mandated by federal law (see Sec. 8175-5.20.3(g) and Sec. 8175-5.20.5);

DRAFT COASTAL ZONING ORDINANCE

- b. Public Works projects required to repair, maintain, or replace an existing public works facility, provided that the use, capacity, size, and location is consistent with the General Exclusions provisions of Sec. 8174-6.3.6(a)(9).
- c. New or expanded Public Works Facilities in accordance with this Article and Sec. 8175-5.9, and all other applicable provisions of this Chapter and the LCP Land Use Plan, provided that such facilities are necessary to protect public health/safety or accommodate development allowed by the LCP;
- d. Shoreline protective devices (see Sec. 8178-2.7.1.2(a)); and
- e. New, non-resource dependent uses allowed pursuant to the Reasonable Economic Use exception in Sec. 8178-2.5.3 – Reasonable Economic Use.

~~If An existing, legally permitted principal structure exists as of the adoption of this Plan,~~ it may be rebuilt if it is destroyed by fire or a natural disaster. If it is an otherwise nonconforming use, it shall not be rebuilt within ESHA or the buffer zone.

Also, see the following sections for uses allowed in a buffer zone: Sec. 8178-2.6.9.3(b) (fuel modification overlap zone), Sec. 8178-2.7.1.4 (sand removal), and Sec. 8178-2.6.2(b) (existing communities).

[Staff Explanation. This provision provides a limited range of allowable, non-resource dependent uses in ESHA or buffer zone:

- Wireless communication facilities – *Federal law requires that these facilities be built under certain circumstances, as outlined in the CAP and CZO sections for these facilities;*
- Reasonable economic use – *See Section 2.5.3 below.*
- Existing development – *Coastal Act Section 30610(g) allows development in ESHA to remain following a fire or natural disaster, provided that it was legally permitted.]*
- Shoreline protection devices – *This provision is based on existing, certified text and is consistent with proposed CAP Policies 6.8 and 6.9, which allow shoreline protection devices when necessary to protect existing development, coastal dependent uses, and public beaches. CZO Section 8174-6 (General Exemptions and Exclusions) allows the repair and maintenance of such structures with a coastal development permit. The proposed text is consistent with Coastal Act Section 30235, which allows such structures to protect existing structures or public beaches in danger from erosion or when designed to eliminate/mitigate adverse impacts on the local shoreline sand supply.*
- Public Works Facilities – *Existing provisions in the LCP and Coastal Act Section 30254 address public works facilities (e.g., roads, drainage channels, flood control projects, utility lines), which currently are listed as an allowable use in ESHA. Section 8175-5.9 includes restrictions on the development of such facilities in ESHA, and additional limitations are provided in this Section. For example, development must be the minimum necessary, adhere to siting/design standards, and represent the least environmentally damaging alternative. The repair, maintenance and replacement of existing public works facilities is included because such activities are allowed in ESHA with a coastal development permit, pursuant to Section 8174-6 – Statutory Exemptions and Categorical Exclusions.]*

Sec. 8178-2.5.3 – Reasonable Economic Use

If the application of the policies, standards or provisions of the LCP regarding use of property designated as ESHA or buffer zone would likely deny all reasonable economic use of a legal lot, an otherwise prohibited use may be allowed in ESHA or ESHA buffer zones if it constitutes the least environmentally damaging alternative and meets all the following requirements:

- a. The proposed use is a new residential use or other principally-permitted use within the zone. Residential use is allowed only when the property meets the “buildable lot” standards in Sec. 8178-2.6.3(g).

DRAFT COASTAL ZONING ORDINANCE

- b. The *development* is consistent with all provisions of the LCP, including the site and building design standards in Sec. 8178-2.6 - Site and Building Design Standards in ESHA, except for the provisions for which the *reasonable economic use* exception is requested pursuant to this Section;
- c. The use is the minimum amount necessary to avoid a taking of private property (see Sec. 8178-2.6.2 - Maximum Allowable Building Site in ESHA); and
- d. New *development* on a lot that is already *developed* in a manner that provides a *reasonable economic use* shall not result in new disturbance or loss of ESHA or *buffer zone* that conflicts with the ESHA policies of the LCP.

[Staff Explanation: Section 30010 of the Coastal Act states that it does not authorize the Commission or a local government to exercise its power to grant or deny a permit in a manner that will take private property for public use without just compensation. As such, a use that is not consistent with the ESHA use standards may be permitted when necessary to avoid a taking of private property. The existing CZO does not define what is meant by “reasonable economic use” when developing in ESHA, and this section (and Sec. 8178-2.6.2 - Maximum Allowable Building Site) clarifies what constitutes a reasonable economic use exception.]

Sec. 8178-2.6 - Site and Building Design Standards in ESHA

The purpose of the *development* standards in this section is to facilitate the conservation and protection of ESHA.

[Staff Explanation: The standards in this section implement proposed site/building design policies in the CAP. They include existing and new provisions and address Coastal Act requirements that development be sited and designed to minimize impacts on ESHA. Standards were derived from the following sources: existing text in Sec. 8174-4; Public Resources Code Section 30250; and the recently certified L.A. County Implementation Plan.]

Sec. 8178-2.6.1 - Least Damaging Alternative

Any new *development* that may be allowed in ESHA or *ESHA buffer zones*, pursuant to Sec. 8178-2.5 - Allowable Uses in ESHA or Buffer Zone, shall meet the Site and Building Design standards of this Section. Also, the least damaging alternative shall:

- a. Consist of a feasible site design alternative that results in the least damage to ESHA or the ESHA ecosystem when compared to other feasible alternatives;
- b. Avoid adverse impacts to ESHA and *ESHA buffer zones* (both on and off-site) to the maximum extent feasible;
- c. Include a maximum allowable *building site* in ESHA or *buffer zone* that is consistent with the standards in Sec. 8178-2.6.2;
- d. Comply with the siting and design standards in Sec. 8178-2.6.3(a) - Location of New Development, except where compliance results in conflicts with subsections (a) or (b) above; and
- e. Minimize new *development* outside the *building site* for access roads, fuel modification zone, and site grading.

Mitigation shall not be used as a substitute for selection of the least damaging site design alternative.

Sec. 8178-2.6.2 - Maximum Allowable Building Site in ESHA or Buffer Zone

If new *development* is allowed in ESHA or *buffer zones*, pursuant to Sec. 8178-2.5.3 - Reasonable Economic Use, then the following standards shall be used to determine the maximum allowable *building site*⁹:

⁹ See the definition for *building site* in Article 2.

DRAFT COASTAL ZONING ORDINANCE

- a. Santa Monica Mountains: Within the Santa Monica Mountains (M) overlay zone, the maximum allowable *building site* shall be 10,000 square feet, or 25 percent of the legal lot size, whichever is less. However, the allowable *building site* may be increased above the maximum specified by this Section when allowed pursuant to the incentive program in Sec. 8178-2.9.5.1 – Expansion of Building Site;
- b. Existing Communities¹⁰: On legal lots zoned Residential Beach (RB), Residential Beach Harbor (RBH), Coastal Residential Planned Development (CRPD), Coastal One-Family Residential (CR1), Coastal Two-Family Residential (CR2), Coastal Rural Exclusive (CRE-20,000 sf only), and Coastal Commercial (CC), the allowable *building site* shall be determined as follows:
 1. If a lot contains on-site ESHA, the maximum allowable *building site* shall be 10,000 square feet, or 25% of the legal lot size if the lot exceeds one acre; and
 2. New *development* shall not be subject to a maximum allowable *building site* solely because the lot contains the required *buffer zone* of off-site ESHA. However, where the *buffer zone* protects an off-site river, stream or other *wet environment*, new *development* shall not increase the size or degree of the existing ESHA *buffer zone* non-conformity unless the applicant provides substantial evidence that no new adverse impacts to the *wet environment* will result from the proposed *development*.
- c. Other Coastal Areas: Except as provided by subsections (a) and (b) above, the maximum allowable *building site* shall be determined on a case-by-case basis through an Economically Viable Use Determination. In such cases, the project applicant shall submit the information set forth in Appendix E2, Sec. AE-2.4 – Economically Viable Use Determination in conjunction with the associated coastal development permit application. The maximum allowable *building site* shall be limited to the area needed for the property owner to make an economically viable use of the subject parcel(s). (Also, see the required findings for an economically viable use determination in Sec. 8181-3.5.3(d).)

In all cases, the maximum allowable *building site* shall be subject to the general requirements, provided in Sec. 8178-2.6.2.1 below, and to the adjustments for incentive programs or highly constrained lots, provided in Sec. 8178-2.6.2.2 below.

[Staff Explanation. The Coastal Act restricts the types of uses allowed in an ESHA or buffer zone, but non-resource dependent uses are allowed in ESHA when necessary to provide “reasonable economic use” and avoid a private-property takings challenge. There is no state-wide standard for what constitutes “reasonable economic use” in ESHA, and many jurisdictions, such as Santa Barbara County and Marin County, rely on a case-by-case review to determine allowable development levels. In this case, three different scenarios are provided:

Santa Monica Mountains - In the Santa Monica Mountains, the 10,000-square-foot (or 25% of lot) standard is based on regulations approved for the Santa Monica Mountains in L.A. County and the City of Malibu. In the Santa Monica Mountains, residential use is the primary form of development. Unless the lot is less than 1 acre, the 10,000 square foot standard would apply.

Existing Communities - Historically developed communities occupy 0.6% of the land area in the County’s coastal zone. Most of these communities are located along the County’s shoreline and are fully developed. Also, much of the development within these communities is exempt from a discretionary permit due to the County’s Categorical Exclusion Order. However, the Categorical Exclusion Order does not exempt development in certain areas (e.g., lots adjacent to a beach, lots that contain ESHA), and it does not exempt certain types of development (e.g., redevelopment). Thus, future development in existing shoreline communities could be affected by the buffer zone of an off-site coastal dune habitat or the seasonal buffer zone for a nesting shorebird colony. Like the County’s Categorical Exclusion Order,

¹⁰ The zones listed above are only used within the existing communities of Rincon Point, La Conchita, Mussel Shoals, Seacliff, Faria, Solimar, Hollywood-by-the Sea, Silverstrand, and Solromar (outside (M) overlay zone).

DRAFT COASTAL ZONING ORDINANCE

zoning classifications are used to define applicable areas, as some zones in Solromar lie within the Santa Monica Mountains (M) overlay zone, where this regulation would not apply.

The existing community most affected by the proposed regulation is Hollywood-by-the-Sea, where coastal dunes are located near development and are used as a seasonal shorebird colony during nesting season, which requires a 500-foot buffer zone. The 500-foot buffer zone seasonally affects a number of existing lots. Lots along this stretch of beach are typically built out to the setback lines. The proposed regulation would ensure that all lots can be built out in a similar manner, as there's no reason to conclude that one building addition or larger deck in an otherwise fully developed area would result in new impacts to an off-site coastal dune or seasonal shorebird colony. A provision for wet environments was included to address existing streams at Rincon Point, Solimar, and Solrmar, which affect a limited number of shoreline properties. Finally, a maximum allowable building site standard of 10,000 SF (or 25% of the lot for properties that exceed 1 acre) is provided to address rare occasions where ESHA (primarily streams) may be present on a lot. The standard is based on the high value of properties within these communities and the size of existing lots (97.5% of the lots are 10,000 sf or less).

Case-By Case Review - The third standard is primarily applicable to rural areas of the North Coast Subarea, as ESHA is generally limited to shoreline locations in the Central Coast Subarea. While the eastern portion of the North Coast Subarea contains large lots that may contain ESHA, most of the land is already developed for agricultural, oil/gas drilling, coastal recreation, or transportation uses (e.g., Route 101, Pacific Coast Highway). Also, ESHA is less prevalent in the North Coast Subareas than in the Santa Monica Mountains, which means that development can typically occur without impacting ESHA or buffer zones. In such cases, landowners would not rely on "reasonable economic use" provisions to develop land. Nevertheless, to address the possibility that development is proposed in ESHA in other coastal areas, an "Economically Viable Use Determination" process is provided in Appendix E2, Sec. AE-2.3, which is based on regulations in the Santa Barbara County LCP.]

Sec. 8178-2.6.2.1 – General Requirements for Maximum Allowable Building Sites

- a. Building Site Calculations - Area calculations for the *building site* may exclude the area of one access driveway or roadway, the area of one hammerhead safety turnaround, graded slopes exclusively associated with the access driveway or roadway and hammerhead safety turnaround, and grading necessary to correct an adverse geological condition. Fuel modification required by the Fire Department for approved structures may extend beyond the approved *building site* area. The size/design of *development* excluded from the *building site* shall meet all applicable standards of the LCP or, when such standards are not specified, shall be based on minimum standards provided by the Ventura Co. Fire Department or the Public Works Department.
- b. Least Damaging Alternative - *Development* within the *building site* shall be the least damaging alternative (see Sec. 8178-2.6.1), and siting and design techniques shall be used to minimize impacts to ESHA and *buffer zones*.

Sec. 8178-2.6.2.2 – Adjustments to Maximum Allowable Building Site

The maximum allowable *building site* is subject to adjustment in the following circumstances:

- a. Incentive Programs: The allowable *building site* may be increased above the maximum specified by this Section when allowed pursuant to the incentive program in Sec. 8178-2.9.4.1 – Expansion of Building Site; and
- b. Highly Constrained Lots: The allowable *building site* shall be reduced below the maximum specified by this Section when adequate land is not available due to one or more of the following circumstances:
 1. A reduction is necessary to meet public health and safety standards (e.g., established building codes, fire codes, flood hazard requirements, slope stability hazard requirements); or

DRAFT COASTAL ZONING ORDINANCE

2. A reduction of the size of the *building site* is necessary to avoid disturbance of a *wetland habitat* (e.g., *vernal pools, estuaries, lagoons, lake habitats*), *habitat within 100 feet of riparian habitat*, or the *top of the bank of a river/stream* where *riparian habitat* is not present, or *habitats occupied by special status species* (see Sec. 8178-2.3.1). Any reduction of the *building site* on this basis shall be supported by the *Coastal Initial Study Biological Assessment (CISBA)* (Sec. 8178-2.10.3(a)).

[Staff Explanation. Reductions to the maximum allowable building site are limited to circumstances where substantial physical or environmental constraints exist on a lot. For example, a lot may be characterized by steep slopes that are susceptible to landslides or a lot may be occupied by a threatened or endangered species. Generally, such constraints would only affect the size of a building site when the lot is smaller than the minimum lot size for that zone (highly constrained land in the coastal zone typically has a large minimum lot size). A larger allowable building site is also provided for lot mergers in the Santa Monica Mountains (M) overlay zone, as described in Sec. 8178-2.9.4.1.]

Sec. 8178-2.6.3 General Siting and Building Design Standards

- a. Location of New Development – To minimize impacts to *ESHA* and *buffer zones*, new development shall be located as follows:
 1. Distance from ESHA - The *development envelope* shall be located as far from *ESHA* as possible and outside *ESHA buffer zones*.
 2. Avoid Steep Slopes - Development shall not be permitted in areas with 30 percent slope or higher. Remediation of unstable slopes that threaten public health or safety is permitted if the least environmentally-damaging method is used to stabilize the slopes;
 3. Clustered Development - New development shall be clustered and located near existing structures, roadways and services (e.g., water, sewer);
 4. Minimize Grading – Locate roads, structures, and other development in areas with minimal topographic constraints to minimize grading and alteration of natural landforms; and
 5. Minimize Fuel Modification - Building sites and structures shall be clustered in a compact pattern to facilitate the overlap of fuel modification zones and the reduction of their extent (see Sec. 8178-2.6.8.1).

An exception to the standards listed above may be provided if their application would result in increased impacts to coastal resources.
- b. Best Management Practices - Best management practices that minimize adverse impacts on ESHA and ESHA buffer zones shall be used for brush/vegetation removal or alteration, the control and removal of invasive species, construction management, water quality protection, habitat restoration, and use of toxic chemicals.
- c. Water Quality – Water quality shall be protected by minimizing the use of impervious surfaces and by utilizing bioswales, or other best management practices (BMPs), that promote stormwater infiltration and limit stormwater runoff. Locate new development away from wetlands, other wet environments, and natural drainage features and associated vegetation, and minimize the disturbance of such features when avoidance is infeasible.
- d. On-Site Development Restrictions – Except for areas in an approved development envelope or areas used as compensatory mitigation, all identified on-site environmentally-sensitive-habitat areas ESHA, buffer zones, and/or slopes over 30 percent shall be permanently maintained in their natural state through a conservation instrument, an easement or deed restriction that shall be recorded on the final map, or on a grant deed as a deed restriction submitted with the final map. Development shall not be permitted in areas over 30 percent slope.

DRAFT COASTAL ZONING ORDINANCE

[Staff Explanation. The on-site development restrictions above are the same as existing regulations for the Santa Monica Mountains, specified in Sec. 8177-4.1.4(b). At the request of County Counsel, clarification is provided regarding the type of legal instrument used for this type of development restriction. A “conservation instrument” (see Article 2, Definitions) is a lower-level restriction than a conservation easement, which is required for compensatory mitigation.]

- e. Buildable Lot Standards – A legal lot is a buildable lot for residential use when it can feasibly accommodate the following structures and improvements in a manner that meets established public health and safety standards: (1) a principle structure; (2) legally accessible, all-weather access road; (3) development is located outside known geological hazard areas; and (4) the lot is served by public water/sewer or it can accommodate an on-site site well and/or wastewater treatment system that is adequate to serve the proposed development.

[Staff Explanation. The buildable lot standard is intended for limited use prior to the submittal of a permit or early in the development review process. This standard is not intended to address the full range of LCP requirements. It includes essential components required to develop residential use on a lot.]

- f. Public Works Projects – Public Works projects allowed in ESHA or buffer zone, pursuant to Sec. **8178-2.5.2(c)**, shall provide a public benefit, and such development shall be subject to all applicable siting and design standards in Sec. **8178-2.6** and Sec. **8178-2.7**.

Sec. 8178-2.6.4 – ESHA Buffer Zone Standards

When a buffer zone is required (see Sec. **8178-2.4.3**), it shall meet the following standards:

- a. Whenever feasible, use natural topographic features, such as hills and bluffs adjacent to ESHA, to buffer ESHA from development (e.g., locate development on the opposite side of the hill from the ESHA).
- b. Buffer zones shall contain native vegetation around parklands, ESHA, or protected open space areas to serve as transitional habitat and protect the ESHA ecosystem.
- c. Buffer zones for wet environments shall include a wildlife-permeable fence or a natural barrier (e.g., vegetation or water) to provide a physical barrier to control entry into the wet environment when resident or migratory species in the wet environment (e.g., wetlands, estuaries, marsh) are particularly sensitive to human impacts or are visible from publicly accessible areas or trails. Such barriers shall be located at the outside boundary of the buffer zone and shall only be allowed when specified by a County-approved ESHA Mitigation Plan (Sec. **8178-2.10.9**). Visual screening may be provided using landscape material or vegetation that is compatible with the wet environment.
- d. When an applicant proposes (or is required) to restore a stream that was previously channelized or otherwise altered, existing legally-established development within the required ESHA buffer zone of such a restored stream may remain; and
- e. Water quality improvement BMPs required for new and existing development shall be located outside the ESHA buffer zone, except when required within a fuel modification overlap zone (see Sec. **8178-2.6.8.5**) to protect other ESHA from erosion and degradation.

[Staff Explanation. This section provides standards for ESHA buffer zones and implements the CAP policies for buffer zones. In past permit actions, the Coastal Commission required that development be located no closer than 100 feet from ESHA. The purpose of the 100-foot requirement is to protect the ecological integrity of the ESHA, provide space for transitional vegetated buffer areas, and minimize human intrusion. This provision is also consistent with the intent of existing General Plan Policy 4 – buffer areas, which allows an increase or decrease in buffers upon evaluation and recommendation by a qualified biologist and approval by the decision-making body. ESHA buffer zones less than 100 feet may occur where legal requirements dictate that a reduction occur to provide “reasonable economic use” of a property. Conversely, an ESHA

DRAFT COASTAL ZONING ORDINANCE

buffer that exceeds 100 feet may be necessary to protect highly sensitive biological resources such as lagoons, raptor nesting sites, and nesting shorebird colonies.]

Sec. 8178-2.6.5 – Geotechnical Testing in ESHA or Buffer Zones

Geotechnical testing includes exploratory activities associated with evaluating a site for allowable, potential development. Such activities include drilling or excavation conducted to evaluate soil, geologic hazards, or hydrologic conditions (e.g., exploratory test holes for water wells, percolation testing for on-site wastewater treatment systems). When conducted in ESHA or buffer zone, such activities require a discretionary permit (see Sec. 8178-2.4 – Permitted Uses by Zone). Geotechnical testing shall be sited and designed to minimize adverse impacts to ESHA and buffer zones, and the following standards shall apply:

- a. Access Roads - To the extent feasible, access to a project site for geotechnical testing (e.g., wells, percolation tests) shall be provided by existing roads or track-mounted drill rigs. If a temporary access road is permitted, the volume and extent of grading shall be limited to the minimum required to accommodate the equipment. Also, existing topsoil and vegetative root stock shall be stockpiled and retained for use during site restoration.
- b. Required Restoration - Within 90 days from completion of exploratory testing, all temporary roads shall be restored to the original topographic contours, and all disturbed areas shall be restored with the original (previously stockpiled) topsoil and revegetated with species indigenous to the project site. Revegetated areas shall be monitored to ensure successful restoration.

Also, see additional road standards in Sec. **8178-2.6.8** – Access Roads in ESHA.

[Staff Explanation. Development standards associated with exploratory testing are primarily based on the L.A. County Implementation Plan Section 22.44.1430.]

Sec. 8178-2.6.6 – Water Wells and Wastewater Systems

New water wells and wastewater systems shall be sited and designed to minimize impacts to ESHA – including impacts from grading, site disturbance, the introduction of increased amounts of water, and soil erosion.

Sec. 8178-2.6.6.1 – Water Wells

When a water well is proposed to serve a project, the applicant shall demonstrate, to the satisfaction of the County Watershed Protection District, as well as the applicable Groundwater Sustainability Agency that the proposed well will not have significant adverse individual or cumulative impacts on groundwater, streams, or natural resources. For a well location in close proximity of a stream, drainage courses, and similar surface water conveyance, a groundwater assessment must be performed by a qualified professional to ensure surface water will not adversely impact groundwater quality. The applicant shall be required to do a test well and provide data relative to depth of water, geologic structure, production capacities, degree of drawdown. To approve a well the County must find, based on substantial evidence, that it will not cause significant adverse impacts, either individually or cumulatively, on coastal resources.

[Staff Explanation. This provision is based on existing Sec. 8181-3.5.2 – Additional Findings for Development in the Santa Monica Mountains Overlay Zone. It includes updated agency names.]

Sec. 8178-2.6.6.2 – Onsite Wastewater Treatment Systems (OWTS)

The County's Environmental Health Division (EHD) is responsible for enforcing OWTS regulations and design standards. The design, installation, operation and maintenance of such systems shall be approved by EHD and, if applicable, the Los Angeles Regional Water Quality Control Board. The following standards complement existing public health and safety standards. New and replacement OWTS, including primary and expansion wastewater disposal areas, shall be sited and designed to minimize impacts on ESHA and buffer zones as follows:

DRAFT COASTAL ZONING ORDINANCE

- a. To the maximum extent feasible, OWTS shall be located away from wet environments and outside the protected zone of trees classified as ESHA (see Sec. 8178-7.4.3), and adequate setbacks shall be required to protect these areas from lateral seepage;
- b. New OWTS shall be sized to serve only the approved development and shall be sited within the approved building site and/or fuel modification zone; and
- c. To the maximum extent feasible, OWTS components that require maintenance (e.g., pumping septic tanks, maintaining effluent screens) shall be located in an area that can be accessed from exiting or approved access roads.

[Staff Explanation. OWTS standards for ESHA were developed in conjunction with the RMA/Environmental Health Division. Sources used included existing CZO text (Sec. 8178-2.4 (b.)(2), Sec. 8175-5.1(b), 8175-5.1(g)(6), Sec. 8175-5.4.5, Sec. 8175-5.17.10, Sec. 8177-3.6.3, Sec. 8178-4.2(6), and Sec. 8181-3.5.2 (c)) and certified standards in the L.A. County or City of Malibu LCPs.]

Sec. 8178-2.6.7 – ESHA Grading Standards

The standards of this Section shall be used in conjunction with those in Sec. 8175-5.17 – Grading and Brush/Vegetation Removal when grading is permitted on property that contains ESHA, ESHA buffer zone, or fuel modification overlap zone.

- a. New development shall be designed to minimize alteration of natural landforms by using clustered development and split-level or stepped building pads on slopes that exceed 20 percent gradient;
- b. To reduce erosion and sediment loss, new development shall be sited and designed to minimize vegetation clearing, grading and to limit disturbance of natural drainage features;
- c. Best management practices shall be used to minimize erosion and control runoff, and materials and techniques shall be utilized that avoid impacts on ESHA and water quality within wet environments; and
- d. Erosion control measures used during project construction shall meet the following standards:
 1. Erosion and sediment control products shall not contain netting, except when the netting is manufactured from 100 percent biodegradable natural materials and is comprised of a loose-weave, wildlife-safe design with movable joints between the horizontal and vertical twines (i.e., with twines that can move independently). However, in areas of geologic instability, the use of non-biodegradable netting (metal) and geotextiles fabrics (sub-surface) that are manufactured with polypropylene fibers may be permitted for geologic slope support and stabilization;
 2. Temporary silt fences reinforced with plastic mesh are prohibited; and
 3. When no longer required, temporary erosion and sediment control products shall be removed.
- e. Trenches, test pits, and other excavations shall be designed in a manner that prevents wildlife from entering and that provides a way for wildlife to escape if trapped.

(Also, see Sec. 8178-2.6.5 – Geotechnical and Soils Testing in ESHA or ESHA Buffer Zones.)

[Staff Explanation: Activities that adversely impact ESHA can occur during grading for construction, and setbacks from ESHA help avoid adverse impacts during construction. Best Management Practices (BMP) is a term used to describe a type of water pollution control or stormwater management plan that uses structural, engineered devices, and natural solutions such as bioswales to treat polluted stormwater, as well as operational or procedural practices to minimize the use of fertilizers and pesticides.]

Sec. 8178-2.6.8 – Access Roads and Driveways in ESHA

New or expanded access roads and driveways in ESHA or buffer zones shall be sited and designed as follows:

DRAFT COASTAL ZONING ORDINANCE

- a. Except where access improvements are necessary to meet Ventura County Fire Protection District standards, the construction and/or improvement of access roads and driveways that would increase access to any property shall be permitted only when it has been determined that environmental resources in the area will not be adversely impacted by the increased access;
- b. The number, width and length of access hillside roads and driveways shall be as narrow as feasible limited to the minimum necessary to establish access to permitted development and shall follow natural contours; and
- c. Within the Santa Monica Mountains (M) overlay zone, access roads and driveways shall meet the following standards:
 1. No more than one driveway, with one hammerhead-type turnaround area, shall be permitted for an individual lot. The length of new driveways, as measured from the property line, shall be limited in length to 300 feet, or one-third the parcel depth, whichever is less. An exception to this standard may be provided where a longer driveway is required for the least damaging alternative.
 2. To the maximum extent feasible, a single driveway shall be used to provide a combined source of access to adjoining lots. Grading cuts shall be minimized by combining the accessways of adjacent property owners to a single road where possible. The intent is to reduce the number of direct ingress-egress points off public routes and to reduce grading. (AM.ORD.4451-12/11/12
 3. Secondary access roads shall not be permitted unless the Ventura County Fire Protection District determines there are no feasible alternatives and a secondary route is needed to ensure adequate fire safety or to provide a necessary, secondary emergency route for an existing residential area served by a dead-end road whose length exceeds the state's emergency access standards.

Also, see standards for access roads used for geotechnical testing in Sec. [8178-2.6.5](#).

Sec. 8178-2.6.9 – Fuel Modification Zones in ESHA or Buffer Zones

A fuel modification zone shall be designed to minimize adverse impacts on ESHA, to the maximum extent feasible, when development occurs on a lot that contains ESHA or buffer zone or when new development could impact ESHA or buffer zone on a nearby property.

Sec. 8178-2.6.9.1 – Siting of Building Sites and Structures

To minimize the extent of the fuel modification zone and its associated impacts on ESHA or ESHA buffer zones, new structures shall be clustered within the building site and near existing buildings on the subject property or on nearby lots. In addition, all new building sites shall, to the maximum extent feasible, be located and designed to meet the following standards:

1. Utilize an approximately square or circular shape, unless an elongated shape is needed to protect coastal resources or to minimize grading on a slope over twenty percent gradient;
2. To take advantage of overlapping fuel modification zones, buildings sites shall be clustered when processing a land division (including a lot line adjustment). Also, individual building sites shall be located near existing structures on the subject property or on nearby lots;
3. The width of the fuel modification zone shall be measured from the edge of the protected buildings or structures, not from the boundary of the building site; and
4. To the maximum extent feasible, avoid placement of a new fuel modification zone in ESHA or buffer zone on an off-site property or within 100 feet of an off-site, protected parkland/open space area acquired by natural resource agencies or conservation organizations for habitat protection.

DRAFT COASTAL ZONING ORDINANCE

Sec. 8178-2.6.9.2 – Landscaping in a Fuel Modification Zone

To help preserve or protect ESHA, the following techniques shall be used when landscaping within the *fuel modification zone* for new development abuts or is adjacent to ESHA or is within a *buffer zone*:

- a. The plant palette for a *fuel modification overlap zone* shall consist of locally indigenous native plant species;
- b. Where complete removal of the vegetation is not required by the Ventura County Fire Protection District, fuel load shall be reduced through vegetation thinning or mowing;
- c. The disturbance of wildlife and *special status species*, including nesting birds, shall be avoided during the removal, thinning, or alteration of vegetation; and
- d. Vegetation within a *fuel modification overlap zone* (see below) shall provide transitional habitat for abutting ESHA while meeting fire protection requirements, consistent with the landscaping requirements in Sec. 8178-8.4.2. Permanent irrigation systems are prohibited. When allowed by the County's Fire Protection District, trees classified as ESHA shall be retained within all or a portion of a *fuel modification overlap zone* (see Sec. 8178-2.6.9.3).

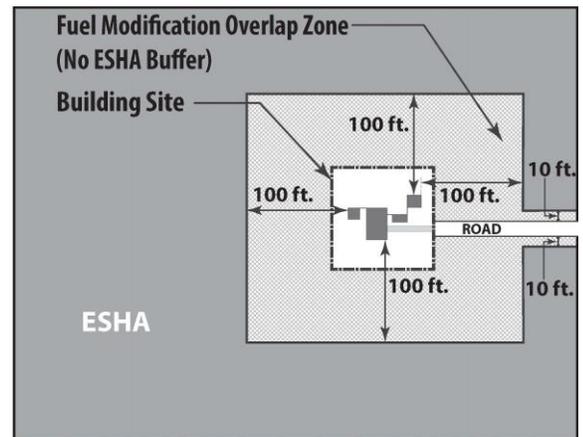
The fuel modification techniques listed above shall be used in conjunction with those specified in Sec. 8178-8.4.2.3 – Landscaping in a Required Fuel Modification Zone and Sec. 8178-8.4.2.4 – Landscaping Adjacent to an Environmentally Sensitive Habitat Area.

[Staff Explanation. Impacts from fuel modification zones exceed impacts from the development of structures. For example, a 100-foot fuel modification zone for a 10,000-square foot (.23 acre) building site in the Santa Monica Mountains would typically require a two-acre fuel modification zone, depending on the location of structures and the shape of the building site. The standards listed above establish site development, landscaping, and other standards that minimize impacts on ESHA and ESHA buffer zones. Several items are based on existing text in the Water Efficient Landscaping section.]

Sec. 8178-2.6.9.3 – Fuel Modification Overlap Zones

When all (or a portion of) a *fuel modification zone* is located in ESHA or *buffer zone*, that area is called a *fuel modification overlap zone*. A new *fuel modification overlap zone* (or the expansion of an existing *fuel modification overlap zone*) shall only be authorized through a new (or amended) coastal development permit and shall meet the following standards:

- a. Width of Fuel Modification Overlap Zone - The standard width of a *fuel modification overlap zone* shall be 100 feet¹¹. However, a maximum 200-foot width may be allowed if the Ventura County Fire Protection District determines, in writing, that additional fuel modification is necessary for public health or safety purposes. Also, a maximum 300-foot width *fuel modification overlap zone* may be permitted around the existing boundary of the U.S. Naval Base Ventura County communication facilities on Laguna Peak to protect critical federal Tactical Critical Assets at that location.
- b. Allowable Use/Development – Outside the 100-foot width of a *fuel modification overlap zone*, allowable use shall be limited to required fuel modification. Within the 100-foot width of a *fuel*



Fuel Modification Overlap Zone

¹¹ Fuel modification zones are required by the Ventura Co. Fire Department along public or private roadways, and the standard width of such zones is less than 100-feet. For example, a 10-foot wide fuel modification zone is required for a residential access road.

DRAFT COASTAL ZONING ORDINANCE

modification overlap zone, the following development shall be allowed: (1) uses permitted in an ESHA buffer zone (Sec. 8178-2.4.2); (2) fire-resistant, drought-tolerant native trees and landscaping; (3) confined animal facilities (Sec. 8178-2.6.11) that do not require additional fuel modification; (4) water wells/septic drainage fields; and (5) drainage and pollution runoff control devices (see BMPs, Sec. 8178-2.6.3(e)) required and approved by the County to protect ESHA from erosion or degradation.

Also, see landscaping requirements for a fuel modification overlap zone in Sec. 8178-2.6.9.2(d) and in Sec. 8178-8.4.2.4 – Landscaping Adjacent to an Environmentally Sensitive Habitat Area.

[Staff Explanation. The proposed standards address circumstances where a fuel modification zone is allowed in ESHA or a buffer zone. In such cases, the standard width of a modification zone is 100 feet, which is the standard set by the Ventura County Fire Protection District. An expanded fuel modification zone for existing, legally permitted development is defined as one that exceeds 100 feet (or a wider width if specified by the permit). A fuel modification zone wider than 100 feet does not provide greater protections during a wind-driven fire like the Thomas Fire, but other types of protections could be effective. Also, the 100-foot standard is not meant to apply to all circumstances, and the proposed regulations provide the Ventura County Fire Protection District with the authority to require up to a 200-foot fuel modification zone when required by site conditions or other identified circumstances. Based on input from the Ventura Co. Fire Protection District and the U.S. Naval Base Ventura County, a maximum 300-foot width was established for the U.S. Naval Base facility at Laguna Peak, which contains facilities classified as Tactical Critical Assets important for regional and national security. Finally, the proposed standards define what uses can occur in a fuel modification overlap zone, which include water wells or septic fields that cannot be located in the building site. These use restrictions are designed to minimize impacts to adjacent ESHA. As proposed, the standards are consistent with Coastal Act requirements for development adjacent to ESHA.]

Sec. 8178-2.6.10 – Standards for Recreational Development

The applicant of a proposed new or expanded, resource-dependent recreational use/facility (see Sec. 8178-2.5.1) in environmentally sensitive habitat areas or buffer zones areas shall develop a management program site and design the facility/area to control the kinds, intensities, and locations of uses to preserve habitat resources to the maximum extent feasible. The following site design/development techniques shall be used to minimize adverse impacts on coastal resources:

- a. Areas used for passive recreation, such as hiking trails, shall utilize established trail corridors, follow natural contours, and minimize grading and stormwater runoff. Whenever feasible, locate recreational development outside an ESHA or buffer zone. Where such areas are allowed in ESHA or buffer zone, utilize well-defined trails, sustainable trail design (e.g., trails with negligible soil loss/movement, minimal maintenance requirements), fencing, signage or other techniques to protect and control access into sensitive areas;
- b. Areas used for recreational aircraft are prohibited within 1000 feet of ESHA; and
- c. New recreational facilities/areas shall not be located where they would destroy, degrade or disturb the habitat of a special status species.

[Staff Explanation. This standard is based on existing North Coast Sensitive Habitats Policy 3. However, additional text was added to clarify that the standard is targeted towards resource-dependent recreational use (e.g., trails, low-impact camping), which is an allowable use in ESHA or buffer zones. Specialized standards are not provided for recreational uses classified as a non-resource-dependent use.]

Sec. 8178-2.6.11 – Confined Animal Facilities in ESHA or Buffer Zone

Within ESHA or buffer zones, new or expanded confined animal facilities (e.g., corrals), including associated structures (e.g., stables, barns, shelters), are subject to the following standards:

DRAFT COASTAL ZONING ORDINANCE

- a. Building Site – Structures for confined animal facilities are allowed within an approved building site on lots that exceed one acre (See Sec. 8175-5.2.4 - Animals and Fowl); and
- b. Fuel Modification Overlap Zone - When a confined animal facility for horses (equestrian containment facility) is allowed in a fuel modification overlap zone, pursuant to **Sec. 8178-2.6.9.3**, such facilities are limited to corrals, fencing, water troughs and unenclosed shade structures and shall meet the following standards:
 1. No component shall result in the expansion of the fuel modification zone;
 2. The facility shall be located on slopes less than 20 percent and outside the required buffer zone for an ESHA wet environment;
 3. Lighting and irrigation (i.e., irrigated pasture) are prohibited;
 4. A manure management plan shall be submitted for County review and approval requiring that animal waste, chemicals and other such hazardous materials be stored in a sealed area, inside a structure, or in a covered container with an impervious bottom surface;
 5. Protective fencing shall be provided around the dripline of native trees that protect the trees from rubbing, chewing, soil compaction or other direct impacts;
 6. All fencing shall be wildlife-permeable and consistent with the standards for such fencing in **Sec. 8178-2.6.14** – Fences, Gates and Walls; and
- c. Sediment, animal waste, and stormwater runoff shall not be discharged from an animal containment facility to ESHA or buffer zone. Animal waste, fertilizers, and chemicals shall be retained within the boundary of the animal containment facility through the following measures:
 1. Use vegetated berms or other measures to divert and percolate stormwater runoff from holding pens and areas where animal waste, compost, fertilizer, or amended soil products are disposed of or stored; and
 2. Filter strips, native vegetation, gravel, sand, vegetated swales, or other similar materials or measures shall be used along the periphery of corrals, pens, animal showers, and storage areas to absorb oils, chemicals and fertilizers and treat stormwater runoff.

Also, see Sec. 8175-5.2.4 - Animals and Fowl for additional standards for a confined animal facility.

[Staff Explanation. The proposed standards for confined animal facilities are designed to minimize the adverse effects on ESHA, which can occur if the facility is not sited and designed properly. For example, small-scale confined animal areas are generally characterized by compacted soils, a denuded landscape devoid of vegetation, large amounts of nutrient runoff, the introduction on invasive plant species, and the presence of rodents and pests. Well-sited and designed facilities alleviate the overall impact on nearby ESHA, especially when these facilities are in a fuel modification overlap zone (i.e., an ESHA buffer zone.)]

Sec. 8178-2.6.12 – Bird-Friendly Building Standards

The following standards are designed to reduce bird mortalities caused by a bird's inability to see reflective, transparent surfaces.

Sec. 8178-2.6.12.1 – Applicable Development

Bird-safe treatments are required on all new buildings, building addition(s) (only the new construction), and remodel(s) replacing the glass/windows on at least one façade of the structure. Buildings classified as Historic Landmarks or Sites of Merit are exempt from all standards in this Section.

Sec. 8178-2.6.12.2 – Bird-Friendly Treatments for Structural Features

The following structural features are considered bird hazards: freestanding clear glass walls/fences; balconies with unbroken glazed segments (16 square feet or larger in size); transparent glass-like

DRAFT COASTAL ZONING ORDINANCE

components on rooftops; uncovered atriums; and uncovered/enclosed courtyards enclosed in glass. Building features that are considered bird hazards shall be avoided or treated with *bird-safe glazing treatments* (see below).

Sec. 8178-2.6.12.3 – Bird-Friendly Window Treatments

Bird-safe glazing treatments are required on unbroken glazed segments that are 16 square feet or larger in size. Acceptable bird-friendly window treatments include, but are not limited to, the following:

- a. Glass/glazing treatments: Ultra-violet patterned glass, fritting, netting, permanent stencils, frosted glass, window films, etched glass, and glass block. Mirrored glass is prohibited.
- b. Architectural features added to the exterior of windows, such as window screens, louvers, shutters, latticework, decorative grilles, or exterior shades.

Physical grids or horizontal/vertical lines used for *bird-safe window treatments* shall meet the 2x4 rule (i.e., horizontal spaces less than 2 inches high and vertical spaces less than 4 inches wide. Treatments that contribute to a bird-friendly building include balconies or overhangs, deeply recessed windows, awnings, window mullions, and tinted glass.

The *Planning Director* may approve equivalent *bird-safe glazing treatments* based upon the recommendation of the County staff biologist.

[Staff Explanation. The Coastal Commission’s LCP guidance document recommends that standards be provided to reduce bird mortalities, as research shows that buildings and windows are the primary killer of wild birds in North America. Roughly 44 percent of bird fatalities are associated with 1 to 3 story residences. Estimations are that 1 to 10 percent of the total migratory population dies in window crashes annually (Klem, 2009), and many are endangered or threatened bird species.]

Sec. 8178-2.6.13 – Construction Standards

- a. Construction Equipment and Materials - Construction equipment storage and staging areas shall be graphically depicted on approved site, grading and building plans. The extent of construction equipment storage and staging areas shall be limited to existing, legally disturbed areas and the approved *development envelope*. To the maximum extent feasible, locate such areas outside the *buffer zone* and away from adjoining ESHA.
- b. Access Roads and Driveways - The construction of access roads and driveways shall occur concurrently with the use it is intended to serve, except when a temporary road is necessary to conduct geotechnical testing, pursuant to Sec. 8178-2.6.4.
- c. Construction Noise - Construction noise is subject to the noise threshold in Sec. 8178-2.6.16(b), and outdoor construction within, *abutting*, or adjacent to an ESHA *noise sensitive receptor* is prohibited after sunset;
- d. Alterations to a *Wet Environment* - Construction shall occur during a period of low flow, and construction time and/or equipment shall be kept to a minimum. Construction activities shall also utilize BMPs required by the County’s Department of Public Works and the LCP to protect water quality, protect sensitive resources, or minimize the discharge of sediment into *drainages*.
- e. Bird Nesting Survey - Applicant requests for a Zoning Clearance prior to construction shall include a bird nesting survey if trees or other vegetation classified as ESHA are allowed to be *altered, transplanted, or removed* during the bird *nesting season* (January 1 - September 15, see Sec. 8178-7.4.2). The Permittee shall provide a *Bird Nesting Survey* report that conforms to the requirements provided by subsection (g) below and Sec. 8178-7.7.4.1.1 – Bird Nesting Survey, including bird breeding and nesting protocols.

DRAFT COASTAL ZONING ORDINANCE

f. Invasive Species - The following standards shall be used to limit the spread of invasive species during construction activities:

1. Invasive species infestations listed by the California Invasive Plant Council (Appendix L7) shall be eradicated within the development envelope before construction activities begin. Also, the contractor shall carefully dispose of soils, seeds, and plant parts or invertebrates found during inspection and cleaning.
2. Trail construction staging and work sites shall be inspected and pre-treated for noxious weeds before such areas are used during construction; and
3. Prior to moving equipment onto the project site, or prior to moving equipment out of an infested area and into an uninfested area, all soil, seeds, plant parts, and invertebrates shall be cleaned from the exterior surfaces of the equipment to the extent feasible.
4. Herbicides shall be restricted to the least toxic product and method and shall be biodegradable.

[Staff Explanation. Invasive, nonindigenous plant and animal species threaten the diversity and abundance of native species, the ecological stability of infested habitats, and commercial, agricultural, aquaculture or recreational activities dependent on such habitats.]

g. Special Status Species - When potential adverse impacts are identified to special status species within the Site Specific Environmental Assessment (CISBA) for the project, the following standards shall be applied during construction:

1. If special status plants are discovered during construction or pre-construction surveys, impacts shall be avoided to the maximum extent feasible. If the impact is unavoidable, individual plants shall be relocated to suitable habitat or new, replacement plants shall be provided in a restoration site used as compensatory mitigation.
2. Construction activities shall be timed to avoid the disturbance of special status species, or the habitats of such species, during a critical life stage (e.g., breeding, nesting, denning, roosting).
3. The applicant shall survey the area¹² 20 to 30 days prior to site disturbance if there is potential for special status wildlife to move into the construction area or when habitats that support a critical life stage (e.g., nesting, roosting/staging, denning, overwintering sites, etc.) of a special status species were identified within 500 feet of the construction area¹³. In such cases, a County-approved, qualified biologist shall conduct a final, pre-construction survey(s) one to three days prior to the initiation of vegetation clearance/construction and periodically during construction. If a special status species vulnerable to vegetation clearance or earth disturbance is found during pre-construction surveys, an additional survey shall be required the day of construction.
4. Special status wildlife found within the disturbance area that are not in a critical life stage shall be relocated to suitable, undisturbed habitat by a qualified biologist with a valid collecting permit (when applicable). If special-status species are found, then construction activities shall be halted and shall not commence until a County-approved biologist coordinates with the County, CDFW and/or USFWS (as applicable) and additional mitigation requirements are identified and incorporated into the conditions of approval for the permit.
5. If occupied habitat supporting a critical life stage is located within 500 feet of the disturbance area, and construction cannot occur without infringing on the required buffer zone for the occupied habitat, then construction shall be postponed until the occupied areas are either vacated or non-breeding wildlife and/or the fledglings leave the area. Construction activities shall not

¹² Please see Appendix 2 for survey requirements. USFWS and CDFW protocol level surveys shall be followed when applicable.

¹³ If the boundaries of the survey area fall outside the property boundaries of the project site and cannot be accessed, then a visual survey with binoculars may be conducted of such areas.

DRAFT COASTAL ZONING ORDINANCE

resume until the County confirms there is no evidence of a second attempt at occupation of the habitat by breeding birds or other special status species. An exception may be authorized where substantial evidence is provided in the CISBA or the pre-construction bird survey that encroachment into the *buffer zone* will adequately protect the specific individual and is consistent with the criteria provided in Sec. 8178-2.7.7 – Breeding, Staging and Stopover Bird Habitats.

6. Bat Roosts - During construction, any relocation or removal of a *special status species* bat shall occur without injuring or killing the bat and shall be conducted by a professional holding a current California Department of Fish and Wildlife Trapping License. Also, the conditions of approval for the permit shall include stop-work procedures if *special status species* bats are discovered during the construction process.

Also, see Sec. 8178-2.6.5 – Geotechnical Testing in ESHA or ESHA Buffer Zones and Sec. 8178-2.6.7 – ESHA Grading Standards.

Standards for an ESHA or Buffer Zone and Santa Monica Mountains (M) Overlay Zone:

Sec. 8178-2.6.14 – Fences, Gates and Walls

The following standards apply to an ESHA or *buffer zone* and all areas within the Santa Monica Mountains (M) overlay zone.

Sec. 8178-2.6.14.1 – General Requirements

- a. ESHA and Buffer Zone - New fences/gates/walls are prohibited in an ESHA or *buffer zone*, except when used for habitat protection/restoration and when specified by a County-approved Habitat Preservation Plan or Habitat Restoration Plan (see Sec. 8178-2.10.9). Also, non-wildlife permeable fencing or walls may be permitted along road corridors if the sole purpose of such fencing/walls is to funnel wildlife to safe road crossings (i.e., underpass, overpass).
- b. Development Envelope: New, wildlife-permeable fencing is allowed throughout an approved *development envelope* (see Sec. 8178-2.6.14.4 for standards), and gates are allowed at entry points to a property when located in the *development envelope*.
- c. Building Site: All types of fencing, gates and walls are permitted in an approved *building site*, subject to the standards of Sec. 8175-3.11 – Fences, Walls and Hedges and subsections (d) and (e) below.
- d. Isolation of Wildlife: In all cases, the construction of new fences and walls shall not result in the isolation of on-site ESHA from all off-site ESHA, *habitat connectivity corridors*, or protected open space areas.
- e. Prohibited Materials: New fences/gates/walls shall not be constructed of, or topped with, spikes, barbs, razors, or any other similar material. Barbed-wire fencing and the use of broken glass is prohibited. Exceptions may be allowed for telecommunication or public/utility facilities (e.g., freeway or major highway, electrical substation, water storage tank) that require such fencing for public safety or security purposes.

Sec. 8178-2.6.14.2 – Temporary Fencing for Habitat Protection/Restoration

Temporary fencing may be used in ESHA and *ESHA buffer zones* for habitat protection or restoration, including but not limited to fencing deemed necessary to protect shorebird nests from predators, prevent wildlife and people from entering habitat restoration areas, and protect shorebird nesting colonies. Such fencing may be *wildlife-permeable* or non-wildlife permeable *fencing*.

DRAFT COASTAL ZONING ORDINANCE

Sec. 8178-2.6.14.3 - Off-Highway Vehicle (OHV) Barriers

Wildlife permeable fencing shall be used when new fencing is deemed necessary to prevent OHV from entering wet environments, beaches, or other wildlife habitat areas.

Sec. 8178-2.6.14.4 – Standards for Wildlife-Permeable Fencing

Wildlife-permeable fencing is defined as fencing that can be easily bypassed by all species of wildlife, including but not limited to deer, coyotes, bobcats, mountain lions, ground rodents, amphibians, reptiles and birds. Wildlife-permeable fencing is subject to the following standards:

- a. Fence material shall be wood or a material that looks like wood (e.g., wood composite, recycled wood products, vinyl), except as provided by subsection (d) below.
- b. Fence posts shall be set at 20-foot maximum intervals (to ensure visibility by animals), and posts shall not be hollow at the top (to avoid smaller animals falling into the fence post).
- c. Horizontal fence components shall be split-rail or flat-board with no more than three horizontal rails or boards, except as provided by subsection (d) below, and shall meet the following standards:
 1. The lower edge of the bottom horizontal rail or board shall be at least 18 inches from the ground;
 2. A minimum two-foot gap shall be provided between each rail or board; and
 3. The maximum height of the fence shall be 48 inches from the ground.
- d. Wire may be used as the horizontal fence component for an animal containment facility in a fuel modification overlap zone, subject to the following standards:
 1. Only smooth wires are permitted and barbed wire is prohibited; and
 2. Add high-visibility tape/braid, vinyl siding trim, small diameter PVC tubing, or other visual markers to the top and middle wires. Flagging and other materials that degrade over time are not permitted.

[Staff Explanation. The standards for wildlife permeable fencing are derived from documents that discuss fencing guidelines and specifications and are similar to those used by state wildlife agencies. The standards are designed to accommodate passage of the widest range of wildlife species, consistent with the other functions for which fencing is erected.]

Sec. 8178-2.6.15 – Outdoor Night Lighting Standards

The following standards apply to new development in ESHA or buffer zone or within the Santa Monica Mountains (M) overlay zone. Outdoor lighting includes, but is not limited to, luminaires used for porches, landscapes/hardscapes, security, driveways, parking areas, and outdoor recreation areas.

Sec. 8178-2.6.15.1 – General Requirements

Outdoor night lighting shall be the minimum amount necessary and, except as provided by Sec. 8178-2.6.15.2 below, shall meet the following standards:

- a. Direct illumination of ESHA or buffer zones is prohibited, and outdoor luminaires shall be installed to avoid light spillover into ESHA, buffer zone or adjoining/adjacent properties. For resource-dependent recreational use allowed in ESHA or buffer zones, pursuant to Sec. 8178-2.5.1, light spillover into ESHA or buffer zones shall be minimized but not prohibited;
- b. All outdoor luminaires shall be fully shielded and directed downward;

DRAFT COASTAL ZONING ORDINANCE

- c. Outdoor luminaires shall have a maximum output of 850 lumens¹⁴ and a maximum color temperature¹⁵ of 3,000 Kelvin. An exception to the output standard may be allowed for security lighting (see (d) below), which shall have a maximum output of 2,000 lumens per luminaire;
- d. Outdoor luminaires used for security purposes shall be the minimum necessary, controlled by a motion detector, and programmed to turn off no more than ten minutes after activation. (Also, see security lighting standards for specific uses in Sec. 8178-2.6.15.2);
- e. Within the Santa Monica Mountains (M) Overlay Zone, outdoor night lighting is prohibited along driveways or private access roads, except where luminaires are used for security purposes at entry gates to the property or building site;
- f. Outdoor lighting for pedestrian walkways shall be limited to luminaires placed at a minimum interval of ten feet and a maximum height of two feet above the adjacent driveway, road or walkway; and
- g. The following types of outdoor night lighting are prohibited: (1) perimeter lot lighting, and (2) the illumination of landscapes (e.g., trees, lawns), hardscapes, outdoor statues, and building exteriors for aesthetic purposes.

[Staff Explanation. In the coastal zone, the night lighting standards would primarily apply to the mountainous or rural areas in the North and South Coast Subareas, as those areas contain most of the ESHA or buffer zones and excessive outdoor lighting can have negative impacts on wildlife. The proposed standards will help ensure that only the intended areas are illuminated and that night lighting does not impact ESHA or buffer zones. Although these standards are partially based on the L.A. County and Malibu standards for the Santa Monica Mountains, they are also based on lighting standards being developed by the Planning Division for wildlife corridors and the community of Ojai (i.e., Dark Sky Ordinance). Note: The night lighting standards will partially fulfill a Board of Supervisors' request for a "dark skies" ordinance for the Santa Monica Mountains until a specialized ordinance is provided.]

Sec. 8178-2.6.15.2 – Specialized Use Requirements

- a. Federal Standards – If the outdoor night lighting standards in this Section conflict with federal outdoor lighting standards for a facility, equipment or activity that is subject to federal standards, the federal standards shall supersede the standards in this Section.
- b. Wireless Communication Facilities - Outdoor night lighting for wireless communication facilities (including navigation lights for radio and television towers) shall meet the following standards:
 1. If the facility exceeds 200 feet in height, red-steady lights are prohibited unless required by the Federal Aviation Administration (FAA). Also, only white strobe or red strobe lights (or red flashing LED lights) shall be used. The number, intensity, and number of flashes per minute shall be the minimum allowable by the FAA. To the extent feasible, light flashes emanating from a single tower shall be set (synchronized) to flash simultaneously; and
 2. If the facility is less than 200 feet in height, the facility shall meet the general requirements in Sec. 8178-2.6.15.1, except for emergency lighting required by FAA regulations.
- c. Public Rights-of-Way – Outdoor night lighting standards required by State/County public transportation agencies (e.g., CALTRANS) may be used within the public rights-of-way for the

¹⁴ The output for a standard 60-watt bulb is 750-850 lumens of light.

¹⁵ The phrase "color temperature" refers to the color appearance of a particular source of white light. A "warm" white light is emitted by a bulb with a color temperature of about 2,000-3,000K (Kelvin), and a light bulb with a lower color temperature is also referred to as being "warm." A "cool" white light casts a light bluish or icy blue glow on objects and is emitted by a bulb that has a color temperature of about 5,000-6,500K.

DRAFT COASTAL ZONING ORDINANCE

principal purpose of illuminating public streets or controlling traffic, provided that fixtures are shielded and directed downward when public roads adjoin or are adjacent to ESHA; and

- d. Temporary Use - Where necessary, exceptions to the lighting standards in Sec. 8178-2.16.15.1 may be allowed for the following:
1. Public Emergencies – Outdoor night lighting required by fire, law enforcement, or other public safety or emergency service providers during a declared public safety emergency. Short-term lighting for public emergencies shall be immediately discontinued upon abatement of the emergency condition;
 2. Agriculture – Outdoor night lighting required for agricultural uses during weather events; and
 3. Film Production, Temporary – Outdoor night lighting for film productions that require a coastal development permit (See Sec. 8174-5), when substantial evidence is provided that the proposed lighting will not result in adverse impacts to ESHA.

[Staff Explanation. Lighting standards in this section only apply to discretionary film permits, and no discretionary film permits were processed for the coastal zone in the prior fifteen years.]

Sec. 8178-2.6.16 – Noise Standards

The following standards apply to an ESHA or buffer zone and all areas within the Santa Monica Mountains (M) overlay zone. All new development – including outdoor festivals, outdoor sporting events, and temporary film productions¹⁶ – shall be sited and designed to minimize noise in ESHA or buffer zones through the application of the following noise standards:

- a. Noise Threshold – The noise threshold is only applicable to non-residential use. For non-residential development, noise levels within an ESHA shall not exceed a noise threshold of 50-dB Leq (h). In areas where the ambient noise level is above 50-dB Leq (h) (e.g., near freeways or rail lines), noise levels from non-residential development shall not exceed the measured ambient hourly equivalent noise level Leq(h) plus 3 dB within adjoining ESHA. In addition, instantaneous Lmax noise levels shall not exceed the threshold criteria by 20 dBA more than 8 times per hour.
- b. Helicopter Pads – No private helicopter pads shall be permitted within the Santa Monica Mountain (M) overlay zone, except where needed by an agency for emergency services; and
- c. Outdoor Equipment – When sound-producing outdoor equipment is proposed on a lot that could impact a nearby ESHA noise sensitive receptor, the equipment shall be sited and designed to meet the following standards:
 1. Locate sound-producing outdoor equipment (e.g., roof/ground-mounted HVAC, pumps, generators, compressors, and fans) as far as practicable from the ESHA noise sensitive receptor(s) or locate the equipment in an area where existing or proposed structures or solid walls act as a noise barrier between the noise source and ESHA noise sensitive receptor(s); and
 2. Cooling towers for power facilities and other industrial uses shall be sited and designed to direct noise away from ESHA noise sensitive receptor(s). If feasible, locate cooling towers in such a manner that nearby structures or equipment acts as a noise transmission barrier.

Also, see Sec. 8178-2.6.13(c) for construction noise standards.

[Staff Explanation. The location and design of new roads, buildings, or other development affects noise levels within environmentally sensitive habitats, and excessive noise can negatively affect wildlife. The effect of noise varies by species, and the proposed noise threshold is designed to avoid noise levels that produce negative responses in wildlife (e.g., changes in song characteristics, reproduction levels,

¹⁶ Noise standards in this Section only apply to temporary film productions that require a coastal development permit. For permitting requirements, see Sec. 8174-5.

DRAFT COASTAL ZONING ORDINANCE

abundance, stress hormone levels, and species richness). To put noise measurements in context, the typical noise level of a quiet suburban street is 40 to 50-dBA. For an arterial roadway, the typical noise level is 50 to 60 dbA. In addition, the EPA established a 55-dBA threshold to protect the health and welfare of the American public. The two thresholds for short-term noise levels are based on the County's Construction Noise Threshold Criteria and Control Plan, which has a 50-dBA Leq(h) construction noise threshold during the evening within residential neighborhoods. That same threshold applies to an area ten feet from the nearest noise sensitive building. Because sound levels can vary significantly over a short period of time, the proposed standard is based on the Leq(h) noise measurement, which represents the noise level averaged over an hour (h).]

Sec. 8178-2.7 – Additional Standards for Specific Coastal Habitats

Sec. 8178-2.7.1–Coastal Dunes and Beaches

Sec. 8178-2.7.1.1 – Coastal Dunes

New development that would result in the degradation, erosion or destruction of coastal dune habitats will not be allowed is prohibited. Prohibited activities within a dune habitat or its buffer zone include, but are not limited to, motorized or non-motorized vehicle traffic, mining, filling and the dumping/disturbance of vegetated areas, mechanized beach grooming, and sand removal or sand redistribution, except as allowed by Sec. 8178-2.7.1.4. New development or outdoor festivals/outdoor sporting events that could adversely affect a dune habitat shall be subject to the following standards:

- a. Outdoor Festivals/Outdoor Sporting Events - If such events are proposed on a beach, the event shall be located outside the buffer zone for dune habitats. To protect the dune habitat during an outdoor festival/outdoor sporting event, "no trespassing" signs shall be posted and temporary barriers (e.g., fencing) shall be placed along the buffer zone boundary when permanent barriers are absent.
- b. New Development - When new development is permitted within a dune habitat, it shall be sited and designed as follows:
 1. Use raised walkways, foot paths, signage and physical barriers to control pedestrian and domestic pet movement and activities within the dune habitat and buffer zone; and
 2. Existing coastal dune formations and native vegetation shall be retained, except when the dune habitat will be restored or enhanced pursuant to a County-approved Habitat Restoration Plan (see Sec. 8178-2.10.9(a)).
- c. Dune Restoration - If dune habitat vegetation is subject to restoration, then the vegetation shall be restored in a manner that accommodates the ecological needs of sensitive native dune habitat species (e.g., native vegetation communities). If dune habitat restoration includes the removal of existing vegetation, then the lowest-intensity, effective vegetation removal techniques shall be utilized to minimize impacts on the dune habitat.

Also, see standards in Sec. 8178-2.7.1.5 for sand removal near a coastal dune habitat.

[Staff Explanation. Coastal dunes provide habitat for shoreline birds and other species and act as a buffer against storm extreme tides and storm surges. However, the vegetation that holds a dune together can be easily damaged. Due to the fragile nature of the dune ecosystem, most development or human activity will degrade or destroy the physical, vegetative, and functional makeup of a dune ecosystem. The proposed regulations are designed to keep dunes dune habitat intact. They are based on certified policies in LCPs for the City of Malibu, Los Angeles County, and Mendocino County. The regulations are also consistent with General Plan Policy 1.10.1(2), which states that "discretionary developments which would result in the removal of dune vegetation shall be conditioned to replace the vegetation".]

DRAFT COASTAL ZONING ORDINANCE

Sec. 8178-2.7.1.2 – Beaches

- a. An applicant for any coastal *development*, including *shoreline protective devices*, must show that the proposal will not cause long-term adverse impacts on a beach. ~~or *intertidal areas*~~. Impacts include, but are not limited to, ~~destruction of the rocky substrate~~, smothering of organisms, contamination from improperly treated wastewater or oil, and runoff from streets and parking areas. Findings to be made shall include proper wastewater disposal.
- b. Except for emergency access, authorized County staff shall not drive official vehicles below the monthly highest tide line from March 1 - August 31 (the spawning season for grunion fish) when grunion eggs are present nor within 500 feet of a shorebird colony during nesting season (March 1 – September 30), unless otherwise authorized through a coastal development permit. To the maximum extent feasible, avoid disturbance of a nesting bird or a nesting shorebird colony by placing trash cans outside the *buffer zone* for nesting shorebirds (i.e., 300 feet for a nesting bird, 500-feet for a nesting bird colony). If placement outside the *buffer zone* is infeasible, trash cans shall be placed at locations where public walkways or roads provide points of public access to the beach.

[Staff Explanation. Existing text from Sec. 8178-2.2 - Identification of Environmentally Sensitive Habitat Areas (ESHA), subsection (2)(b) Tidepools and Beaches, was replaced by the more detailed beach grooming and replenishment standards below.]

Sec. 8178-2.7.1.3 – Beach Grooming

Beach grooming includes the removal of driftwood, debris and seaweed (beach wrack) from beaches, which may include leveling sand. Beach grooming is subject to the following standards:

- a. Beach grooming is permitted year-round when such activities are limited to the hand removal of driftwood or debris (e.g., metal, cans, glass) and when they do not disturb spawning grunions or nesting shorebirds;
- b. Except as allowed by subsection (c) below, mechanical *beach grooming* is prohibited year-round below the monthly highest tide line. Above the monthly highest-tide line, mechanical *beach grooming* is permitted when such activities occur outside an ESHA or *buffer zone* (e.g., lagoon/estuary/wetland, coastal dune habitat, nesting shorebirds, designated *Important Bird Area*); and
- c. The removal or disturbance of beach wrack is prohibited below the monthly highest-tide line unless debris entangled in the wrack poses a clear threat to public safety. In such cases, the debris may be removed mechanically or by hand. To ensure the “take” of a special status species does not occur, a qualified on-site biological monitor experienced with the species shall be present when the emergency removal or disturbance of beach wrack is located in an area occupied by a nesting shorebird colony or is within 300 feet of a nesting western snowy plover.

Sec. 8178-2.7.1.4 – Sand Removal/Redistribution on a Beach

Within Hollywood Beach and Silverstrand Beach, sand removal/redistribution may be conducted to remove sand from public accessways to the beach or to prevent physical damage from wind-blown sand inundation of residential or commercial properties that abut these beaches¹⁷. The removal and redistribution of sand shall only be permitted when conducted in accordance with the following standards:

- a. Allowable Sand Removal/Sand Redistribution Area:
 1. Sand removal shall be limited to a 50-foot area that extends from the property line of existing, legally-permitted residential/commercial *development* that abuts the beach. Sand removal may occur within the *buffer zone* of a *dune habitat*, but sand removal is prohibited in ESHA or the *buffer zone* of a nesting bird(s) or shorebird colony; and

¹⁷ The existing shoreline communities of Hollywood-by-the-Sea and Silverstrand.

DRAFT COASTAL ZONING ORDINANCE

2. Sand redistribution shall be limited to an area that extends 150 feet seaward from the edge of the 50-foot sand removal area. Sand redistribution, which may include the leveling of sand, shall only occur outside ESHA and buffer zones;
- b. Vehicles/Equipment - Vehicles and equipment used for sand removal or sand redistribution shall not come into contact with the intertidal zone or ocean waters, and shall be cleaned and maintained at an off-site location to prevent the discharge of any harmful or foreign materials in the beach or ocean;
- c. Dune Management Plan - Where appropriate, a dune management plan shall be required to minimize the need for (and frequency of) sand removal/redistribution activities that are adjacent to a coastal dune habitat¹⁸; and
- d. Special Status Species: Whenever feasible, sand removal/redistribution activities shall occur outside the nesting season for rare/endangered shorebirds (e.g., western snowy plover or California least tern, with a nesting season of March 1 – Sept. 15). If sand removal/redistribution is necessary during the nesting season (to avoid sand inundation), and the beach is occupied by a rare/endangered shorebird, then such activities may only be authorized if conducted in accordance with the standards in Sec. 8178-2.7.6 – Special Status Species Habitats and Sec. 8178-2.7.2(a)(b) – Breeding, Staging and Stopover Bird Habitats and the following additional standards:
 1. Sand removal shall be limited to two, coordinated events (for all property owners) during each nesting season; and
 2. No “take” of a threatened or endangered species shall occur, and the U.S. Fish and Wildlife Service (USFWS) or California Dept. of Fish and Wildlife (CDFW) shall be consulted regarding the scheduling of, and required survey or monitoring procedures for, sand removal/movement events.

If necessary to ensure public safety, sand removal/redistribution activities may occur during a declared public emergency if conducted in accordance with an authorized emergency permit (see Sec. 8181-3.7 – Emergency Coastal Development Permits).

[Staff Explanation. The sand removal and redistribution standards are limited to Hollywood Beach and Silverstrand Beach because they are the only beaches in the County’s coastal zone that contain existing development that abuts beaches that lie above the high-tide line on a year-round basis. Existing development outside those two areas is not subject to damage due to wind-blown sand inundation. Some existing communities (e.g., La Conchita, Solromar) contain no beachfront development, and other existing communities (e.g., Seacliff, Mussel Shoals) abut beaches that frequently lie below the high tide line. If, in the future, climate change leaves additional areas vulnerable to damage from wind-blown sand inundation, this policy will be updated to address such conditions (sea level rise is being addressed by a separate LCP update).]

Sec. 8178-2.7.1.5 – Beach Replenishment

- a. The placement of clean sediments removed from erosion control or flood control facilities, or from harbor or navigation channel dredging, may be allowed at appropriate points along the shoreline if conducted pursuant to an approved coastal development permit for beach or dune replenishment. Sediment may only be used for beach sand replenishment when it is free of contaminants, of a suitable grain size, color, and type that is compatible with the sand at the

¹⁸ Also, see Appendix E2, Sec. AE-1.2.3(b), for additional information on coastal dune habitats and buffer zones.

DRAFT COASTAL ZONING ORDINANCE

placement site, and when demonstrated through testing to be in accordance with federal/state criteria¹⁹. ~~for its intended use, Dredge spoils should~~

- b. ~~Dredge spoils should not be used for~~ Beach replenishment unless it can be shown that the process shall not occur if the process would cause would not adverse impacts to coastal processes or *habitats* – such as *intertidal* reefs, grunion spawning grounds, *estuaries*, marsh, offshore habitats or other interconnected ESHA ecosystems. An exception may be provided for ESHA restoration and establishment projects to create new dune habitats if the project is designed to minimize adverse impacts on beach, intertidal and offshore resources. ~~The Department of Fish and Game, as well as other appropriate agencies, shall be consulted as to appropriate mitigation measures.~~
- c. For beach replenishment projects, an evaluation shall be prepared by the permittee that includes the following information:
1. The type of material, method of material placement, time of year of placement, and sensitivity of the placement area;
 2. This includes a survey of potential environmental impacts, Impacts on coastal processes or habitats, including but not limited to the project's effects on adjacent and downstream habitats and structures, net littoral drift, and downcoast beach profiles;
 3. Characteristics of the receiving area, such as unnourished beach width, adjacent land uses/structures and habitat types, access locations, proximity to coastal streams or river mouths, and historic erosion trends; and
 4. Measures that will be used to avoid or minimize adverse impacts to biological resources and public access and to monitor/document shoreline changes in the project vicinity.

[Staff Explanation. Existing CZO Sec. 8178-2.2 (4)(d) - Identification of Environmentally Sensitive Habitat Areas (ESHA) Wetlands was updated to include recommended changes from BEACON. Also, certified language from the CAP was moved to this section of the CZO (Beach Erosion, policy 5, and ESHA, wetlands, policy 5.)]

Sec. 8178-2.7.2-Coastal Bluff Habitats

New, non-resource dependent development allowed within coastal bluff habitats shall be set back a sufficient distance from the bluff habitat to ensure the protection of bluff ESHA. Also, new development shall be designed to incorporate best management practices (BMPs) that minimize pollution, runoff, and siltation from developed areas to the coastal bluff habitat.

[Staff Explanation. Blufftop development is susceptible to erosion and loss of substrate from rain, wind, and ocean events. Setbacks from a coastal bluff account for future substrate loss over the life of the development, and setbacks are also designed to minimize adverse impacts on the structural integrity and visual quality of the bluff. The proposed standard was taken from LCPs for San Luis Obispo and Santa Barbara Counties.]

Sec. 8178-2.7.3 - Wet Environments

~~e.1. All New developments on land either in a stream or creek corridor or within 100 500 feet of such corridor (buffer area), a wet environment (e.g., wetlands, rivers, streams, springs) shall be sited and designed to prevent impacts that would significantly degrade riparian those habitats and shall be compatible with the continuance and viability of such habitats. (AM.ORD.4451-12/11/12)~~

~~d. 1. All developments on land either in a designated wetland, or within 100 feet of such designation, shall be sited and designed to prevent impacts that would significantly degrade the viability of the~~

¹⁹ Criteria are established by the Environmental Protection Agency (EPA), U.S. Army Corp of Engineers (USACE), and Regional Water Quality Control Board (RWQCB).

DRAFT COASTAL ZONING ORDINANCE

~~wetland. The purposes of such projects shall be limited to those in Section 30233(a) of the Coastal Act. (AM.ORD.4451-12/11/12)~~

[Staff Explanation. Existing text from subsections (c)(1) and (d)(1) within Sec. 8178-2.4 - Specific Standards were combined into the section above. The distance from a wet environment, where potential impacts on ESHA must be evaluated, would be increased from 100 to 500 feet, which is the distance required by the County's Board-adopted ISAGS. This regulation also implements Public Resource Code 30240, which requires that development in areas adjacent to ESHA be sited and designed to prevent impacts that would significantly degrade ESHA. Areas within 500 feet of a wet environment are considered "adjacent" to ESHA.]

Sec. 8178-2.7.3.1 – Wetlands and Open Water Habitats

New development within 500 feet of a wetland or other coastal ESHA open water habitat (i.e., estuary, lagoon, or lake) shall not result in the reduction in the size of the wetland or ESHA open water habitat. Such development also shall not adversely impact the ecological function or water quality of such habitats nor obstruct the unimproved reaches of Ventura County Water Bodies listed on the Clean Water Act 303(d) List that drain into these areas. Other methods used to avoid adverse impacts to wetland and open water habitats includes restrictions on the timing of project implementation to avoid disruption of wildlife breeding and/or nesting of birds and fishes activities and minimal restrictions on the removal of native vegetation.

(Also, see related standards in Sec. 8178-2.5.1.2 – Allowable Uses in Wetlands and Open Coastal Waters and Sec. 8178-2.10.7 – Compensatory Mitigation for Specific Coastal Habitats).

[Staff Explanation. Development standards for wetlands are derived from guidance associated with Public Resource Code 30233 and the Coastal Commission's LCP Guidance for ESHA.]

Sec. 8178-2.7.3.2 – Standards for Development in Wet Environments

When new development is allowed in a wet environment (see Sec. 8178-2.5), it shall be sited and designed in accordance with the following standards:

- a. Activities with Adverse Impacts – New development shall be prohibited that would allow recreational off-highway vehicles, dumping, or other activities that would disturb vegetated areas and degrade, erode, or destroy a wet environment.
- b. Publicly Accessible Land – New development on land that is accessible to the public (e.g., public or private recreation areas) and that contains, abuts, or is adjacent to a wet environment shall include trash receptacles and pet leashing signs.
- c. Flood Control – Allowable flood control measures (see Sec. 8178-2.5.1.1) shall not diminish or change the capacity, percolation rates, or habitat values of the watercourse and shall be designed to facilitate wildlife movement. "Hard" solutions, such as concrete or rip-rap channels may be permitted only if less intrusive flood control efforts (see subsection (e) below) are technically infeasible.
- d. Road Crossings – Alteration of a wet environment for a new road crossing is prohibited unless there is no feasible, less environmentally damaging alternative to provide access to public recreation areas or legally established development. When such alterations are allowed, the following standards shall be met:
 1. Bridges shall be constructed for all crossings, except for crossings meeting the requirements of subsection (4) below, and bridge columns shall be located outside streambeds and banks;
 2. Bridges and or road crossings shall not impede the movement of fish and other wildlife;
 3. At stream crossings, driveway access for nearby residences shall be combined;
 4. Culverts may be used for crossings of small, minor drainages where the culvert is designed to convey a discharge equal to or less than the 50 - year flow and allow unrestricted

DRAFT COASTAL ZONING ORDINANCE

movement of fish or other wildlife. To mimic the natural hydrology and maintain upstream and downstream conditions, the bottom of the culvert shall be designed to meet the following criteria:

- i. The culvert shall not result in a higher water velocity, shallower water depth, or different drainage elevations than those of the natural watercourse; and
 - ii. The bottom of the culvert shall be as wide as possible and installed at least 20 centimeters below the surface of the substrate; and
5. To minimize the area of a stream crossing, its width shall be the minimum required to meet Ventura County Fire Department access requirements.
- e. Alteration of a River or Stream - When alterations to a river or stream are allowed, pursuant to Sec. 8178-2.5.1.1, the following design measures shall be incorporated:
1. Bioengineering methods or "soft solutions" (e.g., biostructures, soil bioengineering, vegetated slopes instead of rip-rap, etc.) shall be utilized, except when the use of such measures will compromise the facility's capacity or integrity;
 2. If bioengineering methods are demonstrated to be infeasible, then other alternatives (e.g., rock rip-rap revetments, vertical retaining walls, or other "hard structures") may be used if the selected method is the least damaging to ESHA. When used, the following measures shall be incorporated to the maximum extent feasible:
 - i. Where rock rip-rap revetments are determined necessary, the rock shall cover the smallest area and retain the largest amount of vegetation;
 - ii. Grout shall not be applied in rock rip-rap used in energy dissipating devices or revetments within or abutting the watercourse. Also, rip-rap shall be laid at a low-to-moderate slope and vegetated, incorporating geotextile filter fabric, live willow stakes or other suitable native plantings in the construction design.
 3. Any watercourse alteration project shall include the restoration of the former bed, its associated vegetation, and adjacent areas impacted by the development.
 4. Proposed alterations shall be designed in a manner that prevents the spread of contaminants and aquatic invasive species;
 5. Where feasible, rivers and streams shall be restored and fish passage and habitat improved. Restoration methods include the removal of existing concrete linings, removal of fish barriers, and planting native trees or shrubs on stream banks when such plantings do not significantly impede stream flows.

Also, see related water quality standards (Sec. 8178-2.6.3(e)) and grading standards (Sec. 8175-5.17- Grading and Brush Removal; Sec. 8178-2.6.7 - ESHA Grading Standards).

[Staff Explanation. This policy is a modified version of existing north coast Tidepools and Beaches Policy 7. Currently, Appendix 1 includes the outdated State "Guidelines for Wetlands and Other Wet, Environmentally Sensitive Habitats" (1981). The outdated document will be deleted and replaced by a reference in the CAP to appropriate federal and state documents. Although outside references are avoided in an LCP, these were recommended by Coastal Commission staff, and this approach will ensure that the most up-to-date version of these documents is used when reviewing proposed development.]

DRAFT COASTAL ZONING ORDINANCE

Sec. 8178-2.7.4 – Plant and Tree Communities

Trees classified as ESHA, including trees that contribute to the function and *habitat value* of an ESHA or trees planted or protected pursuant to a *habitat restoration plan*, are subject to applicable tree protection regulations in Sec. 8178-7 – Tree Protection Regulations.

Sec. 8178-2.7.4.1 – Oak Woodlands/Savannah and Native Tree Woodlands

New *development*, including roads and driveways, shall be sited and designed to prevent any encroachment into the root zone of the trees and to provide an adequate *buffer zone* outside the root zone of individual protected trees to allow for future growth.

Sec. 8178-2.7.4.2 – Native Grasslands

- a. Where *vegetative erosion control* is required for new *development* that is within native grasslands, or that *abuts* or is adjacent to such grasslands, native grassland and *forb* communities shall be planted with native grass mixes for erosion control;
- b. Within ESHA grassland areas approved for *restoration*, a *grassland restoration plan* shall be prepared by a County-approved *qualified biologist* and accepted by the County before construction begins to help ensure that the project includes proper site selection of *restoration areas*, salvage of native grassland plants, timing of topsoil stripping, and other factors necessary to the success of a *grassland restoration* project.

Sec. 8178-2.7.4.3 – Coastal Sage Scrub and Chaparral

When evaluating proposed *development*, areas of intact, unfragmented *coastal sage scrub* and *chaparral* habitat, or native vegetation containing biologically significant patches of *coastal sage scrub*²⁰, shall be prioritized for *preservation* over fragmented or degraded areas of such vegetation.

[Staff Explanation. This standard would prioritize the preservation of large undisturbed areas of coastal sage scrub over fragmented, disturbed patches during project design. Coastal sage scrub is comprised of many different plant sub-communities. Estimates of the reduction in the historical extent of southern coastal sage scrub range are as high as 90%. The extent of coastal sage scrub was greatly reduced by agricultural, industrial, and residential development; flood control projects; and rock quarries. Much of the remaining coastal sage scrub habitat is fragmented or degraded. Only about 7% of the remaining coastal sage scrub is on public lands managed for conservation, so about 93% is located on private lands.]

Sec. 8178-2.7.5 – Habitat Connectivity Corridors

The purpose of this Section is to minimize adverse impacts on identified *habitat connectivity corridors*.

Sec. 8178-2.7.5.1 – Definition of Habitat Connectivity Corridors

- a. *Regional Corridors* – In the coastal zone, *regional habitat connectivity corridors* are generally located along the Ventura River and Santa Clara River floodplain.
- b. *Local Corridors* – *Local habitat connectivity corridors* are defined as undeveloped, prominent *ridgelines* and *wet environments* that provide a network of linear corridors throughout the coastal zone. The minimum width of a *local habitat connectivity corridor* shall be 330 feet.

Also, see Appendix E1, Sec. AE-1.2.3 (d) for additional information on *Habitat Connectivity Corridors*.

Sec. 8178-2.7.5.2 – Development Standards for Habitat Connectivity Corridors

If new *development* is allowed within a *habitat connectivity corridor*, it shall be located and designed in accordance with the following standards:

²⁰ These areas of native vegetation would contain intact *coastal sage scrub* patches combined with a diverse representation of physical and environmental conditions, rare species and vegetation, or habitat types within the *core habitat area*.

DRAFT COASTAL ZONING ORDINANCE

- a. Except for recreational trails that may traverse a *habitat connectivity corridor*, development shall be located at the outer edge of the *corridor* and clustered within an elongated footprint that lies parallel to the *corridor*;
- b. The shape, location, and other physical characteristics of the *development* shall be designed to maximize wildlife movement and avoid the creation of a "chokepoint" within the *habitat connectivity corridor*; and
- c. The following measures shall be used to maximize wildlife movement within the *habitat connectivity corridor* and to maintain *functional connectivity* between preserved ESHA and a *habitat connectivity corridor*:
 1. Road, floodplain, and other infrastructure improvements that may impede wildlife movement shall incorporate measures that include, but are not limited to, fencing to funnel wildlife through the barrier, underpasses or overpasses that accommodate wildlife passage, and vegetation restoration in areas that *abut* a roadway or other barrier;
 2. Areas with no or little native vegetation within a *habitat connectivity corridor* shall be targeted for *restoration* as part of a *restoration* project and/or as a requirement included in a project's mitigation measures; and
 3. When outdoor garbage storage or pickup areas are located within 500 feet of a *habitat connectivity corridor*, then all garbage containers shall be wildlife proof or resistant (i.e., animals cannot open, overturn or remove the garbage) or shall be located in an enclosed area that cannot be accessed by wildlife.

(Also, see Sec. 8178-2.6.14 through 8178-2.6.16 for fencing, noise, and lighting regulations related to new development within *habitat connectivity corridors*.)

Sec. 8178-2.7.6 – Special Status Species Habitats

Natural features used as roost sites for special status species, such as bridges/tunnels used as bat roosts, shall be protected and preserved. Construction activities, *outdoor festivals*, *outdoor sporting events*, and other permitted uses shall not result in the disturbance of *special status species*, and the habitats of such species, during a *critical life stage* (e.g., breeding, nesting, denning, roosting). When the use/activity is located within 500 feet of an ESHA that supports a *critical life stage* of a *special status species*, the ESHA shall be protected from disturbance through the following measures:

- a. Establishment of a *buffer zone* between ESHA and the disturbance; and
- b. Erection of barriers (e.g., fencing), signage, and/or restrictions on allowable activities or hours of operation.

Also, see Sec. 8178-2.6.13 – Construction Standards for construction standards in *special status species* habitats and Sec. 8178-2.6.7 – ESHA Grading Standards for standards during temporary recreational uses.

Sec. 8178-2.7.7 – Breeding, Staging and Stopover Bird Habitats

During bird breeding and migration seasons, nesting, roosting, and *stop over areas* used for breeding or migration during one or more of the previous five-year periods (i.e., *critical life stage* habitats) shall be protected from disturbance associated with new *development* or *outdoor festivals/sporting events* as follows:

- a. Protect critical shoreline bird habitats during breeding and nesting seasons through measures that include, but are not limited to, access restrictions or setbacks (e.g., temporary fencing of the nesting, roosting or stopover area), noise limits, limits and restrictions on hours of operation.

DRAFT COASTAL ZONING ORDINANCE

- b. A 500-foot *buffer zone* shall be established for raptor and/or colonial bird nesting, roosting, and staging/stopover sites, and a 300-foot *buffer zone* shall be established for individual nests (all bird species). An exception may be authorized for a reduced *buffer zone* if substantial evidence is provided in the CISBA and/or the pre-construction/maintenance bird survey that shows a smaller *buffer zone* will adequately protect these resources and is consistent with the following standards:
1. A *buffer zone* encroachment shall only be granted when substantial evidence (e.g., a video) is provided that demonstrates the *buffer zone* encroachment would not cause disturbance or flushing of individual birds or species from the site/nest area. For a threatened/endangered bird species, coordination with (and approval from) the USFWS/CDFW is also required.
 2. Bird surveys used as substantial evidence for a *buffer zone* encroachment shall be conducted by a *qualified biologist* (in cases of listed species, the *qualified biologist* shall have experience with the listed species) and include tests for the following:
 - i. Variable approach speeds (slow, medium, high) to nesting area;
 - ii. Approach pattern to the site (from north, south, east and west quadrants);
 - iii. Seasonal variation in response to timing of disturbance (nesting stage, critical life stage); and
 - iv. Use the same machinery, transportation, tools, etc. that will be utilized for the proposed development, maintenance activity, or outdoor festival/sporting event.
- c. Habitat used as bird nesting sites, including dead standing trees ("snags"), shall not be removed or altered until birds leave the nesting area, independent of human interference, or until chicks have fledged and left the area and there is no sign of second nesting attempts;
- d. Trees and habitat composed of large, woody vegetation, including snags used as hunting perches for raptors, shall not be removed or altered except when they pose a serious threat to life or property (see Sec. 8178-7.5.4 – Emergency Tree Alteration and Removal) or prevent reasonable economic use of the property (Sec. 8178-2.5.3); and
- e. To avoid electrocution and line strike hazards for birds, power distribution lines shall be undergrounded wherever feasible.

[Staff Explanation. Migratory Birds, Bald and Golden Eagles are federally protected through the Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, and Public Law 95-616 - a treaty with Russia that specifies both nations must take measures to protect identified ecosystems of special importance to migratory birds against pollution, detrimental alterations, and other environmental degradations ("Convention Between the United States of America and the Union of Soviet Socialist Republics Concerning the Conservation of Migratory Birds and Their Environment). These laws protect migratory birds, eagles, and important staging areas from the effects of development.]

Sec. 8178-2.7.8 – Monarch Butterfly Roosting Sites

To protect colonial roosting habitat for the monarch butterfly from disturbance and degradation, new development, and outdoor festivals/outdoor sporting events shall meet the following standards:

- a. Roosting Site Identification - Potential roost trees for overwintering monarch butterflies, as well as known historical roost sites occupied by monarch butterflies in one or more years within the previous ten-year period, shall be considered potentially active monarch butterfly roosting sites;
- b. Tree Removal or Alterations - If tree removal or alteration within or adjacent to a monarch butterfly aggregation site is permitted according to Sec. 8178-7.4.2 (a) - Tree Removal and Alteration, the tree alteration or removal shall be conducted as follows:

DRAFT COASTAL ZONING ORDINANCE

1. Alterations to a tree identified as monarch butterfly habitat must be conducted outside the overwintering season (October through March); and
 2. Tree alterations intended to improve a monarch butterfly habitat must be done in accordance with an approved habitat management plan and under the supervision of a County-approved qualified biologist and arborist.
- c. Setbacks/Buffers - A minimum 125-foot setback is required for new development from the outermost trees identified as a monarch butterfly aggregation site, unless larger buffers are necessary due to the following:
1. Microhabitat conditions at the overwintering site will be adversely affected by vegetation removal or earth disturbance outside the 125-foot buffer; and
 2. Additional overwintering sites are located within 1000 feet of the project site, and the sites are collectively used throughout the overwintering season.
- d. Roosting Site Mitigation - If the removal or alteration of an unoccupied but known, historical roost site is unavoidable due to development authorized pursuant to Sec. 8178-2.5 – Allowable Uses in ESHA or Buffer Zone or Sec. 8178-7.4.2 – Tree Removal or Alteration, the conditions of approval for the project shall include a requirement for the establishment or restoration of an equivalent roosting habitat. (Also, see Sec. 8178-2.10.7 – Compensatory Mitigation for Specialized Habitats for additional mitigation requirements.)

[Staff Explanation. Overwintering sites are considered critical to the monarch butterfly's life cycle, providing a suitable microclimate and protection from weather extremes, but such sites may be degraded by tree pruning, the loss of trees, or other alterations. Numerous known overwintering locations in California were lost to new or expanding development. A complex set of site characteristics is needed for a suitable, overwintering habitat. For example, desirable microhabitat conditions include dappled sunlight, specific temperature ranges and humidity conditions, and wind protection. Additionally, alterations to an area that surrounds an overwintering site can impact its long-term suitability. While the October through March overwintering period is based on surveys conducted in Central California from fall 2009 to spring 2012 (California Fish and Game 101(1):40-50), many species recently altered their migration and breeding patterns due to climate and weather shifts.]

Sec. 8178-2.7.9 – Marine Mammal Rookery and Hauling Ground Habitats

To preserve occupied marine mammal rookery and hauling ground habitats, new development and outdoor festivals/outdoor sporting events shall be sited and designed to meet the following standards:

- a. Recreational Uses - Recreational uses proposed near or within occupied marine mammal hauling grounds shall be located at least 500 feet from the rookery or hauling ground habitat, and trails or observation sites shall include fences, signage, and other barriers that maintain a minimum 300-foot buffer from such habitats; and
- b. Seasonal Requirements - Marine mammal rookeries shall not be altered or disturbed during times of the year when such areas are in use for reproductive activities such as mating, pupping, and pup care, as shown in the table below:

<u>Marine Mammal:</u>	<u>Seasonal Limitation:</u>
<u>Harbor seals:</u>	<u>February through April</u>
<u>Northern Elephant seals</u>	<u>Mid-December through February</u>
<u>Sea Lions and fur seals</u>	<u>May through September</u>
<u>Northern Elephant seals</u>	<u>Mid-December through February</u>
<u>Sea Lions and fur seals</u>	<u>May through September</u>

DRAFT COASTAL ZONING ORDINANCE

Sec. 8178-2.8 – Effects of Hazardous Chemicals

The use of hazardous chemicals shall be minimized in the coastal zone through the following measures:

- a. Reduced Use of Rodenticides – The use of *rodenticides* shall not be authorized for use in a *Landscape Plan* (see Sec. 8178-8) or coastal development permit, except where there are no feasible alternatives (e.g., within an *Integrated Pest Management Plan*) ;
- b. Reduced Use of Pesticides – New development that abuts or is adjacent to ESHA, buffer zones, or protected open space areas shall utilize native plants/trees or other landscaping that does not require the application of pesticides to succeed. Also, see Sec. 8178-8.4.2.4 - Landscaping Adjacent to an Environmentally Sensitive Area (requires the use of a locally-indigenous native plant species in an ESHA buffer zone), Sec. 8178-8.4.1.2 – Trees (prohibits the planting of invasive, non-native trees in the coastal zone and requires the planting of native trees in the Coastal Open Space zone), and Sec. 8178-8.4.2.3 – Landscaping in a Required Fuel Modification Zone.
- c. Santa Monica Mountains (M) Overlay Zone - The use of *rodenticides*, insecticides, herbicides, and other toxic chemical substances that have the potential to significantly degrade biological resources shall be prohibited, except where necessary to protect or enhance the habitat itself, such as the eradication of invasive plant species or habitat restoration, and where there are no feasible alternatives that would result in fewer adverse effects to the habitat value of the site.
- d. Public Agency and Agency Contractor Requirements:
 1. Whenever feasible, utilize Integrated Pest Management (IPM) systems to control unwanted rodents or other pests and minimize the use of hazardous chemicals by designing new public infrastructure with rodent-resistant construction methods; and
 2. The use of insecticides, herbicides, organic or mineral-derived fertilizers, rodenticides or other toxic substances that would significantly degrade ESHA is prohibited when constructing or maintaining County roads or other public facilities in the coastal zone. Deviations from this standard are allowed only if there is no feasible alternative that would result in fewer adverse effects to ESHA. When the application of such substances is allowed, the substances shall be applied in the following manner:
 - i. Application is restricted to the least-toxic product;
 - ii. The method used to apply the toxins will minimize the potential for introduction of the chemical into the aquatic environment or onto adjacent, non-targeted vegetation;
 - iii. The chemicals are used in accordance with applicable regulations or guidelines from the CA Department of Agriculture and CA Department of Pest Regulation;
 - iv. Herbicide application is prohibited when wind speeds on site are greater than five miles per hour or when rain is predicted within the next 48 hours. If rain does occur, herbicide application shall not resume until 48 hours after rain has stopped; and
 - v. The use of mosquitofish is prohibited in ESHA or buffer zones, and mosquito abatement activities are limited to those necessary to protect public health, activities specific to mosquito larvae, and those that do not result in adverse effects on non-target species (e.g., fish, frogs, turtles, birds, or other insects or invertebrates).

[Staff Explanation. Hazardous chemicals travel through mechanisms such as stormwater runoff, air pollution, and dumping. Pesticides and fertilizers can contaminate soil and waterways, kill beneficial organisms, such as pollinators and pest predators, and pose health risks to humans and wildlife. In addition, wildlife that consume animals that have been poisoned are often poisoned themselves. Hazardous chemicals break down slowly or not at all, and they accumulate in the bodies of wildlife and humans and cause cancer, reproductive problems, or DNA damage.]

DRAFT COASTAL ZONING ORDINANCE

In areas with sensitive resources, existing and proposed requirements for the use of native vegetation in landscaping will reduce the amount of pesticides and fertilizers needed to maintain a healthy landscape. In Ventura County, various County agencies acknowledge the dangers of anti-coagulant rodenticides to native species or domestic animals, which are not intended targets of the poison. Recently, the Ventura County Watershed Protection District conducted a study comparing rodent burrow damage incurred at levee sections with either raptor perches or rodenticide bait stations. Data collected indicate that neither treatment type prevents rodent burrow damage to levees, and less burrow damage was observed in the levee areas treated with raptor perches compared to bait stations. Due to the potential for secondary effects from rodenticides, the District is evaluating opportunities to place raptor perches at more facilities and phase out rodenticide use, where feasible.]

Sec. 8178-2.9 – Land Divisions and ESHA Preservation Incentives

Section 8178-2.9.1 – General Requirements

The following requirements apply to coastal development permits requested in conjunction with any *land division* proposed on one or more *legal lots* that contain ESHA or ESHA buffer zone, except where the lot is dedicated to open space preservation. The coastal development permit shall not be approved unless evidence shows, and the County makes findings, that the proposed *land division* meets all requirements of this Section as well as the additional requirements for *land divisions* in Sec. 8178-2.9.2 or *lot line adjustments* in Sec. 8178-2.9.3.

- a. All proposed *land divisions* shall include future *development*, which shall be designated and shown on all proposed or reconfigured lots as part of the coastal development permit application, including the following: (1) *building site*; (2) *access road and/or driveway*; (3) *necessary service infrastructure* (e.g., *septic system, water supply*); (4) *on or off-site grading*; and (5) *on or off-site fuel modification zones*.
- b. The requested coastal development permit shall be evaluated to ensure that any new or reconfigured lots will allow future *development* that is consistent with the ESHA policies, standards, and provisions of the LCP. All proposed *building sites, access roads, water/wastewater systems, and fuel modification zones* shall meet the policies/standards provided by the LCP (see Sec. 8178-2.6 – Site and Building Design Standards in ESHA). For example, the *building sites* shall be clustered near existing or proposed *development*, near existing services, and configured to maximize the use of overlapping *fuel modification zones*. Where potential *development* cannot occur consistent with the LCP, the requested coastal development permit shall be denied.
- c. All lots proposed for residential use shall constitute a buildable lot (see Sec. 8178-2.6.3(f)).
- d. If any provision of this Section conflicts with a County regulation or requirement pertaining to *land divisions* that is not included in the LCP (e.g., a regulation or requirement in the County's Subdivision Ordinance), then the provision of this Section shall take precedence.
- e. A coastal *development* permit granted in conjunction with a *land division* shall include conditions of approval that restrict *development* to an approved *development envelope*. Outside the *development envelope*, future *development* shall be prohibited within any onsite *environmentally-sensitive-habitat areas*-ESHA(s), *buffer zone(s)*, and/or *areas with slopes over 30 % percent gradient*. Areas subject to such *development restrictions* shall be permanently maintained in their natural state through recordation of a ~~through an easement or deed restriction~~ or other *conservation instrument* that shall be recorded on the final map or non-a-grant deed as a deed restriction submitted with the final map.
- f. With respect to *land divisions* other than *lot line adjustments*, all *conservation instruments, conservation easements, offers of dedication, conditions of approval, and similar legal instruments* protecting public access routes, ESHA and ESHA *buffer zones*, steep slopes, and other areas shall be

DRAFT COASTAL ZONING ORDINANCE

shown on the tract map or parcel map and recorded no later than final map recordation. (AM.ORD.4451-12/11/12).

The standards in this Section do not apply to a lot within a land division that is proposed solely for the purpose of dedicating or restricting its uses to conservation and/or open space, provided the lot is preserved in perpetuity pursuant to a conservation easement.

[Staff Explanation. The regulations in the section above outline the basic requirements that must be met to process a land division in the coastal zone.]

Section 8178-2.9.2 – Requirements for Land Divisions in ESHA or Buffer Zone

In addition to the requirements in Sec. 8178-2.9.1 above, the County shall only approve a coastal development permit requested in conjunction with a land division, other than a lot line adjustment (see Sec. 8178-2.9.3 below), for a lot that contains ESHA or ESHA buffer zone where substantial evidence demonstrates that it will not result in new, adverse impacts to ESHA or ESHA buffer zone and meets the following standards:

- a. No new building site is located on a beach;
- b. Each proposed new lot is equal to or greater than the minimum lot size required by the subject zone and the slope density formula (Sec. 8175-2 (c)) and is no smaller than the average size of surrounding parcels (see Coastal Act Section 30250).
- c. When the subject lot is in the Santa Monica Mountains (M) Overlay Zone, and it abuts a public park or a lot permanently protected by a conservation easement, then all lots proposed to be created that abut such areas shall include a 200-foot setback along the boundary of the abutting public park or the lot that is permanently protected from development.

[Staff Explanation. This section includes existing standards for land divisions in the Santa Monica Mountains (see existing Sec. 8177-4.1.4). as well as new standards for land divisions that reflect Coastal Act requirements. The proposed regulations implement related CAP policies, which clarify that you cannot subdivide (or adjust lot lines) on a property if it will result in new or greater adverse impacts on ESHA or buffer zones. The County's CZO currently protects ESHA in the Santa Monica Mountains from development associated with subdivision but in a much more roundabout way (see SMM- Policy 1, 4, and 6). The Malibu and L.A. County LCPs each have comparable subdivision regulations for lots that contain ESHA.]

Section 8178-2.9.3 – Requirements for Lot Line Adjustments in ESHA or Buffer Zone

In addition to the requirements in Sec. 8178-2.9.1 above, the County shall only approve a coastal development permit requested in conjunction with a lot line adjustment for one or more lots that contain ESHA or ESHA buffer zone where substantial evidence demonstrates that it meets the following requirements:

- a. When compared to the original lot configuration, the reconfigured lots shall not result in one or more of the following:
 1. Increased impacts to ESHA or ESHA buffer zones or increased loss of high-value habitat (e.g., wetland, riparian areas), including impacts that may be allowed pursuant to Sec. 8178-2.5.3 – Reasonable Economic Use; or
 2. Increased alteration of natural landforms; or
 3. A new, buildable lot (i.e., existing lots included in the lot line adjustment must be buildable lots (see standards in Sec. 8178-2.6.3(h)); or
 4. Increased subdivision potential of the resulting configured lots, except when such lots are established as a permanently preserved open space lot pursuant to the ESHA preservation incentive in Sec. 8178-2.9.5.2.

DRAFT COASTAL ZONING ORDINANCE

- b. If the reconfigured lots do not meet the requirements of subsection (a), or the requirements of Sec. 8178-2.9.1, then the lot line adjustment may be approved where it is demonstrated that the reconfigured lots can accommodate development that conforms with the LCP policies and standards and results in fewer impacts to coastal resources than development on the existing parcels.
- c. All lots included in the lot line adjustment are legal lots, except where the lot line adjustment is proposed for the sole purpose of combining two or more parcels as a means of reversing a purported but illegal division of property.
- d. If a lot line adjustment is approved, the applicant shall be required to record County-approved deeds or records of survey containing the descriptions of all reconfigured parcels as they will exist after the lot line adjustment.

[Staff Explanation. Requirements for the lot line adjustment implement policies within the CAP regarding impacts on ESHA. For example, a lot-line adjustment could result in the following: (1) lots that require longer access roads or roads that bridge a stream or wetland; (2) a previously unbuildable lot becomes a buildable lot; and (3) a lot with an existing, disturbed area that could be used for development is reconfigured into a lot covered by ESHA, where a reasonable use argument can be used to remove ESHA.]

Section 8178-2.9.4 – ESHA Preservation Incentives (Santa Monica Mountains)

This Section provides voluntary incentives for the retirement of development rights on existing legal lots that contain ESHA in the Santa Monica Mountains (M) overlay zone. The purpose of the incentives is the preservation of large areas of unfragmented ESHA that are connected to a protected core ESHA or open space area by intact native vegetation.

Section 8178-2.9.4.1 – Expansion of Building Site:

The maximum allowable building site for development in ESHA or ESHA buffer zone may be increased from 10,000 square feet to 15,000 square feet for a legal lot that meets the minimum lot size requirements of the LCP if the applicant voluntarily accomplishes one of the following through a coastal development permit:

1. Merges the lot upon which the proposed building site is located with an abutting, legal lot (or lots) that contains at least 3 acres of undeveloped land and meets the environmental standards for an off-site preservation lot (see Sec. 8178-2.10.5(b)). All areas of the resulting lot outside of the development envelope shall be preserved in perpetuity through the recordation of a conservation easement or conservation instrument; or
2. Permanently retires the development rights for a non-abutting, legal lot (or lots) that is undeveloped, contains at least 3 acres of land, and meets the environmental standards for an off-site preservation lot (see Sec. 8178-2.10.5(b)). The lot shall be preserved in perpetuity through the recordation of a conservation easement or through encumbrance with an open space deed restriction and subsequent conveyance of the entire lot in fee title to a County-approved natural resource agency or conservation organization for ownership (see Appendix E2, Sec. AE-2.2 – Legal Instruments for Conservation).

Section 8178-2.9.4.2 – Reduced Minimum Lot Size (Lot Line Adjustment)

A coastal development permit may be granted to authorize a lot line adjustment for legal lots where one or more of the resulting, reconfigured lots is smaller than the minimum lot size required by the LCP, if the lot line adjustment meets the requirements of Sec. 8178-2.9.3 and results in the following:

1. The permanent retirement of development rights for one of the reconfigured lots, which shall be undeveloped, at least 40 acres in size, and meet the environmental standards for an off-site preservation lot (see Sec. 8178-2.10.5(b)). The lot shall be preserved through the recordation of a conservation easement or through conveyance of the entire lot to a natural resource agency or County-approved conservation organization and establishment of a deed restriction. Also, such lots may be used to satisfy the off-site mitigation requirements for the remaining, developable

DRAFT COASTAL ZONING ORDINANCE

lots (see (2) below) and may be established as a *coastal mitigation lot*, pursuant to Sec. 8178-2.10.8(c); and

- 2. The remaining, developable lots are 3 or more acres in size and clustered near existing roads or development. If undeveloped, such lots shall have a building site with an average slope of 20 percent or less, and the permittee shall demonstrate that the lots can be developed in a manner that meets all provisions of the LCP except minimum lot size.

Section 8178-2.9.4.3 – Required Finding for ESHA Preservation Incentives

A coastal development permit may only be granted pursuant to one of the ESHA preservation incentives in this Section if the County’s decision-making authority finds that the proposed land division will result in the preservation of large areas of unfragmented ESHA. In addition, the County’s decision-making authority shall find that the proposed or potential development on the subject lots will result in reduced impacts to ESHA and/or high value habitat when compared to the development that could legally occur without use of the ESHA preservation incentive.

[Staff Explanation. These three incentives provide exceptions to standard land division and lot line adjustment requirements. Without these exceptions, a motivated landowner cannot merge lots, split a lot, or adjust lot boundaries in a manner that helps preserve core areas of habitat in the Santa Monica Mountains. The proposed finding would help ensure that the use of an incentive does not result in unintended consequences, as it is difficult to anticipate all possible future scenarios. Listed below is more detailed information on the two incentives:

- *Expanded Building Site: This incentive may be attractive for a landowner with multiple lots that is willing to exchange development of the individual lots for a larger building site on a merged lot. Indirect benefits include reduced development costs and reduced mitigation costs. The table below provides a summary of the difference in impacts on ESHA.*

Building site	Fire Clearance	Total ESHA Impacts	
10,000 SF	80,000 SF	90,000 SF	2.1 Acres
15,000 SF	90,000 SF	105,000 SF	2.4 Acres
20,000 SF	100,000 SF	120,000 SF	2.8 Acres

Note: Data is based on a square building site, with a fuel modification zone that begins at the edge of the building site.

- *Reduce Minimum Lot Size: The proposed incentive for a lot line adjustment would allow a landowner to develop adjoining lots that are smaller than the minimum lot size requirement, which typically ranges from 20 to 40 acres in the Santa Monica Mountains, provided that the lot line adjustment results in one, large lot that is preserved in perpetuity. For the landowner, the incentive would be reduced taxes on large lots encumbered by development restrictions and lower development or mitigation costs for access roads and fire clearance zones. In addition, a landowner could obtain financial benefits by establishing a coastal mitigation lot on the large, preserved lot. The conservation benefit is threefold: (a) the development rights on an existing, developable lot would be extinguished, (b) the development pattern will be clustered lots/development instead of scattered development and fragmentation of habitat; and (c) one large lot will be preserved in perpetuity.]*

Sec. 8178-2.10 – Compensatory Mitigation

Sec. 8178-2.10.1 – General Requirements

- a. **Removal/Degradation of ESHA** – Mitigation that is proportional to the impact is required for all adverse impacts that result from the removal or disturbance of ESHA or buffer zone(s), and the level

DRAFT COASTAL ZONING ORDINANCE

of compensatory mitigation is specified by the ratios in Sec. **8178-2.10.6** – Compensatory Mitigation Ratios. An exception shall be provided for adverse impacts that occur during a public emergency, pursuant to subsection (4) below²¹. Compensatory mitigation shall be subject to the following standards:

1. Permitted Impacts: Compensatory mitigation is required when there is no feasible, project design alternative that can avoid adverse impacts to ESHA or buffer zones, and mitigation shall not be used as a substitute for the selection of the least environmentally damaging alternative (see Sec. **8178-2.6.1**). The permittee shall be responsible for providing compensatory mitigation.
2. Unpermitted Impacts: Compensatory mitigation for unpermitted impacts to ESHA or buffer zone shall include the restoration or establishment of the habitat within the impacted area. An exception to this requirement may only be allowed in the following circumstances:
 - i. If on-site restoration or establishment is infeasible due to an insufficient supply of suitable land, then an equivalent area of ecologically functional ESHA shall be restored or established off-site. In all cases, alternate mitigation sites shall meet the standards provided by **Sec. 8178-2.10.4(a)** – Location of Compensatory Mitigation Sites; or
 - ii. If all, or a portion of, the impacted ESHA area is within the approved development envelope of the least damaging alternative (see Sec. **8178-2.6.1**), then compensatory mitigation for the area included in the development envelope may be accomplished through on or off-site restoration/establishment or off-site preservation (see Sec. **8178-2.10.3** – Types of Compensatory Mitigation).
3. Temporary Construction Impacts - Habitat restoration of the impacted area is required for temporary impacts to an ESHA or buffer zone that occur due to permitted development. For temporary construction impacts to wetlands, financial assurance shall be provided to ensure that adequate funds are available to complete the required restoration.
4. Emergency Removal – When authorized by an Emergency Coastal Development Permit (see Sec. 8181-3.7), compensatory mitigation shall not be required for adverse impacts to ESHA or buffer zone that occur during a duly declared “state of emergency” or “local emergency”, as defined by Government Code section 8558, when such impacts are the result of actions taken by public agencies or emergency response personnel to protect life, health, existing structures, or essential public services.
- b. **In-Kind Habitats** – Compensatory mitigation shall be limited to in-kind habitat. If an additional permit must be obtained from a federal/state natural resource agency for the impacted habitat type, then County staff shall consult with the responsible agency prior to authorizing the compensatory mitigation habitat.
- c. **Legal Instruments** – All areas subject to compensatory mitigation shall be preserved in perpetuity for conservation and/or open space purposes through one of the following measures:
 1. Encumbrance with an open space deed restriction and subsequent conveyance of the entire mitigation lot to a natural resource agency or County-approved conservation organization for ownership; or
 2. Legal instruments implementing mitigation through a County-approved mitigation bank (Sec. **8178-2.10.9(d)**); or

²¹ Also, see Coastal Area Plan, ESHA Policy 1.5 and ESHA Policy 10.1, which allows an exception for adverse impacts to ESHA authorized during a public emergency.

DRAFT COASTAL ZONING ORDINANCE

3. Establishment of a *conservation easement*, which must be held by a County-approved *natural resource agency* or *conservation organization*.

If the applicant is unable to obtain a third-party provider to accept a small, on-site *conservation easement*, then the County of Ventura may accept the *conservation easement* or, if no party will accept the easement, a *conservation instrument* may be used to restrict future development. Also, see Appendix E2, Sec. AE-2.4 – Legal Instruments for Conservation for additional legal requirements and information.

- d. **ESHA Mitigation Plan** - To increase the potential for the success and long-term sustainability of ESHA mitigation, an ESHA Mitigation Plan is required for the implementation of all compensatory mitigation (see Sec. 8178-2.10.9).

[Staff Explanation. The proposed regulations in this section are primarily based on Coastal Act requirements, which are more stringent than what is required by CEQA.]

Sec. 8178-2.10.2 - Types of Impacts Compensated

Compensatory mitigation for adverse impacts to ESHA or ESHA buffer zone shall include compensation for the type of impacted habitat, temporal and permanent losses to the services provided by the ecosystem function of the habitat, and the uncertainty that replacement habitats will adequately compensate for the habitat value of the impacted habitat. These factors were incorporated into the baseline mitigation ratios, and the adjustments to those ratios, shown in Sec. 8178-2.10.6 – Compensatory Mitigation Ratios.

Sec. 8178-2.10.3 - Types of Compensatory Mitigation

Compensatory mitigation measures shall include the *restoration, preservation, establishment, or enhancement* of ESHA as follows:

- a) *Preservation* – Existing, off-site ESHA is preserved and managed in perpetuity. The *preservation* of on-site ESHA cannot be used as compensatory mitigation.
- b) *Restoration* – Existing, degraded ESHA (on-site, off-site) that has the capacity to be *ecologically functional* and is actively restored to its historic natural state.
- c) *Enhancement* – Existing, intact or degraded ESHA (on-site, off-site) that has the capacity to improve specific *ecological functions* or *services* (e.g., water quality improvement, flood water retention, wildlife *habitat* improvement, *habitat connectivity corridor* improvement). *Passive restoration* is classified as *enhancement*. It may be utilized as one component of an ESHA *enhancement* mitigation program if the habitat contains the physical and biological conditions necessary for the sustainability of the species or habitat and the passive restoration is pursuant with the criteria in Sec. 8178-2.10.5 (a).
- d) *Establishment* – The creation of *ecologically functional* ESHA (on-site, off-site) where it did not previously exist. ESHA *establishment* may only be used when the following circumstances apply: (i) *restoration* opportunities are not feasible, (ii) the *establishment* project has a high probability of success and would improve the overall *function* of the ESHA *ecosystem*, and (iii) the *establishment* project will not result in the conversion of ESHA types.

A specific type of compensatory mitigation may be required for unpermitted impacts (see Sec. 8178-2.10.1(a)(2)) and impacts to specific coastal *habitats* (see Sec. 8178-2.10.7). Also, *restoration* or *establishment* is required for impacts to *wet environments*, and other *habitat* types regulated by federal or state *natural resources agencies*.

[Staff Explanation. Subsection (b) is based on existing, certified text (Sec. 8178-2.4 - Specific Standards, subsection (d) Wetlands, (3)), with modifications made to update terms, remove references that may become obsolete, and allow all types of mitigation to compensate for loss of ESHA.]

DRAFT COASTAL ZONING ORDINANCE

Sec. 8178-2.10.4 – Location of Compensatory Mitigation Sites

- a. On-Site/Off-Site Mitigation – On or off-site mitigation may be used for impacts to coastal sage scrub and chaparral. Whenever feasible, on-site mitigation shall be required for impacts to a wet environment habitat or for oak woodland/savannah and native woodland habitat. For adverse impacts to other habitat types, on-site mitigation is preferred, but off-site mitigation may be allowed under one of the following circumstances:
1. On-site conditions do not allow for the restoration, establishment, or enhancement of an ecologically functioning ESHA due to the amount of suitable, available on-site habitat; or
 2. The off-site mitigation property meets all standards for an off-site mitigation lot, and the County determines that the off-site habitat is a higher-quality habitat (e.g., higher percentage of pristine/intact habitat, connectivity to large blocks of habitat, suitable soils, lower abundance of invasive species).

For all habitat types, on-site mitigation is required for unpermitted impacts to ESHA or buffer zone (see Sec. 8178-2.10.1(a)(2)).

- b. Off-site mitigation lots shall be located entirely within the coastal zone or, if located along the coastal zone boundary, then at least fifty percent of the lot must be in the coastal zone. If no lots are available that meet the requirements of subsection “c” below, then a lot outside the coastal zone may be selected if the lot is in a regional habitat connectivity corridor in Ventura County (i.e., Santa Monica - Sierra Madre Linkage, Ventura River Linkage, Santa Clara River Linkage), contains the same habitat type, and is in the same biogeographic region.
- c. Off-site mitigation lots shall be selected in the following order of priority:
- Priority 1 – The same sub-watershed (defined as U.S. Geological Survey’s 12-digit hydrological unit code (HUC)); or
 - Priority 2 – The same biogeographic region; or
 - Priority 3 – The same watershed.

When selecting off-site mitigation sites, preference also may be given to an off-site lot with high biological value (e.g., a habitat connectivity corridor), sites that adjoin protected native habitat or public parkland, a lot that contains ecologically functioning ESHA and is under threat of development, and sites that would achieve multiple natural resource agency goals or provide restoration benefits.

[Staff Explanation. The prioritization of on-site restoration, when feasible, is a common feature in LCPs throughout the state (e.g., Los Angeles County, Marin County, San Luis Obispo County). Typically, on-site mitigation is the best way to ensure full compensation because mitigation occurs within the same, impacted ESHA ecosystem. An off-site mitigation property may be the same size and habitat type as the impacted ESHA, but the impacted area may lose important ESHA ecosystem functions if the off-site mitigation property is far from the project site. Conversely, on-site mitigation may not be preferred if the project site only contains isolated or fragmented ESHA, and on-site restoration/establishment may not be preferred if on-site conditions are not suitable for the habitat being restored or established. Recently certified regulations for L.A. County allow off-site mitigation for impacts to coastal sage scrub/chaparral.

For these reasons, on-site mitigation is required for impacts to wet environments and native woodland habitats. Off-site mitigation is allowed for impacts to coastal sage scrub and chaparral, which constitute a high percentage of ESHA impacts in the Santa Monica Mountains. For all other habitat types, on-site mitigation is preferred but adequate flexibility is provided to select off-site mitigation if that would be more protective to the ESHA ecosystem. Proposed standards for off-site mitigation lots, such as the prioritization of off-site lots in the same sub-watershed as the impacted property, will help ensure that off-site mitigation provides adequate compensation for environmental impacts.]

DRAFT COASTAL ZONING ORDINANCE

Sec. 8178-2.10.5 – Environmental Standards for On and Off-Site Mitigation Lots

Compensatory mitigation lots shall contain ESHA or habitats that can be restored, enhanced or established to support the type of ESHA required for mitigation. Also, compensatory mitigation sites shall exhibit ecological characteristics such as connectivity to larger intact ESHA, habitat quality, and proximity to the impacted ESHA ecosystem. Lots used for specific types of compensatory mitigation shall meet the following standards:

- a. **Lots Used for Restoration, Enhancement, or Establishment** - Mitigation lots used for ESHA restoration, establishment or enhancement must contain suitable environmental conditions (e.g., hydrology, soil type, compatible adjacent land uses, functional connectivity) for the proposed type of mitigation. Such sites must be connected to other habitat areas required for species survival. Also, see Sec. 8178-2.10.8 for specific requirements for wet environments, dunes, oak woodland/savannah, native woodland habitats, and monarch butterfly overwintering sites. If passive restoration is proposed as a component of ESHA enhancement, then the level of ESHA degradation at the mitigation site (e.g., soil conditions, amount of invasive species, native seed bank) and the resilience of the ESHA ecosystem shall be consistent with the use of passive restoration as a form of ESHA enhancement.
- b. **Lots Used for Off-Site Preservation** - Off-site mitigation lots used for ESHA preservation, including lots established as a coastal mitigation lot, must be undeveloped, legal lots that are used solely to implement compensatory mitigation. Such off-site mitigation lots must meet all the following standards:
 1. **Environmental Resources** - All off-site mitigation lots used for ESHA preservation shall contain the following environmental resources:
 - i. At least 90 percent of the lot shall be ESHA and/or an ESHA wet environment buffer zone; or
 - ii. At least 50 percent of the lot shall be ESHA and/or ESHA wet environment buffer zone plus one of the following: (1) An identified habitat connectivity corridor, or (2) a wet environment, rock outcrops, dunes, or USFWS critical habitat ESHA; or (3) the lot is located within an acquisition area designated for conservation by a federal, state, or County natural resource agency or a County-approved conservation organization.
 2. **Connectivity** - The lot shall not be isolated by development or other physical factors that would limit the movement of species to larger protected core ESHA areas. Specifically, the lot shall be connected to a protected core ESHA or open space area by an intact native vegetation area that is at least 400 feet wide and less than 500 feet long. Wildlife must be able to move from the subject lot to core ESHA without encountering a major barrier (e.g., high-traffic public road without wildlife-safe crossings, large facilities, etc.). An exception to this requirement may be allowed where is demonstrated that the lot contains one of the following:
 - i. A sensitive biological resource that can persist in isolation (e.g., narrow endemic species, unique habitats such as vernal pools), or
 - ii. A habitat that functions as a stepping stone for special-status species between core protected areas.
 3. **Preservation and Management** - The lot shall be preserved and managed in perpetuity for habitat conservation and open space purposes through one of the legal instruments identified in Sec. 8178-2.10.1(c)(1, 2) and in compliance with a County-approved Habitat Mitigation Plan (see Sec. 8178-2.10.10(a)).

Also, see Sec. 8178-2.10.9 – Implementation of Compensatory Mitigation for information on how off-site mitigation lots are used for compensatory mitigation.

DRAFT COASTAL ZONING ORDINANCE

[Staff Explanation. This section provides clarification on the types of lots acceptable for off-site mitigation. These options provide flexibility for applicants that need off-site mitigation. For example, project applicants can acquire larger mitigation lots that provide off-site mitigation sites for them as well as other applicants, which would allow the applicant to partially recover land costs for the retired parcel. These standards would allow County-approved conservation groups to purchase properties for preservation purposes and subsequently obtain partial compensation for the purchase by establishing an off-site mitigation site.]

Sec. 8178-2.10.6 – Compensatory Mitigation Ratios

- a. **Baseline Mitigation Ratios** – Baseline ESHA mitigation ratios are based on the type of ESHA being removed or degraded:
- 2:1 Baseline Ratio: Coastal Sage Scrub (CSS) or Chaparral, except when occupied by federal or state endangered or threatened species;
 - 4:1 Baseline Ratio: Wetland, estuary, lagoon, or lakes; and
 - 3:1 Baseline Ratio: All other ESHA types, including wet environments not listed above, and habitat occupied by federal or state endangered or threatened species.

Baseline mitigation ratios shall be used as the foundation for compensatory mitigation requirements for impacts to ESHA. These ratios capture the types of impacts to the ESHA ecosystem, identified in Sec. 8178-2.10.4, such as expected temporal losses and the uncertainties associated with mitigation success. Adjustments to the Baseline Mitigation Ratios may be made to reflect the factors listed in subsection (b) below.

[Staff Explanation. The mitigation ratios above are based on the California Coastal Commission's Local Coastal Program (LCP) Update Guide (Section 4 - Environmentally Sensitive Habitats). The proposed mitigation ratios are also consistent with federal/state standards for specific habitat types and are similar to the mitigation ratios used in LCPs adopted since 2012 for L.A. County, the City of Solana Beach, and the City of San Diego.]

- b. **Adjustments to Mitigation Ratios** – The baseline mitigation ratios, or mitigation requirements that result from such ratios, may be adjusted based on the following:
1. Early Mitigation – Baseline mitigation ratios will be reduced to 1:1 when an approved in-kind ESHA restoration or establishment project, including required monitoring, is successfully completed before impacts occur to ESHA due to the subject project's development²². Portions of the compensatory mitigation project not successfully completed before impacts occur are not eligible for this mitigation ratio reduction. To obtain the reduced mitigation ratio, the permittee shall demonstrate that the ESHA restoration or establishment project meets the performance criteria associated with the project's Mitigation Plan (see Sec. 8178-2.10.9 – ESHA Mitigation Plan, Appendix E2). The early mitigation adjustment is not available for unpermitted impacts to ESHA, mitigation properties located outside the coastal zone, or biological resources regulated by a federal/state natural resource agency (see subsection (2) below).
 2. Federal/State Responsibility Areas – If an additional permit must be obtained from a federal/state natural resource agency for the impacted habitat type, County staff shall consult with the responsible agency prior to setting the mitigation ratio. However, in no case shall a mitigation ratio be authorized that is less than what is required by Sec. 8178-2.10.6(a) above.

[Staff Explanation. Adjustments to baseline ratios are used by state and federal agencies requiring compensatory mitigation, which includes the California Department of Fish and Wildlife (CDFW), the US

²² This adjustment applies to the purchase of restoration/establishment credits from a mitigation bank or a County-approved conservation organization (See Sec. 8178-2.10.9 (b), (d) – Implementation of Compensatory Mitigation.

DRAFT COASTAL ZONING ORDINANCE

Army Corps of Engineers, and the US Fish and Wildlife Service. The reduced ratio for early mitigation reflects the fact that the temporal impacts (impacts that occur over time) do not occur when mitigation occurs prior to, or at the same time as, the impacts to ESHA.]

Sec. 8178-2.10.7 – Compensatory Mitigation for Specialized Habitats

This Section states additional compensatory mitigation requirements for *wet environments, monarch butterfly overwintering sites, and coastal dunes*. See Section 8178-2.10.6 for required mitigation ratios for all specialized coastal habitats.

- a. **Wetlands** - *Habitat restoration or establishment is required as compensatory mitigation for impacts to wetlands. Additionally, when any dike or fill development is permitted in wetlands, in conformity with Section 30233 or other applicable policies of the Coastal Act, additional mitigation measures shall, at a minimum, include the following: those listed in Section 30607.1 of the Coastal Act*
1. The acquisition of equivalent areas of equal or greater biological productivity or the opening of equivalent areas to tidal action, provided that no appropriate *restoration* site is available; or
 2. *Development permitted in wetlands and other coastal waters is also subject at a minimum to include specific mitigation those listed in 30607.1 of the Coastal Act. Additionally, other reasonable measures will also be required, as determined by the County, to carry out the provisions of Sections 30233, subdivisions b., c., and d., and 30253, subdivision b., of the Coastal Act (e.g., project timing, financial responsibilities, and suitable mitigation sites).*

[Staff Explanation. The wetlands standards were modified from existing regulations (Sec. 8178-2.4 - Specific Standards, subsection (d) Wetlands, (2)), to include referenced text from the coastal act (which is too complex to summarize). The examples provided are consistent with PRC 30233 (diking, filling or dredging), PRC 30607.1 (wetlands, dike and fill development; mitigation measures), and PRC 30253b (minimization of adverse impacts).]

- b. **Other Wet Environments (Except Wetlands)** - *Habitat restoration or establishment is required as compensatory mitigation for impacts to other wet environments, excluding wetlands. Mitigation measures for wet environments also under the jurisdiction of the California Department of Fish and Game Wildlife or U.S. Army Corps of Engineers shall be established by the County after consultation with the responsible agency(ies). However, compensatory mitigation ratios shall be no less than the baseline mitigation ratios required by this LCP.*
- c. **Oak Woodland/Savannah and Native Woodland Habitats** - *Habitat restoration, enhancement or preservation is required as compensatory mitigation for impacts to this type of habitat. When on-site mitigation for adverse impacts to ESHA woodlands and savannah is infeasible because on-site conditions (i.e., lack of suitable, available habitat) do not allow for the restoration, enhancement, or establishment of an ecologically functioning ESHA, an off-site mitigation lot shall be selected that contains one or more of the following:*
1. *Woodlands with large trees, dense canopies, and diverse age structure;*
 2. *Oak savannah with opportunities to enhance or restore grassland, oak communities; or*
 3. *Habitat that supports the restoration or enhancement of like-species trees.*
 4. *Habitat with like-species trees within a regional or local habitat connectivity corridor.*

See Sec. 8178-7.6.1 Tree Replacement for Altered or Removed Protected Trees for mitigation requirements for trees that constitute ESHA.

- d. **Monarch Butterfly Overwintering Roosts** - *The conditions of approval of a coastal development permit for new development impacting monarch butterfly overwintering sites shall require the*

DRAFT COASTAL ZONING ORDINANCE

permittee to provide, for the County's review and approval, a management plan for the *preservation* of the existing roost site and/or the *restoration* or *enhancement* of an historical roost site that is prepared by a *qualified biologist*.

- e. **Coastal Dunes** – Off-site *dune* habitat mitigation may include the *establishment*, *restoration*, *enhancement* and protection of *dune* and *dune/wetland* habitats near McGrath Lake, Hollywood Beach, or Ormand Beach.
- f. **Bat Roost Replacements** – When compensatory mitigation includes the replacement of an existing bat roost habitat, bat boxes shall not be used as a like-for-like replacement for existing bat roosts.

Sec. 8178-2.10.8 – Implementation of Compensatory Mitigation

Compensatory mitigation measures shall be implemented, in conformance with a County-approved ESHA Mitigation Plan (Sec. 8178-2.10.9), through one or more of the following means:

- a. **Permittee** – The permittee is responsible for the completion of compensatory mitigation through one or more of the following:
 - 1. When compensatory mitigation includes off-site ESHA *preservation*, the permittee may execute the mitigation requirements through the purchase of an off-site mitigation lot or the purchase of mitigation credits from a *coastal mitigation lot* (see Sec. 8178-2.10.5(a));
 - 2. When compensatory mitigation includes on-site ESHA *restoration*, *enhancement* or *establishment*, the permittee must hire a County-approved *third-party provider* to complete the mitigation package (see subsection b); or
 - 3. The permittee may complete compensatory mitigation through a payment to a pre-established *mitigation bank* (see subsection d) or an available, Coastal Commission-certified *in-lieu fee* program (see subsection e), thereby transferring the responsibility for completion of the mitigation requirements to the party responsible for the *mitigation bank* or available in-lieu fee program.
- b. **Third-Party Provider** – On-site ESHA *restoration*, *enhancement*, or *establishment* shall be implemented by a County-approved *third-party provider* that can demonstrate, to the satisfaction of the *Planning Director*, that the entity has adequate experience, of the type specified by the ESHA Mitigation Plan, to successfully execute the proposed mitigation. A permittee also may purchase mitigation credits for off-site ESHA *restoration*, *enhancement*, or *establishment* conducted by a County-approved *conservation organization* that owns and manages the property (see subsection d).
- c. **Coastal Mitigation Lot** – A *coastal mitigation lot* may be established for ESHA *preservation* by a property owner, *conservation organization*, or permittee (for all or a portion of required compensatory mitigation). In all cases, the lot shall meet the requirements for an off-site *preservation lot*, pursuant to Sec. 8178-2.10.5(b). A *coastal mitigation lot* must be approved by the County, and the entity that establishes such lots shall be responsible for the administration and sale of *preservation* credits. Administrative protocols, procedures, records, *third-party provider* agreements, and other administrative components associated with coastal mitigation lots shall be established and maintained by the RMA/Planning Division (see Appendix E2, Sec. AE-2.4 – Coastal Mitigation Lots).

[Staff Explanation. The proposed coastal mitigation lot program is primarily designed to assist project applicants by increasing the supply of available mitigation land. It is also designed to help project applicants that purchase properties exceeding their mitigation requirement because no suitably-size lot is available for sale. In such cases, the coastal mitigation lot program would allow the project applicant to establish that property as a coastal mitigation lot and sell excess mitigation credits to another property owner. Conservation organizations or private individuals could establish a "coastal mitigation lot" and sell mitigation credits to project applicants in need of compensatory mitigation land.]

DRAFT COASTAL ZONING ORDINANCE

d. **Mitigation Bank:** A mitigation bank must meet the requirements of Sec. 8178-2.10.4 and provide adequate mitigation of the impacted resource by the relevant federal or state natural resource agency or conservation organization (i.e., Conservation Bank - U.S. Fish and Wildlife; Mitigation Bank - CDFW, U.S. Army Corp, US EPA). Through a payment to such banks, the permittee transfers its responsibility for implementation of the required compensatory mitigation to the mitigation bank. A mitigation bank program shall only be implemented pursuant to a valid coastal development permit.

e. **Future Implementation Programs:**

The following in-lieu fee programs would be implemented through an amendment to the County's LCP:

1. **Federal or State In-Lieu Fee Programs:** If available, the County will utilize an alternate, Coastal Commission approved in-lieu fee program(s) facilitated/operated by one or more natural resource agencies (e.g., US Fish and Wildlife, California Department of Fish and Wildlife, US Army Corp of Engineers, Coastal Conservancy). The federal or state agency-operated program(s) would allow a permittee to substitute a direct payment to the approved program to meet compensatory mitigation requirements for impacts to wetlands, wetland buffers, dunes or other specific coastline ESHA.

[Staff Explanation. In addition to the County's in-lieu fee program, state and federal agencies have been developing a Southern California Regional In-Lieu Fee Program for wetland and surrounding upland area mitigation, with fees from that program expected to help fund the restoration of Ormond Beach.]

2. **Ventura County In-Lieu Fee Program:** When available, the County's in-lieu fee program will allow a permittee to substitute payment of a fee to the County's Coastal Habitat Impact Fund to meet compensatory mitigation requirements for impacts to ESHA through the preservation of ESHA within the coastal zone. The in-lieu fee is calculated as the cost per acre an applicant must pay for each acre of off-site mitigation land in the compensatory mitigation package. This program will be established following completion of a fee study and certification by the Coastal Commission, and will contain the following components:

- i. Types of Impacts: Impacts to coastal sage scrub and chaparral plant communities that meet the definition of ESHA pursuant to Sec. 8178-2.3.1 may be mitigated through the in-lieu fee program.
- ii. Type of Compensatory Mitigation - In-lieu fees will be used to acquire, preserve and manage land that contains ESHA.
- iii. Location of Acquired Mitigation Lots - Mitigation sites shall be in the coastal zone, and all acquired lots shall meet the criteria for off-site mitigation lots in Sec. 8178-2.10.5(b). All or a portion of the mitigation lot shall be in Ventura County and, whenever feasible, the lot shall be located within an acquisition area designated for conservation by a federal, state, or County natural resource agency or a County-approved conservation organization.
- iv. Third-Party Provider: Compensatory mitigation (i.e., land acquisition, preservation and management) shall be conducted by a County-approved third-party provider. Funds will be transferred to the third-party provider when they notify the County that an off-site mitigation property is available for purchase.
- v. Timing of Compensatory Mitigation: Whenever feasible, compensatory mitigation shall be conducted within five years of the receipt of fees in the Coastal Habitat Impact Fund.
- vi. Program Administration: Administrative protocols, procedures, records, third-party provider agreements, and other administrative components of the in-lieu fee program shall be established and maintained by the RMA/Planning Division.

DRAFT COASTAL ZONING ORDINANCE

vii. Amount of Fee: The cost per acre for compensatory mitigation (i.e., impacts to *coastal sage scrub* and *chaparral* plant communities classified as ESHA) shall provide off-site preservation that is roughly proportional to the environmental impact, as determined by a fee study conducted by the County. Once a fee is certified by the Coastal Commission, it will be adjusted annually for inflation, with five percent of the funds set aside to cover the program’s administrative costs (County, third-party provider).

[Staff Explanation. An in-lieu fee program provides funds to conservation organizations for the purchase and preservation of land. Groups such as the Santa Monica Mountains Conservancy will function as third-party provider for impacts within the Santa Monica Mountains, but other third-party providers may be used for impacts in the North Coast subarea. Essentially, such fees transfer the responsibility for the purchase of mitigation land from the project applicant to an approved, third-party provider, who may be able to leverage mitigation funds with other funding sources (e.g., grant funds) to purchase and preserve land. This program will only be activated once the County conducts a fee study and obtains a certified LCP amendment for the in-lieu fee.]

f. **Summary of Compensatory Mitigation Implementation Options:**

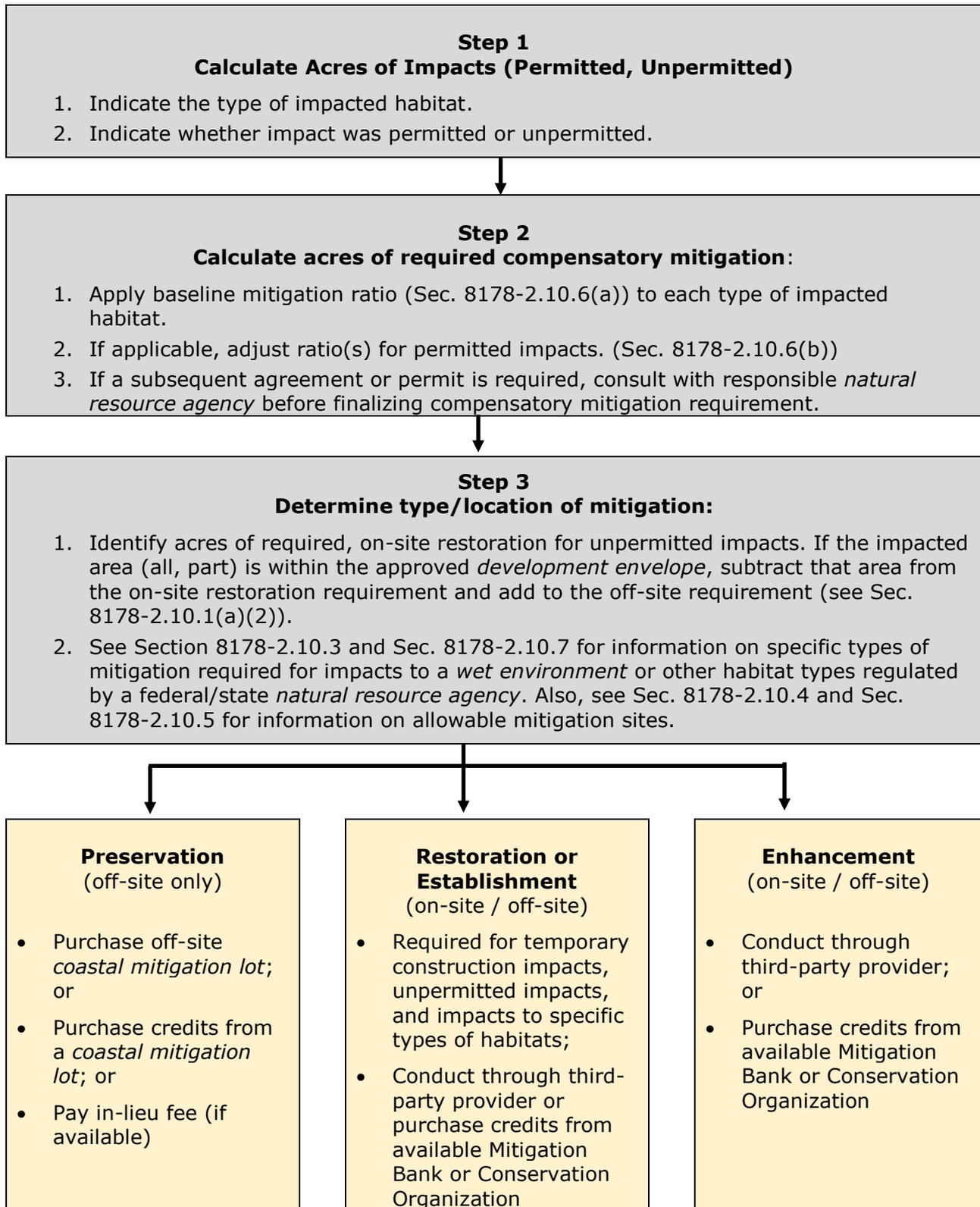
The chart below provides a summary of the compensatory mitigation options available for compensatory mitigation. Also, see Figure 8178-2.11 for a detailed diagram of all compensatory mitigation requirements outlined within this Section.

	<u>ESHA Preservation</u>	<u>ESHA Restoration, Enhancement or Establishment</u>
<u>On-Site</u>	<u>Not available</u>	<u>Yes, if implemented by the permittee through a County-approved third-party provider</u>
<u>Off-Site</u>	<u>Yes, if located on a coastal mitigation lot or a lot that meets off-site mitigation lot standards</u>	<u>Yes, if permittee makes payment to an available, County-approved mitigation bank. The permittee also may purchase mitigation credits from a County-approved conservation organization that owns and manages the mitigation property.</u>

[Staff Explanation. This section clarifies who is responsible for the implementation of compensatory mitigation. In most cases, the permittee will be responsible for implementation, but implementation that includes ESHA restoration, enhancement, or establishment can only be accomplished through a third-party provider. Two additional options – a Conservation/Mitigation Bank and an in-lieu fee – are also identified to provide flexibility for project applicants that cannot complete all compensatory mitigation on-site. Neither of these two options is currently available, although state/federal agencies are developing a Southern California Regional In-Lieu Fee Program for wetland and surrounding upland area mitigation. Also, the County may elect in the future to offer an in-lieu fee option for Ventura County that is consistent with the compensatory mitigation requirements of the Ventura County LCP.]

DRAFT COASTAL ZONING ORDINANCE

Figure 8178-2.11 – Illustrative Diagram of Compensatory Mitigation Requirements



DRAFT COASTAL ZONING ORDINANCE

Sec. 8178-2.10.9 – ESHA Mitigation Plan

Required compensatory mitigation measures for the proposed development shall be described within an ESHA Mitigation Plan that meets the standards established in Appendix E2. An ESHA Mitigation Plan shall provide a summary of the mitigation measures required to offset all impacts to ESHA. It must include project goals and objectives, performance standards and criteria, identification of mitigation sites, detailed implementation schedule, a contingency plan, a cost plan, and a description of the mechanisms proposed for the long-term preservation of the mitigation site. Additional components of an ESHA Mitigation Plan will be dependent on the mitigation approach required for individual projects, and will include one or more of the following components:

- a. Habitat Restoration Plan – This component is required for mitigation that includes habitat restoration, establishment, or enhancement as a compensatory measure. It must include a description of how a project will be coordinated, a project schedule, and plans for the plant palette, temporary irrigation system, weed eradication, erosion control, fencing. This document also includes a cost estimate for completing compensatory mitigation and other measures identified to ensure project success based on site-specific factors.
- b. Habitat Maintenance and Monitoring Plan – Provides a detailed description of the required activities during the five to seven-year maintenance and monitoring period (see Appendix E2) to help ensure the success of the Habitat Mitigation Plan. It must include performance standards, procedures for the periodic monitoring and implementation of corrective measures, and maintenance tasks used to ensure the continued viability of habitat mitigation requirements once initial construction is complete.
- c. Habitat Management Plan – This component is required for mitigation that includes habitat preservation as a compensatory mitigation measure, including lots used as a coastal mitigation lot. It must include documented proof that the mitigation property is protected in perpetuity.

Sec. 8178-2.11 – Processing Permits for Development in ESHA or Buffer Zone

Sec. 8178-2.11.1 – General Requirements

Permit applications shall be reviewed against all applicable LCP policies and provisions, including but not limited to the Coastal Area Plan policies in Section 4.1.3 – Environmentally Sensitive Habitat Areas and the Coastal Zoning Ordinance regulations/standards in Section 8178-2 – Environmentally Sensitive Habitat Areas.

- a. A Coastal Development Permit²³ (i.e., Planned Development Permit (PD, PDP), Conditional Use Permit (CUP) or Public Works Permit (PW)) is required for the following:
 - New/expanded development with the potential to result in adverse impacts to an ESHA or buffer zone, as provided by Sec. 8178-2.2 – Applicability;
 - The alteration, transplantation, or removal of a tree classified as ESHA (also see Sec. 8178-7.5 – Tree Permits);
 - Construction activities, outdoor festivals, and outdoor sporting events that occur within 500 feet of an ESHA special status species in a critical life stages (e.g., breeding birds). See Sec. 8178-2.7.7 – Special Status Species Habitats.
- b. The conditions of approval for a coastal development permit shall be subject to the requirements of Sec. 8181-12 and the following:
 1. Compensatory Mitigation – All areas subject to compensatory mitigation shall be preserved in perpetuity through one of the acceptable legal instruments identified in Sec. 8178-2.10.1(c). Also, compensatory mitigation may occur through the purchase of credits from a County-

²³ For information on coastal development permit requirements, see Sec. 8174-4 – Environmentally Sensitive Habitat Areas, Sec. 8174-5 – Permitted Uses by Zone, and Sec. 8174-6 – Statutory Exemptions and Categorical Exclusions.

DRAFT COASTAL ZONING ORDINANCE

approved mitigation bank, coastal mitigation lot, mitigation site managed by a conservation organization. See Sec. **8178-2.10.8** – Implementation of Compensatory Mitigation;

2. On-Site Development Restrictions – Except for areas used as compensatory mitigation, all identified on-site ESHA and ~~environmentally sensitive habitat areas~~, buffer zones, and slope areas over 30 percent gradient located outside the development envelope, shall be permanently maintained in their natural state through an conservation-easement instrument that is recorded and appears on the subject property's legal title. ~~or other appropriate means.~~
 3. Reasonable Economic Use – When a permit is issued to allow development of a lot in a manner that provides a reasonable economic use, consistent with the maximum allowable building site provisions in Sec. **8178-2.6.2**, a conservation instrument shall be required that prohibits further disturbance or loss of ESHA or buffer zone that conflicts with the ESHA policies or provisions of the LCP.
- c. Additional findings are required for a Coastal Development Permit for development in ESHA or buffer zone (see Sec. **8181-3.5.3**).

Sec. 8178-2.11.2 – Coastal Development Permit Application Requirements

In addition to the information required by Sec. 8181-5 (Filing and Processing of Application Requests), the following information and documentation must be provided with all permit applications:

- a. Coastal Initial Study Biological Assessment (CISBA) – An assessment shall be submitted of the environmental resources on the project site, as well as adverse impacts to ESHA that would result from the proposed project. The CISBA shall include information needed to determine the type/amount of compensatory mitigation that is required to mitigate for unpermitted impacts or unavoidable, permitted adverse impacts to ESHA or buffer zones if the proposed project was built. The CISBA shall meet the requirements of **Sec. 8178-2.3.3** and **Appendix E1** – Site Specific Environmental Assessments for ESHA.
- b. Least Damaging Alternatives Analysis – This submittal shall include graphic and written materials needed to demonstrate that the proposed project meets the standards established by Sec. 8178-2.3(b).
- c. Site Plan – The site plan shall, at a minimum, identify the location of the following: (1) on-site ESHA, wetlands, and their buffer zone(s); (2) existing development, including any unpermitted grading and vegetation removal; (3) the proposed building site and development envelope with all proposed buildings, structures, service infrastructure, roads and fuel modification zones; (4) off-site development (e.g., access road(s), structures); and (5) off-site parks and open-space preserves that abut the lot.
- d. Written Summary – The written submittal shall address project siting and design methods used to avoid or minimize impacts on ESHA and buffer zones.
- e. Comparative Analysis (Land Divisions) – For applications involving a land division (including lot mergers, lot line adjustments, ESHA preservation incentives), a comparative analysis shall be provided assessing the development potential for the original and the proposed lot configuration and a summary of unavoidable impacts to ESHA or buffer zone. See applicable sub-sections of **Sec. 8178-2.X** – Land Divisions in ESHA or Buffer Zone for additional information.
- f. Emergency Permits for Tree Removal – When applicable, see **Sec. 8178-7.5.4** – Emergency Tree Alteration or Removal for permitting requirements applicable to a Coastal Emergency Permit issued for a protected tree classified as ESHA.

The Planning Director or designee may require additional information and documentation, if needed, to determine compliance with the policies and provisions of the LCP.

DRAFT COASTAL ZONING ORDINANCE

[Staff Explanation. The existing section on Environmentally Sensitive Habitat Areas is shown below as deleted text. However, when text was retained, it is shown as existing text in the updated regulations. The location of each updated regulation is provided in the staff explanations below.]

~~Sec. 8178-2 – Environmentally Sensitive Habitat Areas (ESHA)~~

~~The provisions of this section apply to all areas of the County's coastal zone that fall within the definition of "environmentally sensitive habitat areas," or within the designated buffer areas around such habitats. (AM.ORD.4451-12/11/12)~~

~~Sec. 8178-2.1 – Permitted Uses~~

~~See Sec. 8174-4 for uses permitted within environmentally sensitive habitat areas and buffer areas. (AM.ORD.4451-12/11/12)~~

[Staff Explanation. Allowable use regulations are now located in Sec. 8178-2.5 – Allowable Uses in ESHA or Buffer Zones.]

~~Sec. 8178-2.2 – Identification of Environmentally Sensitive Habitat Areas (ESHA)~~

~~If a new ESHA is identified by the County on a lot or lots during application review, the provisions of this Article shall apply. The County shall periodically review and update its maps pertaining to environmentally sensitive habitat areas in the coastal zone. (AM.ORD.4451-12/11/12)~~

[Staff Explanation. This issue is now addressed in the applicability section (see Sec. 8178-2.2). An updated ESHA map is proposed for the South Coast Subarea, which will be included in the Coastal Area Plan (CAP), and a CAP program is provided to update the North Coast and Central Coast subarea ESHA maps.]

~~Sec. 8178-2.3 – Recreational Projects~~

~~The applicant of a proposed recreational facility in environmentally sensitive habitat areas or buffer areas shall develop a management program to control the kinds, intensities, and locations of uses to preserve habitat resources to the maximum extent feasible. This program shall be a part of development approval.~~

[Staff Explanation. This regulation will be replaced by standards for recreational projects in Sec. 8178-2.6.10 – Standards for Recreational Development in ESHA. The text above will also be retained as an existing policy in the Recreation and Access section of the Coastal Area Plan (CAP), which is not part of the current LCP update.]

~~Sec. 8178-2.4 – Specific Standards~~

~~The following specific standards shall apply to the types of habitats listed.~~

- ~~a. Coastal Dunes – Activities leading to degradation, erosion or destruction of coastal dunes are not permitted. This includes, but is not limited to, use by off-road vehicles, sand mining, filling, or dumping.~~

[Staff Explanation: The existing text will be revised and incorporated into updated standards for coastal dunes, which are located in Sec. 8178-2.7.1.1 – Coastal Dunes.]

- ~~b. Tidepools and Beaches~~

- ~~1. Placement of any fill or dredged material along beach intertidal areas shall be carried out in consultation with the State Department of Fish and Game, in order to ensure that the timing and location of such activities does not disrupt the life cycles of intertidal or sandy beach species.~~

[Staff Explanation: The existing text will be revised and incorporated into updated standards for beaches in Sec. 8178-2.7.1 – Coastal Dunes and Beaches. More specifically, the text above was incorporated into Sec. 8178-2.7.1.4 – Beach Replenishment.]

- ~~2. An applicant for any coastal development, including shoreline protective devices, must show that the proposal will not cause long term adverse impacts on beach or intertidal areas. Impacts include, but are not limited to, destruction of the rocky substrate, smothering of organisms,~~

DRAFT COASTAL ZONING ORDINANCE

contamination from improperly treated wastewater or oil, and *runoff* from streets and parking areas. Findings to be made shall include proper wastewater disposal.

[Staff Explanation: The existing text, with minor revisions, was incorporated into Sec. 8178-2.7.1.2 – Beaches (see subsection (a).]

c. ~~Creek Corridors~~

- ~~1. All *developments* on land either in a *stream* or creek corridor or within 100 feet of such corridor (*buffer area*), shall be sited and designed to prevent impacts that would significantly degrade *riparian habitats*, and shall be compatible with the continuance of such *habitats*. (AM.ORD.4451-12/11/12)~~

[Staff Explanation: The existing development standard for creek corridors was revised and restated in Sec. 8178-2.7.3 – Wet Environments.]

- ~~2. Substantial alterations (channelizations, dams, etc.) to river, *stream*, or creek corridors are limited to: water supply projects necessary to agricultural operations or to serve *developments* permitted by the LCP Land Use Plan designations; flood control projects where no other method for protecting existing *structures* in the flood plain is *feasible*, and where such protection is necessary for public safety or to protect existing *development*; or *developments* where the primary function is the improvement of fish and wildlife *habitat*.~~

[Staff Explanation: Allowable uses in rivers, streams and creek corridors is now located in Sec. 8178-2.5.1.1 – Allowable Uses in Streams and Rivers. Also, a more detailed set of standards for development in rivers, streams, or creek corridors is located in Sec. 8178-2.7.3.2 – Standards for Development in Wet Environments.]

- ~~3. *Developments* allowed per the above policies shall incorporate the best mitigation measures *feasible*.~~

[Staff Explanation: An expanded set of standards for development in rivers, streams, or creek corridors, including the use of best management practices, is addressed in Sec. 8178-2.7.3.2.]

d. ~~Wetlands~~

- ~~1. All *developments* on land either in a designated *wetland*, or within 100 feet of such designation, shall be sited and designed to prevent impacts that would significantly degrade the viability of the *wetland*. The purposes of such projects shall be limited to those in Section 30233(a) of the Coastal Act. (AM.ORD.4451-12/11/12)~~

[Staff Explanation: Allowable use in a wetland is defined in Sec. 8178-2.5.1.2 – Allowable Uses in Wetlands and Open Coastal Waters. Also, the development standard above was retained and restated in Sec. 8178-2.7.3.1.]

- ~~2. Where any dike or *fill development* is permitted in *wetlands*, mitigation measures shall, at a minimum, include those listed in Section 30607.1 of the Coastal Act. Other reasonable measures shall also be required as determined by the County to carry out the provisions of Sections 30233(b and c) of the Coastal Act.~~

[Staff Explanation: The mitigation measure above will be retained and revised in Sec. 8178-2.10.7(1), which addresses compensatory mitigation for development in wetlands. The updated section is aligned with provisions in the Coastal Act.]

- ~~3. *Habitat* mitigation shall include, but not be limited to, timing of the project to avoid disruption of breeding and/or nesting of birds and fishes, minimal removal of *native vegetation*, reclamation or enhancement as specified in the California Coastal Commission "Interpretive Guidelines for Wetlands" and a plan for spoils consistent with paragraph (4) below. The Department of Fish and Game, as well as other appropriate agencies, shall be consulted as to appropriate mitigation measures.~~

DRAFT COASTAL ZONING ORDINANCE

[Staff Explanation: Habitat mitigation requirements for ESHA are now located in an expanded section on compensatory mitigation in Sec. 8178-2.10. Also, specific mitigation requirements for wetlands are provided by Sec. 8178-2.10.7(a).]

4. ~~Dredge spoils should not be used for beach replenishment unless it can be shown that the process would not adversely impact coastal processes or *habitats*, such as intertidal reefs, grunion spawning grounds, or marsh. The California Department of Fish and Game, as well as other appropriate agencies, must be consulted when spoils deposition on a beach is under consideration.~~

[Staff Explanation: Standards for beach replenishment are located in Sec. 8178-2.7.1.4 – Beach Replenishment.]

Sec. 8178-3 – Archaeological and Paleontological Resources

Sec. 8178-3.1.2 – Methodology

Sec. 8178-3.1.2.1 – Initial Evaluation

- a. The Planning Division shall conduct a search of County records to determine if areas proposed to be disturbed, including but not limited to all building sites envelopes, access roads, subsurface structures, well sites, trenching sites, or other ground disturbance sites), have undergone a Phase I Inventory in accordance with Sec. 8178-3.1.2.2 (below).
- b. If a Phase I Inventory was conducted for the area proposed for development, the findings and recommendations shall be reviewed by the Planning Division to verify that all areas proposed for development were included in the Phase I Inventory.
- c. If the project area is undeveloped and no archaeological survey has been conducted, or portions of the project site were not included in a previous Phase I Inventory, the Planning Division shall contact the South Central Coast Information Center at Cal State Fullerton (SCCIC) to determine if a Phase I Inventory will be required.

Sec. 8178-7 – Tree Protection Regulations

[Staff Explanation. Excerpts from the recently certified Tree Protection Regulations are shown below because ESHA is a type of protected tree. Minor revisions are included that clarify when the ESHA regulations in Section 8178-2 are applicable. Modifications were also made to clarify which regulations do not apply to trees classified as ESHA. Only those sections being modified are included in the excerpts below.]

Sec. 8178-7.3 – Types of Protected Trees

Each of the following types of trees identified in Sec. 8178-7.3 is considered to be a *protected tree* for purposes of Sec. 8178-7.

Sec. 8178-7.3.1 – ~~Trees that contribute to the function and habitat value of an~~ classified as ESHA

Any *tree* that meets one or more of the following criteria shall be classified as *ESHA*:

- a. The *tree* is located within any ESHA or is classified as ESHA by a *qualified biologist* (see Sec. 8178-2.3.1 – Definition of ESHA).
- b. The *tree* exhibits evidence of *raptor nesting, breeding colony, colonial roost (for migratory birds),* or has been identified as a *Monarch butterfly roosting site*, as determined in writing by a *qualified biologist* or *ornithologist* or as determined by the County biologist based on historic or current data.
- c. The *tree* was required to be planted or protected pursuant to a *ESHA mitigation plan or habitat restoration plan* (Sec. 8178-2.10.5).

Sec. 8178-7.4 – Development Standards for Protected Trees

DRAFT COASTAL ZONING ORDINANCE

Sec. 8178-7.4.1 General Standards

- a. A new principal use or structure shall be sited and designed to avoid damage to a native, historic, and heritage *protected trees* to the maximum extent feasible, as evidenced through an *alternatives analysis*. If there is no feasible alternative that can avoid damage to a *protected tree*, then the project alternative that would result in the least damage to such a *tree* shall be selected, and damage to a *protected tree* that cannot be avoided through implementation of siting and design alternatives shall be mitigated consistent with the mitigation requirements in Sec. 8178-7.6.
- b. A new principal use or structure shall be sited and designed to avoid damage to *protected trees* that are classified as *ESHA* pursuant to Sec. 8178-7.3.1 **2.3.1** – Definition of ESHA. However, if there is no feasible alternative that can avoid all impacts to a *protected tree* designated as *ESHA*, and still allow a principal use or structure that is the minimum necessary to provide *reasonable economic use* of the property (as evidenced through an *alternatives analysis*), the project alternative that would result in the least damage to such a *tree* shall be selected. Impacts to trees classified as ESHA that cannot be avoided through implementation of siting and design alternatives, including reduction of the building footprint, shall be mitigated consistent with the mitigation requirements in Sec. 8178-7.6.
- c. Once the original land use entitlement has been issued for a principally permitted use or structure, and the use has commenced or the structure has been built, an addition or expansion that would require the *removal* of a *protected tree*, or *alteration/protected zone encroachments* that damage a *protected tree*, shall be prohibited (see Sec. 8178-7.6.1). A *heritage tree* is excluded from this prohibition.
- d. Development shall be sited and designed to avoid *encroachment* into the *protected zone* of a *protected tree* to the maximum extent feasible. *Encroachments* shall be fully mitigated consistent with the mitigation requirements in Section 8178-7.6.
- e. The removal of a *protected tree*, or alterations/protected zone encroachments that damage a *protected tree*, shall be prohibited for accessory uses or structures except for existing, legal structures (see Sec. 8178-7.6.1). Notwithstanding the foregoing, a heritage tree may be removed for the purpose of constructing a second dwelling unit.
- f. New discretionary development shall be sited and designed to comply with the following:
 1. Irrigation and landscaping shall be prohibited within the *protected zone* except where the *protected tree* is tolerant of water, the landscape is comprised of shallow-rooted, herbaceous perennials, bulbs or *groundcover*, and a *qualified tree consultant* verifies the *protected tree* would not be adversely affected by the level of irrigation, compaction of soil, or root disturbance associated with the proposed landscaping.
 2. A minimum buffer of five feet from edge of the *tree protected zone* shall be provided to allow for future growth of a *protected tree* unless a *qualified tree consultant* provides justification in writing that the buffer may be decreased in size because the *protected tree* is regarded as “tolerant” due to the *tree species*, age, health or location.
 3. New *drainage* systems shall be directed away from all *root zones* of all *protected trees*, replacement offset *trees*, and *transplanted trees*.
- g. When a public works project includes the repair or maintenance of drainage devices and road-side slopes, the project may not result in the alteration or removal of a protected tree except as follows:
 1. The development is the minimum design necessary to protect existing public roads;
 2. The project avoids *removal or alteration of protected trees* to the maximum extent feasible, and

DRAFT COASTAL ZONING ORDINANCE

3. All impacts to *protected trees* are mitigated pursuant to Sec. 8178-7.6.

This provision shall not apply to trees classified as ESHA, which are subject to more protective requirements pursuant to Section 8178-2.

Sec. 8178-7.4.2 - Tree Removal and Alteration

- a. The *alteration or removal* of a tree that is ESHA pursuant to Sec. 8178-7.3.1 2.3.1 shall only be permitted when:
 1. The *tree* poses an imminent hazard to life or property and there is no feasible alternative to ensure public health and safety (see Sec. 8178-7.5.4 Emergency Tree Alteration or Removal); or
 2. Tree *alteration or removal* is necessary to allow a new principal use that is the minimum necessary to provide a *reasonable economic use* of the property (see Sec. 8178-7.4.1 General Standards and Sec. 8178-2.4.4 - Reasonable Economic Use); or
 3. *Removal or alteration* of the tree is a necessary component of an approved *habitat restoration plan or ESHA mitigation plan* (Sec. 8178-2.10.5).

Also, see Sec. 8178-2.7.10 - Monarch Butterfly Roosting Sites and Sec. 8178-2.7.7 - Breeding, Staging and Stopover Habitats for requirements associated with the permitted removal of Monarch butterfly aggregation sites.

- b. The *alteration* of a *protected tree* that is not classified as ESHA shall only be permitted for pruning to maintain the health and structure of the tree or for the same reasons set forth in subsection (c) below for *removal* of a *protected tree*.
- c. Except as authorized pursuant to Sec. 8178-7.5.4 - Emergency Tree Alteration or Removal, *removal* of a *protected tree* shall not be deemed necessary when a feasible alternative development plan exists that does not require the *removal* of the *protected tree*. In addition, the *removal* of a *protected tree* shall only be permitted for one or more of the following reasons:
 1. Is required to provide necessary access to development approved in a planned development permit;
 2. Is required to allow the development of a principal permitted use or structure at a particular location, and is the minimum area necessary to provide a *reasonable economic use* of the property, as evidenced through an *alternatives analysis*;
 3. Is required to allow the construction of a second dwelling unit, provided that the tree is classified only as a *heritage tree*.
 4. Is required to establish the required *fuel modification zone* for new development where no feasible alternative location for the development exists; or
 5. The tree is dead, diseased or poses a danger to healthy trees in the immediate vicinity, or is in a condition that poses a hazard to persons or property that cannot be remedied through other means or alterations. In these circumstances, a *qualified tree consultant* shall verify the status and health of the tree and provide recommendations and evaluation of alternatives for restoring the health of the tree where feasible. A dead tree classified as ESHA shall not be removed unless it poses a hazard to persons or property that cannot be remedied through other means or alterations.
- d. Timing:
 1. Bird breeding and nesting - To safeguard *protected trees* that may provide habitat for breeding and nesting birds protected by the Fish and Game Code, the Bald and Golden Eagle Protection Act, and the Migratory Bird Treaty Act, all *tree removal* and *tree alteration* is prohibited during the bird breeding and nesting season (January 1 to September 15) unless the *Planning Director*, in consultation with a *qualified tree consultant*, determines that the

DRAFT COASTAL ZONING ORDINANCE

tree poses an imminent hazard to life or property. This prohibition may also be waived when a bird survey is conducted, pursuant to Sec. 8178-7.7.4.1.1, and evidence of active breeding or nesting birds is not discovered within the project site. Any discretionary action approved, pursuant to this section, for tree *alteration* or *removal* during the bird breeding and nesting season shall be conditioned to require a bird survey no more than three days prior to commencement of the approved work to confirm that no bird breeding or nesting activity is present.

2. Monarch butterfly - To safeguard *protected trees* used as a *monarch butterfly overwintering site*, two roost surveys for such trees shall be conducted by a *qualified biologist* during the October – March period (see Appendix E1, **Sec. AE-1.3.2(g)**). Any discretionary action approved, pursuant to this section, for tree *alteration* or *removal* shall be conditioned to require a monarch butterfly survey.
- e. If the *Planning Director* determines, based upon substantial evidence, that the *removal* or *alteration* of a *protected tree* may result in unintentional damage to existing development including but not limited to utilities, buildings, other *protected trees*, or *ESHA*, a *qualified tree service company* or *qualified tree trimmer* shall be retained to *alter* or *remove* the *protected tree*.

Sec. 8178-7.4.4 – Project Construction Standards

- a. Construction impacts to *protected trees* shall be avoided. Before the commencement of any clearing, grading, ground disturbance, or other construction activities, erosion control and tree protection measures shall be installed including but not limited to protective fencing at the edge of the *tree protected zone* of each *protected tree*.
- b. For *trees* with an *active raptor nest*, which are classified as *ESHA*, a *buffer* shall be provided during construction that is no less than 500 feet. For all other active bird nests, the *buffer* shall be no less than 300 feet. The required *buffer* shall be provided during construction until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting. If the required *buffer* cannot be achieved, the maximum setback shall be provided and construction activities that occur within the required *buffer* shall be monitored by a *qualified biologist* or *ornithologist* to detect any breeding or nesting behavior. In the event nesting birds are encountered, construction shall be halted in the area of the nest until the nest is vacated, juveniles have fledged, and there is no evidence of a second attempt at nesting. A weekly report shall be submitted to the *Planning Division* that discloses the findings of the observations conducted for that time period. The *buffer* shall be designated by protective fencing.
- c. No ground disturbances, grading, trenching, construction activities, or structural development shall occur within the *tree protected zone* or *buffer* except where it may be allowed pursuant to Sec. 8178-7.4.1 or 8178-7.4.2, consistent with the standards of this Sec. 8178-7, and as specifically authorized by the permit and the approved *Tree Protection, Planting, and Monitoring Plan*.
- d. Any approved development (e.g. paving, or the installation of fence posts), including grading or excavation (e.g. utility trench) that *encroaches* into the *tree's protected zone* shall be constructed using only hand-held tools.
- e. If disturbance is permitted within the *tree protected zone* or *buffer*, a *qualified biologist* shall monitor the temporary disturbance and fencing shall be temporarily modified to allow work to be completed. Fencing shall remain in place until all construction and grading activities have ceased.
- f. e. Construction equipment storage and staging areas shall be located outside of the fencing area or *buffer* described above, and graphically depicted on approved site, grading, and building plans.
- g. f. Unless the activity is conducted in accordance with Sec. 8178-7.4.1 and 8178-7.4.2 and is specifically authorized by the development's land use permit, the burning, application of toxic substances, overwatering, storing materials, operating machinery, or any other disturbance within the *tree protected zone* or *buffer*, is prohibited.

DRAFT COASTAL ZONING ORDINANCE

~~h.~~ ~~g.~~ Prior to earth disturbing activities, project construction standards and any additional recommendations in the approved Tree Protection, Planting, and Monitoring Plan or ESHA mitigation plan (Sec. **8178-2.10.5**) shall be implemented.

Sec. 8178-7.5 –Tree Permits

- a. A *tree permit* is required for the *alteration, transplantation, or removal* of a *tree* unless exempt from a *permit* pursuant to Sec. 8178-7.5.3. There are three types of *tree permits*: a Planned Development Permit (see Sec. 8178-7.5.1), Zoning Clearance (see Sec. 8178-7.5.2), and an Emergency Coastal Development Permit (see Sec. 8178-7.5.4 and Sec. 8181-3.7). A Planned Development Permit is required for the alteration, transplantation, or removal of a protected tree classified as ESHA.
- b. If *tree alteration, removal, or transplantation*, is part of a development requiring a discretionary permit, then the *tree permit* application and approval process shall accompany the development project that requires a discretionary permit.
- c. If a person applies for a permit to *alter or remove a tree* located in an area subject to state or federal regulations (e.g. Fish and Game Code or Clean Water Act) that are more stringent than the regulations set forth in this Sec. 8178-7, the stricter requirements shall prevail in establishing the conditions of approval for that permit.

Sec. 8178-7.5.1 - Planned Development Permit

No person shall *remove, alter, or transplant* a *protected tree* without obtaining a *Planning Director* approved Planned Development Permit, unless it is exempt from a permit (pursuant to Sec. 8178-7.5.3) or requires only a Zoning Clearance (pursuant to Sec. 8178-7.5.2) or Emergency Permit (see Sec. 8178-7.5.4). A Planned Development Permit is required to remove, alter, or transplant a protected tree classified as ESHA. A Planned Development Permit shall also be required for:

- a. *Post-Removal, -Alteration, or -Transplantation.* A Planned Development Permit shall be required when a *protected tree* was *removed, altered or transplanted* without the required permit and/or a person seeks to *remove* the *tree, roots* or limbs from the lot.
- b. *Tree Alteration.* A Planned Development Permit shall be required for the following types of *alterations* to a *protected tree*:
 1. The *alteration* may compromise the health of the *tree* and results in a *qualified tree consultant's* recommendation for *tree removal*.
 2. *Encroachment* into the *tree protected zone*. Examples of encroachments include but are not limited to changing the existing grade, landscaping or irrigation, excavating for utilities or fence posts, or paving associated with driveways and streets.
 3. *Pruning of tree canopy* greater than 20 percent.
- c. *Emergency Tree Alteration or Removal.* A Planned Development Permit shall be required following issuance of an Emergency Permit in accordance with Sec. 8178-7.5.4.

Sec. 8178-7.5.1.1 – Planned Development Permit Findings

- a. A Planned Development Permit may be approved only when the applicable decision-maker makes one or more of the following findings, as applicable:
 1. The proposed project conforms to the development standards in Sec. 8178-7.4.
 2. The proposed project is sited and designed to avoid the *removal or transplantation of protected trees* except as allowed by this Sec. 8178-7 and where no feasible alternative exists that would avoid or further minimize the *removal, transplantation, or damage to protected trees*.
 3. To the maximum extent feasible, the proposed project is sited and designed to avoid any *encroachment* into the *protected zone* of a *protected tree* that would lead to the decline or death of the *protected tree*.

DRAFT COASTAL ZONING ORDINANCE

4. The adverse impact of *tree removal, tree transplantation, or encroachment* in the *tree protected zone* cannot be avoided because such impacts cannot be reduced or avoided through a feasible alternative.
 5. All feasible mitigation measures that would substantially lessen any damage to *protected trees* were incorporated into the approved project through project design features or conditions of approval.
 6. For trees classified as ESHA, the permit findings shall include those provided in Sec. 8178-2.11.3.1 – ESHA Impact Findings.
- b. In addition to the required findings in subsection “a” above, one or more of the following findings may be used to substantiate the reason for *removal, transplantation, or encroachment* of a *protected tree*:
1. A *protected tree’s* continued existence in its present form or location denies reasonable access to the subject property or denies the development of the principal permitted use that is the minimum necessary to provide a *reasonable economic use* of the property.
 2. The location of a *protected tree* prevents the continuation or safe operation of an existing utility service and there are no feasible alternatives that would eliminate or reduce the impacts.
 3. The *protected tree(s)* proposed for *removal* has a debilitating disease or is in danger of falling, and such conditions cannot be remedied through *preservation* procedures and practices, and the *tree(s)* is located in an area where falling limbs or trunks would be a danger to persons or property (i.e. existing structures).
 4. The alteration or removal of a *protected tree* is required for a public works project that entails the repair and/or maintenance of *drainage* devices and road-side slopes and is the minimum design necessary to protect existing public roads.

8178-7.5.1.2 – Modifications to a Discretionary Permit

A *protected tree* that was planted pursuant to a Tree Protection, Planting, and Monitoring Plan, a mitigation measure, or an approved *landscape plan*, and that is proposed to be *removed* due to its decline or death, may be substituted with an alternate species subject to the following:

- a. The requested substitution is justified in writing by a *qualified biologist* and/or *qualified tree consultant* and fulfills the mitigation requirements or performance standards set forth by the original discretionary permit, and the monitoring and successful *establishment* of the substituted species is required by a permit condition.
- b. An application for modification of the subject permit is filed in compliance with Sec. 8181-10.4.2.
- c. For *protected trees* classified as ESHA, the requested substitution shall comply with the requirements of the ESHA mitigation plan (Sec. 8178-2.10.5).

Sec. 8178-7.5.2 – Zoning Clearance

- a. A person may *alter or remove* a *non-native* or *non-native invasive tree* with a Zoning Clearance, except when such trees are classified as ESHA, when such actions occur outside the bird *breeding and nesting season* (January 1 to September 15). Within the bird *breeding and nesting season*, tree removal may also occur in accordance with Sec. 8178-7.7.4.1.1, which allows *tree removal* if a bird survey is conducted and no nesting birds are found in the project area.
- b. Overhead Utility Lines. *Alteration* of a *protected tree*, except when such trees are classified as ESHA, below or *adjacent* to public overhead lines located in State Responsibility Areas (as mapped by the Department of Forestry and Fire Protection), where the primary financial responsibility for preventing and suppressing wildland fires rests with the State and when necessary to maintain existing overhead lines. *Alteration* shall be the minimum necessary to provide safe fire clearance.

DRAFT COASTAL ZONING ORDINANCE

Sec. 8178-7.5.2.1 – Zoning Clearance with Inspection

- a. Development that encroaches less than 10 percent into a *protected tree's tree protection zone*. A *certified arborist* or *qualified tree consultant* shall submit the following, in writing:
 1. The purpose of the encroachment, degree of encroachment within the *tree protected zone*, recommendations to avoid and minimize potential impacts to *tree roots* during construction, in accordance with Sec. 8178-7.4.4 – Project Construction Standards, and a statement that the proposed encroachment is not expected to result in permanent damage to the *protected tree*.
 2. In the event that the *certified arborist* or *qualified tree consultant* determines the proposed *tree encroachment* is below 10 percent but *development* has the potential to harm the *protected tree*, a Planned Development Permit shall be required in accordance with Sec. 8178-7.5.1.
- b. Pruning of a *protected tree's* live limbs, provided such trimming does not endanger the life of the *tree* or result in an imbalance in structure, or remove more than 20 percent of its *tree canopy*. Unless justification is provided in writing by a *qualified tree consultant*, removing a *protected tree's* branches larger than four inches in *diameter* shall be prohibited.

Sec. 8178-7.5.3 - Exemptions

The *alteration* or *removal* of *protected trees* is only exempt from a permit under the following circumstances, and in accordance with timing requirements of Sec. 8178-7.7.4.1.1 which prohibits *tree alteration* or *removal* during the *bird breeding and nesting season* (January 1 to September 15) unless a bird survey determines no nesting birds are present in the project area:

- a. Commercial *Tree Operations*:
 1. The *removal* or *alteration* of *trees* planted, grown, or held for sale by lawfully established nurseries and *tree farms*, or *trees removed* or *transplanted* from such a nursery as part of its operation.
 2. In areas zoned Coastal Agricultural (CA), *trees* such as avocado, citrus, and nut bearing *trees* planted, grown, and presently harvested for commercial agricultural purposes. This does not include the alteration, *transplanting*, or removal of *protected trees* or their limbs that were not planted for agricultural purposes. Examples of generally accepted agricultural activities that do not require a permit include but are not limited to the following:
 - i. Converting land planted with for mature avocado *trees* to grazing (animal husbandry) or *crop production* uses.
 - ii. Replacement of mature lemon *trees* with young lemon *trees*.
 - iii. Thinning of *trees* in an orchard to allow more vigorous growth and production on the part of the remaining *trees*.
 - iv. Harvesting, planting, and tending crops and crop-type conversions (e.g. orchards to grapes, or lemon *trees* to avocado *trees*).
- b. *Minor Tree Alterations* (Fuel Modification Zone Maintenance). *Maintenance of protected trees* within the required *fuel modification zone*, including but not limited to *alteration of a protected tree's* live limbs to effectively manage fuels or to prevent the transmission of fire from native vegetation to a structure.
- c. Dead or Fallen Tree or Limb:
 1. Any naturally fallen dead *protected tree* or dead limb that no longer exhibits the structural integrity of a healthy *protected tree* or limb and is determined to be a fire hazard by the Fire Department or is in danger of falling and threatening public safety, may be removed, unless that *tree* is classified as or located in *ESHA*. Naturally fallen dead *trees* located in *ESHA* shall

DRAFT COASTAL ZONING ORDINANCE

not be removed unless that *tree* poses a serious nuisance (i.e. the *tree* blocks a primary access road) or the fallen *tree* poses an imminent threat to persons or property, and under such circumstances an Emergency Tree Removal Permit is required. Artificial, mechanical, or human induced damage to a *protected tree* does not constitute a naturally fallen tree.

2. Removal of *trees* destroyed by natural disaster (e.g., fire, landslide, drought, disease or insect outbreaks), or a catastrophic (sudden and complete) failure (vehicle accident, structure collapse, etc.).
3. Prior to *tree removal* or *alteration*, property owners are encouraged to submit documentation verifying the *tree* removal was exempt from a tree permit pursuant to Sec. 8178-7.7.1.

Sec. 8178-7.5.4 - Emergency Tree Alteration or Removal

- a. An *emergency*, as defined in this Sec. 8178-7.5.4, is a sudden unexpected occurrence where a *protected tree*, because of its lack of structural integrity, demands immediate action to prevent or mitigate loss or damage to life, a significant loss of property, and where there is no feasible alternative to ensure public health and safety.
- b. In an *emergency* situation, *tree alteration* or *removal* may proceed without first obtaining a *tree permit* and shall be limited to such actions that are necessary to address an imminent hazard to life, health, property or essential public services.
- c. In an *emergency* situation, permit applications shall be made and processed in accordance with Sec. 8181-3.7 (Emergency Coastal Development Permits). If the emergency permit includes the alteration or removal of a protected tree classified as ESHA, then the following information shall be included with the permit:
 1. Two to four colored photographs of the affected tree. The photos shall be taken from different vantage points, clearly illustrate the reason for the request to remove or alter the tree, and should identify the tree's location relative to nearby vegetation or landmarks;
 2. Site Sketch or Plan, drawn to scale with north arrow that shows the location and species name of the affected tree(s), including any benchmarks that identify the tree location; and
 3. A summary of the measures taken during the tree removal or alteration process to minimize adverse impacts on ESHA or ESHA buffer zones.
- d. Within 90 days following the issuance of an emergency coastal development permit, a Planned Development Permit application for the *emergency removal* or *alteration* of a *protected tree* shall be submitted.

Sec. 8178-7.6 – Mitigation Requirements

To protect the *ecological* value and visual quality of *protected trees*, all appropriate and practicable steps shall be taken to avoid and minimize damage to *protected trees* consistent with the provisions of this Sec. 8178-7.6. The following mitigation measures to reduce damage to *protected trees* shall be undertaken in the following order:

- a. Avoidance. Avoid direct and indirect impacts to *protected trees* through project siting and design. Adverse impacts to *protected trees* shall be avoided if there is a feasible alternative with less adverse impacts.
- b. Onsite Mitigation. If damage to *protected trees* cannot be avoided, mitigation for the *removal*, *alteration*, or *transplantation* of a *protected tree* shall be in the form of *transplanting* or planting replacement *trees* on the same property where the *protected trees* were impacted.
- c. Off-Site Mitigation. When avoidance or onsite mitigation is infeasible, all or in part, due to crowding or other physical constraints, *transplanting* or planting replacement *trees* may be allowed, all or in part, in an off-site location that contains suitable habitat that is sufficient in area to accommodate the numbers and required types of replacement trees. Off-site locations must be within the Ventura

DRAFT COASTAL ZONING ORDINANCE

County coastal zone and, whenever feasible, within the same watershed in which the *protected tree* was removed.

- d. *In-lieu Fees*. In special circumstances, required *tree* mitigation may be in the form of an in-lieu fee into the Planning Division's Tree Mitigation Fund. The *in-lieu fee* option, however, cannot be used as compensatory mitigation for *trees* classified as *ESHA* unless an in-lieu fee is established pursuant to Sec. 8178-2.10.9(e). Special circumstances shall be limited to situations where no appropriate on- or off-site locations are identified for *tree* replacement (i.e. on- and off-site mitigation is infeasible), and such circumstances shall be confirmed by documented site characteristics or other evidence. - Mitigation measures that include payment of *in-lieu fees* shall be approved by the *Planning Director* and administered as follows:
1. The County's Tree Mitigation Fund shall be the depository for all *in-lieu fee* payments.
 2. The amount of the *in-lieu fee* shall be established by the Planning Division using the most current edition of the International Society of Arboriculture's "Guide to Plant Appraisal," which represents the cost to replace and install a tree of the same species and size as the *protected tree* being removed or encroached upon. The *in-lieu fee* shall also include an amount to cover the costs to maintain and monitor required replacement trees for a 10-year period.
 3. The County Tree Mitigation Fund shall be used to plant *protected trees* at suitable sites in the coastal zone of unincorporated Ventura County and, if possible, within the same watershed as the *protected tree(s)* being removed. Suitable sites shall be limited to land restricted from development (public land, land owned by *conservation organizations*, or land subject to a *conservation easement* or equivalent legal instrument). Suitable sites shall also be limited to habitats that support the *protected tree*. Preference shall be given to sites zoned Coastal Open Space (COS), including but not limited to *native tree* woodland or savanna habitat areas, properties containing areas designated ESHA, or public parkland. Project funds may only be awarded to public agencies or *conservation organizations*. Projects selected may provide habitat *restoration* and shall, at a minimum, result in an equivalent number of as would occur through on-site or off-site mitigation.
 4. No more than seven percent of the in lieu fees collected may be used by the Planning Division to develop and implement appropriate programs for the above-described in-lieu mitigation measures.

Sec. 8178-7.6.1 Tree Replacement for Altered or Removed Protected Trees

Where unavoidable adverse impacts to *protected trees* may result from development, including the *alteration* or *removal* of a *protected tree*, the impacts shall be mitigated in accordance with the following standards:

- a. Trees classified as ESHA. Compensatory mitigation requirements for trees classified as ESHA shall be identified in accordance with Sec. 8178-2.10.7 - Mitigation Ratios, except when adverse impacts are limited to an individual tree that does not serve as habitat for special status species (e.g., monarch butterfly overwintering site). In such cases, compensatory mitigation shall be the same required for native trees (see Sec. 8178-7.6.1(b) below). For individual trees removed through a Coastal Emergency Permit, impacts shall be mitigated at a 1:1 ratio or as required by the standards in this Section.
- b. *Native tree* replacement shall occur as follows:
 1. *Native trees* shall be replaced at a ratio of no less than 10 replacement *native trees* for every *native protected tree* removed and for any *tree alteration* that results in the loss or decline in health or vigor of a *native protected tree*.
 2. Seedlings shall be grown from acorns collected from the same watershed the *protected tree* was removed from, or from nursery stock grown from locally-sourced acorns.

DRAFT COASTAL ZONING ORDINANCE

- 3. Naturally occurring *native tree* seedlings or *saplings* that have trunks less than 3 inches at 4.5 feet above existing grade, growing on the same lot as the *removed tree* may be counted as *offset replacement trees*. Seedlings/ *saplings* shall be boxed for future planting and/or protected in place as shown on the approved Tree Protection, Planting, and Monitoring Plan.
- 4. When available, replacement planting locations shall be selected that provide supportive habitat (i.e. habitat characteristics similar to those found in *riparian* and valley/foothill woodland habitat) for the replacement *trees*.
- c. *Historic Trees*. Mitigation for the removal of a *historic tree* shall be determined by the *Planning Director* in consultation with the Cultural Heritage Board.
- d. *Heritage Trees*. Mitigation for the removal of a *heritage tree* shall be determined by the following:
 - 1. If the *heritage tree* (or grove of *trees*) is not an *invasive tree* species and is located in a public area or a prominent location as seen from *public viewing areas*, then mitigation shall include: (1) the planting of replacement *trees* of the same species on a 1:1 ratio; (2) the size of the replacement *tree* shall be comparable to the *tree(s)* being removed; and (3) the replacement *tree(s)* shall be planted in location that is close to where the *heritage tree(s)* was removed.
 - 2. If a *heritage tree* is not located in a public area or a prominent location as seen from *public viewing areas*, then mitigation shall include the planting of replacement *native trees* on a 1:1 ratio.
- e. *Transplanted Protected Trees*. In the event that a transplanted tree dies during the required 10-year monitoring period, or the tree health is poor or declining during the monitoring period, replacement trees shall be planted pursuant to Sec. 8178-7.6.1(a) above.
- f. *Encroachment into the Tree Protected Zone*. When permitted development results in encroachment within the *tree protected zone*, potential impacts shall be mitigated in accordance with the following standards:

Encroachment	Mitigation Ratio (Number of replacement trees required for every one tree impacted/removed)
Less than 10% encroachment	Zoning Clearance with Inspection. No mitigation required when conducted pursuant to Section 8178-7.5.2.1(a).
10 to 30% encroachment (or less than 10% pursuant to Sec. 8178-7.5.2.1(a)(2))	Leave tree in place, and Mitigate at 5:1 in accordance with Sec. 8178-7.6 and Sec. 8178-7.6.1; or Pay an <i>in-lieu fee</i> in accordance with Sec. 8178-7.6(d)
Greater than 30% encroachment, or within 3 feet of a tree trunk	Remove tree or keep in place. Mitigation is same as tree removal for the species. See Sec. 8178-7.6 and Sec. 8178-7.6.1

- g. *Emergency Tree Alteration or Removal*. If an emergency permit is issued for the *alteration* or *removal* of a *protected tree*, the follow-up Planned Development Permit shall include corrective measures to restore and stabilize the disturbed areas after the *tree* has been removed in accordance with a *habitat restoration plan* or *ESHA mitigation plan*. Alternatively, such areas may be restored or stabilized through the application of mulch, pheromone traps or insecticides in accordance with a Tree Protection, Planting, and Monitoring Plan pursuant to Sec. 8178-7.7.4(d).

DRAFT COASTAL ZONING ORDINANCE

The requirements for mitigating the loss of the *protected tree* shall be waived unless the following applies:

1. *Tree* replacement shall be at a 1:1 ratio for the *emergency removal* of a *protected tree* that is required by an approved *landscape plan*, an *ESHA mitigation plan*, or *habitat restoration plan*.

Sec. 8178-7.7 – Tree Permit Application Requirements

Sec. 8178-7.7.4.1.2 Monarch Butterfly Survey

If tree alteration, transplantation, or removal occurs during the monarch butterfly overwintering season (October 1 through March 31), the Permittee shall provide a Monarch Butterfly Survey Report that conforms to the requirements of Sec. 8178-2.7.10 – Monarch Butterfly Roosting Sites and Sec. 8178-2.10.7 – Compensatory Mitigation for Specialized Habitats.

Sec. 8178-7.7.4.1.23 In-Lieu Fee

If an *in-lieu fee* is approved as part of a Planned Development Permit, the permittee shall submit payment of the *in-lieu fee* in accordance with Sec. 8178-7.6(d). Payment shall be made by certified or cashier's check.

Sec. 8178-7.7.4.1.34 Contract for Services

The permittee shall provide a copy of a signed contract (financial information redacted) for the following services:

- a. The preparation and implementation of a Bird Nesting Survey and Report by a *qualified biologist* or *ornithologist* including any monitoring of any *active/occupied nests* discovered.
- b. *Tree alteration, transplantation or removal* by a *qualified tree service company* or *qualified tree trimmer* that includes but is not limited to: qualifications of the individuals responsible for conducting the work to be performed; scope of work; *tree removal* and *alteration* specifications; and schedule.
- c. The preparation and implementation of a Monarch Overwintering Survey and report by a qualified biologist (see Appendix E2).

Sec. 8178-8 – Water Efficient Landscaping Requirements

[Staff Explanation. Excerpts from the recently certified Water Efficient Landscaping Requirements are shown below. Minor revisions to this section are included to provide cross-references to the ESHA regulations in Section 8178-2 and to clarify when the ESHA regulations in Section 8178-2 are applicable. Excerpts are only provided for sections with proposed modifications.]

Sec. 8178-8.4 – Landscape Area Development Standards

Sec. 8178-8.4.1 – General Standards

- a. Native, fire-resistant and drought-tolerant vegetation shall be used for landscaping with the following exceptions:
 - Drought tolerant, non-native, non-invasive vegetation may be used when located within the approved *building site envelope* for discretionary projects.
 - Drought tolerant plants, and fire resistant non-native plants approved by the Ventura County Fire Protection District, may be used in the fuel modification zone except when located within an ESHA buffer.
 - When located in areas not conducive to native plant establishment.

Invasive plants are prohibited.

DRAFT COASTAL ZONING ORDINANCE

- b. *Landscape areas* shall include a variety of plant species, heights, colors and textures and shall be installed according to size constraints, spacing requirements and compatibility with the surrounding area.
- c. The plant palette for a *Habitat Restoration Plan* shall be restricted to locally-indigenous *native vegetation*.
- d. Landscaping shall be sited and designed to protect *coastal resources*, including ESHA, scenic resources, water quality, and water supply.

Sec. 8178-8.4.2.4 – Landscaping Adjacent to an Environmentally Sensitive Habitat Area

The plant palette for a *landscape area* within 100 feet of *Environmentally Sensitive Habitat Areas* (ESHA) shall be in accordance with an approved *Habitat Restoration ESHA mitigation plan* (see [Sec. 8178-2.10.5](#)) and shall consist of locally-indigenous native plant species as recommended by a *qualified biologist*. Also, see [Sec. 8178-2.6.8.4 – Landscaping in a Fuel Modification Overlap Zone for additional landscape standards](#).

Sec. 8178-8.5 –Irrigation Development Standards

The following standards apply to irrigation systems that serve a required *landscape area*.

Sec. 8178-8.5.1 – Irrigation System Standards

- a. Dedicated landscape water meters, which may be provided by a local water purveyor or a privately owned meter or submeter, shall be required for the following:
 - 1. Irrigated landscapes of 1,000 square feet or more for non-residential developments.
 - 2. Irrigated landscapes of 5,000 square feet or greater for residential developments.
- b. At a minimum, landscape irrigation systems shall be designed and operated in conformance with the following requirements:
 - 1. A *master valve* shall be installed unless the sprinklers are individually controlled, pressurized, and equipped with low pressure shut down features.
 - 2. A pressure regulator and *check valves* shall be installed at the low end of the irrigation lines to prevent unwanted draining of irrigation lines.
 - 3. The system shall be equipped with automatic, self-adjusting irrigation controllers that automatically activate and deactivate the irrigation system based on changes in the weather or soil moisture.
 - 4. Sprinkler heads (*micro-spray* or *drip*) shall be located to minimize landscape water *overspray* onto unplanted areas or areas of dissimilar water demand.
 - 5. All sprinkler heads installed within the *landscape area* must have a documented distribution uniformity low quarter of 0.65 or higher.
 - 6. The irrigation system shall provide adequate coverage and sufficient water for the continued healthy growth of all proposed plantings.
 - 7. Low precipitation sprinklers shall be employed to conserve water and promote continued, healthy growth of the planting.
 - 8. To protect the irrigation equipment and ensure adequate water coverage, all sprinklers shall be placed outside of any parking space bumper overhangs.
- c. Prior to installation of plants, the soil shall be in a *friable* condition.

DRAFT COASTAL ZONING ORDINANCE

- d. Slopes that range from three to five feet in height, and that total less than 1,000 square feet in area, are not required to be equipped with a permanent irrigation system and may be irrigated with hose bibs located not more than 50 feet from the area to be irrigated.
- e. Slopes that exceed five feet in height, and that total more than 1,000 square feet in area, shall be equipped with a permanent irrigation system.
- f. No permanent irrigation systems shall be installed within 100 feet of ESHA.

Section 8

ARTICLE 11

ENTITLEMENTS – PROCESS AND PROCEDURES

Article 11, Section 8181 – Entitlements – Process and Procedures, of the Ventura County Ordinance Code, is hereby amended as follows:

Sec. 8181-2 – Legal Lot Requirements

No permit shall be issued for construction on a lot that is not a *legal lot*. A lot for which only a conditional certificate of compliance has been issued, pursuant to the Subdivision Map Act and County Subdivision Ordinance, is not a legal lot under the LCP, and no permit or entitlement shall be issued authorizing any use or development on such a lot.

[Staff Explanation: This section would be modified to clarify that permits cannot be issued for the development of an illegal subdivision, pursuant to the Coastal Act. See additional information under the staff explanation in Article 2, Definitions, for the term “legal lot”.]

Sec. 8181-3 – Permits

Permits authorized by this Chapter include the following:

Sec. 8181-3.5 – Required Permit Findings

Sec. 8181-3.5.2 – Additional Findings for Development in the Santa Monica Mountains Overlay Zone

In addition to the provisions of Sec. 8181-3.5, for any proposed development in the Santa Monica Mountains overlay zone, the following additional findings must be made through conditions and limitations placed on the use:

- a. Private services for each individual development requiring potable water will be able to serve the development adequately over its normal lifespan.
- b. When a water well is necessary to serve the development, the applicant shall be required to do a test well and provide data relative to depth of water, geologic structure, production capacities, degree of drawdown, etc. The data produced from test wells shall be aggregated to identify cumulative impacts on riparian areas or other coastal resources. When sufficient cumulative data is available to make accurate findings, the County must find that there is no evidence that proposed wells will either individually or cumulatively cause significant adverse impacts on the above mentioned coastal resources.
- c. All need for sewage disposal over the life span of the development will be satisfied by existing sewer service to the immediate area or by location of septic facilities on-site consistent with other applicable provisions of the LCP.

DRAFT COASTAL ZONING ORDINANCE

- d. Development outside of the established "Community" area shall not directly or indirectly cause the extension of public services (roads, sewers, water, etc.) into an open space area.
- e. Night lighting and noise levels are minimized, and fencing is limited to the approved development envelope (see standards, Sec. 8178-2.6.14 through Sec. 8178-2.6.16).

(AM-ORD-4451-12/11/12)

Sec. 8181-3.5.3 – Additional Findings for Development in ESHA or Buffer Zone

A coastal development permit that would authorize development in ESHA or an ESHA buffer zone may be granted or conditionally granted only if the decision-making body makes all of the following findings:

- a. Site-Specific ESHA Maps - The physical extent of habitat meeting the definition of ESHA and buffer zone on the project site is accurately mapped within the CISBA and is consistent with the LCP policies/standards (e.g., definition of ESHA, buffer zone determinations), available independent evidence, and review by the Planning Staff Biologist.
- b. Allowable Use - Only resource-dependent uses are authorized in ESHA or buffer zones, except where a non-resource dependent use is allowed by the provisions of the LCP.
- c. Development in streams/rivers/wetlands - For all development allowed in streams/rivers or wetlands pursuant to Sec. 8178-2.5.1.1 or Sec. 8178-2.5.1.2, the project shall result in significant benefits to the public.
- d. Reasonable Economic Use - If a coastal development permit allows a deviation from a policy or standard of the LCP pursuant to Sec. 8178-2.5.3 – Reasonable Economic Use, then the following findings are required:
 1. The use proposed by the applicant is consistent with the applicable zoning;
 2. The development is the minimum necessary and is consistent with all provisions of the certified LCP, other than the provisions for which an exception is requested, including the least environmentally damaging alternative (see Sec. 8178-2.6.1);
 3. If the development provides a reasonable economic use, then new disturbance or loss of ESHA or buffer zone shall not occur that conflicts with the ESHA policies of the LCP;
 4. The maximum allowable building site is consistent with the provisions of Sec. 8178-2.6.2, including any adjustments required pursuant to Sec. 8178-2.6.2.2, as follows:
 - i. In the Santa Monica Mountains (M) Overlay Zone, the maximum allowable building site is consistent with the provisions of Sec. 8178-2.6.2(a);
 - ii. In an Existing Community, the maximum allowable building site is consistent with the provisions of Sec. 8178-2.6.2(b); and
 - iii. In Other Coastal Areas, an Economically Viable Use Determination request was submitted by the project applicant, pursuant to the requirements in Appendix E2, Sec. AE-2.4 – Economically Viable Use Determination, and the following findings are required:
 - The project size, design and siting are the minimum necessary to avoid a taking;
 - Based on the economic information provided by the applicant, as well as any other relevant evidence, each use allowed by the LCP policies and/or standards would not provide an economically viable use of the applicant's property, and the application of such policies and/or standards would unreasonably interfere with the applicant's investment-backed expectations; and
 - The proposed development will not be a public nuisance or violate other "background principles of the state's law of property," as that phrase was used in

DRAFT COASTAL ZONING ORDINANCE

the U.S. Supreme Court's decision in Lucas v. South Carolina Coastal Council, 505 U.S. 1003, 1028-30 (e.g., public trust doctrine). If it would violate any such background principle of property law, the development shall be denied.

- e. Public Facilities – For Public Works Facilities allowed in ESHA or buffer zones pursuant to Sec. 8178-2.5.2(b), the project shall be limited to the minimum necessary to accommodate development allowed by the LCP and/or the project shall result in significant benefits to the public (e.g., the provision of public health/safety, public recreation, access to coastal resources).
- f. Least Damaging Alternative – The project is sited and designed to avoid or minimize impacts on ESHA and buffer zones to the maximum extent feasible, and the project represents the least environmentally damaging alternative. In all cases, new development is clustered near existing development and services, and grading, landform modifications, and access roads are minimized.
- g. Compensatory Mitigation – All adverse negative impacts on ESHA and ESHA buffer zones resulting from the development were fully mitigated through habitat preservation, restoration, enhancement, or establishment in accordance with the provisions of the County's certified LCP, and all required financial assurances were provided for wetland restoration.
- h. Fuel Modification Overlap Zone – If the width of a fuel modification overlap zone exceeds 100 feet, then written findings were provided by the County's Fire Protection District confirming that the additional area is necessary to ensure public safety and uses within the fuel modification expansion area were restricted to fuel modification.
- i. Development Restrictions – All on-site and off-site areas subject to compensatory mitigation will be preserved in perpetuity through a conservation easement, conveyance of the entire lot to a natural resource agency or County-approved conservation organization and preserved through a deed restriction, or mitigation established through a County-approved mitigation bank. Also, all identified on-site ESHA, buffer zones, and slopes over 30 percent gradient will be preserved through the recordation of a conservation instrument.
- j. Land Divisions – For a lot that contains ESHA or buffer zone, substantial evidence was provided that demonstrates that the land division will not result in new, adverse impacts to ESHA or buffer zone, including those that could occur due to reasonable economic use of the property.
- k. ESHA Preservation Incentives – If a coastal development permit is being granted pursuant to an ESHA preservation incentive, then the proposed land division will result in the preservation of large areas of unfragmented ESHA. The proposed land division will not result in greater impacts to ESHA or buffer zones, and will not increase the loss of high value habitat when compared to the development that could occur without use of the incentive.
- l. Inter-Agency Consultation – If a federal/state natural resource agency has permitting jurisdiction over an impacted habitat, then the County or permittee conducted consultations with the responsible agency, and the applicant submitted evidence that demonstrates permits can be obtained by the responsible agency.
- m. Lots Subject to Near Term Conveyance – If the subject property, or a portion thereof, is subject to a binding contract and will be conveyed, within 180 days or less, to a natural resource agency or conservation organization for conservation, then the County received written notice that the responsible agency or organization to which the property will be conveyed approves of the development.

[Staff Explanation: The findings above were developed specifically for ESHA and buffer zones, as general findings for a PDP do not cover specific issues relevant to ESHA. These findings are directly

DRAFT COASTAL ZONING ORDINANCE

linked to regulations within the LCP, and will therefore help ensure that discretionary permits are issued in compliance with the LCP.]

Sec. 8181-3.7 - Emergency Coastal Development Permits

In the event of an *emergency*, an application for an Emergency Coastal Development Permit ("emergency permit") shall be made to the *Planning Director*. The *Planning Director* may issue an *emergency permit* in accordance with Section 30624 of the Public Resource Code and the following:

- a. Applications in cases of emergencies shall be made to the *Planning Director* by letter or facsimile during business hours if time allows, and by telephone or in *person* if time does not allow.
- b. The information to be included in the application shall include the following:
 1. The nature of the *emergency*;
 2. The cause of the *emergency*, insofar as this can be established;
 3. The location of the *emergency*;
 4. The remedial, protective, or preventive work required to deal with the *emergency*; and
 5. The circumstances during the *emergency* that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action.
 6. For emergency tree alteration or removal of an ESHA tree, the information required by the provisions in Sec. 8178-7.5.4 - Emergency Tree Alteration or Removal.

Section 9

APPENDICES

[See Attached Documents \(Appendix E1 and E2\)](#)