STATE OF CALIFORNIA – NATURAL RESOURCES AGENCY Edmund G. Brown, Jr., *Governor*

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DATE: August 21, 2015

TO: Commissioners and Interested Parties

FROM: Charles Lester, Executive Director
Alison Dettmer, Deputy Director
Robert S. Merrill, North Coast District Manager
James R. Baskin AICP, Coastal Planner

SUBJECT: **De Minimis Amendment Determination for City of Eureka LCP Amendment No. LCP-1-EUR-15-0020-1 (Waterfront Commercial Principal & Conditional Uses)**

For the Commission meeting of September 10, 2015

City of Eureka's Proposed Amendment

The City of Eureka proposes to amend Article 29, Part 11 of its certified Local Coastal Program (LCP) Implementation Plan (IP) regarding principal and conditional uses within Waterfront Commercial (CW) zoning districts. Twelve conditional uses would be reclassified as principal-permitted uses to facilitate local permitting of these uses. In addition, sixteen retail commercial sales, service, and recreational uses that are subsets of broader use types currently allowed within the CW zoning district would be divided out and listed as separate principally permitted (12) and conditionally-permitted (4) use types, again to facilitate local permitting of these uses. Furthermore, five conditionally-permitted uses deemed redundant or archaic would be deleted. Finally, several new definitions would be added into the coastal zoning regulations at Article 29, Part 1 to define the reorganized and reclassified principally-permitted uses and to delimit and/or compare and contrast these uses from the other currently certified conditionally-permissible uses. See Exhibits 1 and 3 for the proposed amendment text.

De Minimis LCP Amendment Determination

Pursuant to Coastal Act Section 30514(d), the Executive Director may determine that a proposed LCP amendment is "de minimis." In order to qualify as a de minimis amendment, the amendment must meet the following three criteria:

1. The Executive Director determines that the proposed amendment would have no impact either individually or cumulatively, on coastal resources, and that it is consistent with the policies of Chapter 3;

2. The local government provides public notice of the proposed amendment at least 21 days prior to submitting the amendment to the Commission, by one of the following methods: posting on-site and offsite in the affected area, newspaper publication, or direct mailing to owners and occupants of contiguous property; and

3. The amendment does not propose any change in use of land or water or allowable use of property.

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more Commissioners object to the de minimis LCP amendment determination, then the amendment shall be set for a future public hearing; if three or more Commissioners do not object to the de minimis determination, then the amendment is deemed approved, and it becomes a certified part of the LCP 10 days after the date of the Commission meeting (in this case, on September 10, 2015).

The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is de minimis.

1. **No impact to coastal resources and consistency with Chapter 3 of the Coastal Act:** The City's proposed LCP amendment would reorganize and reclassify allowed uses within the lists of principally-permitted and conditionally-permitted uses in the Waterfront Commercial Zoning District as set forth in sections 10-5.29112 and 10-5.29113 of the Zoning Regulation of the City for the Coastal Zone (ZRCCZ). In addition, new definitions would be appended into ZRCCZ sections 10-5.2906.2 through 10-5.2906.15 to define the reorganized and reclassified principally permitted uses and delimit and/or compare and contrast these reorganized and reclassified uses with other existing certified uses. See **Exhibit C** for strikethrough/underline version of the proposed changes to the LCP text.

   The proposed reorganization and reclassification of principally permitted and conditional uses currently allowed in Waterfront Commercial zoning districts and the inclusion of clarifying definitions of the reorganized and reclassified uses would not change any of the substantive review policies of the currently certified LCP. Development as defined in section 30106 of the Coastal Act that is proposed within the CW zoning districts would require a coastal development permit and would continue to be subject to all applicable LCP requirements regarding coastal resource protection as part of the City's coastal development permit process, including the provision and protection of coastal access, protection of visual and scenic resources, avoidance and minimization of risks of exposure of persons and property to hazards, and prioritization of coastal-dependent, coastal-related, and visitor-serving commercial uses. Therefore, the proposed amendment would have no impact either individually or cumulatively, on coastal resources, and would be consistent with the policies of Chapter 3 of the Coastal Act.

2. **Provision of public notice:** The City provided public notice in advance of the May 5, 2015 City Council hearings where the proposed LCP amendment was considered. A newspaper advertisement notice of the hearing was printed on April 25, 2015. In addition, notice was mailed to interested parties. The amendment submittal was subsequently received by the Commission on July 1, 2015, thus satisfying the 21-day requirement.

3. **No change in use of land or allowable use of property:** The amendment does not propose a change in the use of land or allowable use of the property. The changes to the enumerated uses in CW zoning districts are limited to reorganizing and reclassifying the currently certified land uses allowed in the CW zoning districts. Some uses listed as conditionally permitted uses would be reclassified as principally permitted uses and some uses that are subsets of broader use types currently allowed within the CW zoning district would be divided out and listed as separate principally permitted and conditionally-permitted use types. For example, theaters of any size are currently listed under the certified LCP as a conditional use in the CW zoning district. Under the proposed amendment, small theaters, defined as "a theater, playhouse, or music hall that has seating space for less than 300 patrons" would be divided out from the broader theater use type and classified as a principally permitted use. This reorganization and reclassification of uses is proposed to streamline the discretionary permitting process by eliminating the need for property owners to obtain use permits from the City for certain uses that are already allowed in the CW zoning districts. No new uses would be allowed within the CW zoning districts that are not currently allowed. Development as defined in Section 30106 of the Coastal Act would continue to require a coastal development permit and be subject to the development policies of the certified LCP.

California Environmental Quality Act (CEQA)

On May 19, 2015, the City of Eureka adopted findings pursuant to the "general rule" provisions in section 15061(a)(3) of the CEQA Guidelines (14 CCR §§ 15000 et seq.) concluding that the subject changes to enumerated principally- and conditionally-permitted uses in Waterfront Commercial zoning districts has no potential for significant adverse environmental effects. Therefore, no specific environmental review document or notice of exemption was adopted by the City.

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. This report has discussed the relevant coastal resource issues with the proposal, and has concluded that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required.

Coastal Commission Concurrence

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its September 10, 2015 meeting at Humboldt State University in the Great Hall of the College Creek Community Center at 1 Harpst Street, Arcata, CA. Additional information regarding the proposed amendment or the method under which it is being processed can be obtained by contacting James R. Baskin at the North Coast District Office in Arcata. If you wish to comment on and/or object to the proposed de minimis LCP amendment determination, please do so by September 4, 2015.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was received by the Commission on July 1, 2015 and was filed as complete on July 27, 2015. The amendment modifies only the LCP's IP and the 60-day deadline for Commission action is September 25, 2015. Thus, unless the Commission votes to extend the action deadline (it may be extended by up to one year), the Commission must take final action on this LCP amendment at the September, 2015 Commission meeting.

Exhibits (attached)

Exhibit 1: City Ordinance No. 811-CS – An Ordinance of the City of Eureka Amending Eureka Municipal Code Title 10 Chapter 5 Article 29

Exhibit 2: City Resolution No. 2015-20 – Resolution of Transmittal

Exhibit 3: Proposed IP Amendments in ~~Single Strikethrough~~/Single Underline (Recategorized Uses) and ~~**Bold Double Strikethrough**~~/**Bold Double Underline** (Deleted/Parsed-out Use Types) Font Types

BILL NO. 882-C.S.
ORDINANCE NO. 811-C.S.

AN ORDINANCE OF THE CITY OF EUREKA AMENDING EUREKA MUNICIPAL CODE TITLE 10 CHAPTER 5 ARTICLE 29

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

Section 1.
Title 10, Chapter 5, Article 29, Part 1. General Purposes, Section 10-5.2906., is hereby amended to read as follows:

SECTION 10-5.2906 TITLE: DEFINITIONS.

Sec. 10-5.2906. Definitions.
For the purposes of this article, certain words and terms used in it are defined as follows:

10-5.2906.1.

(a) "City Planning Commission" and "Commission" shall mean the duly appointed City Planning Commission. "Design Review Committee" and "Committee" shall mean the duly appointed Design Review Committee established by Article 18, Site Plan Review and Architectural Review, of this chapter.

(b) "City Clerk" shall mean the City Clerk of the City. "Secretary" shall mean the Secretary of the Eureka City Planning Commission, and Design Review Committee. "Building Inspector" shall mean the Chief Building Official of the City. "Director of Public Works" shall mean the Director of Public Works of the City. "Director of Planning" shall mean the Director of Community Development of the City. "City Attorney" shall mean the City Attorney of the City. "Chief of Police" shall mean the Chief of Police of the City.

10-5.2906.2.

(a) "Advertising sign" shall mean a sign having more than one-half (1/2) its area devoted to directing attention to a business, profession, commodity, or service that is not the primary business, profession, commodity, or service sold, manufactured, conducted or offered on the site on which the sign is located.

(b) "Aggrieved person" shall mean any person who, in person or through a representative, appeared at a public hearing of the approving authority in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the local government of the nature of his or her concerns or who for good cause was unable to do either.

(c) "Alley" shall mean a public way permanently reserved primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

(d) "Allowable use" shall mean any use allowed by right which does not require a public hearing or any discretionary or non-discretionary permit from the approving authority.

(e) "Alter" shall mean to make a change in the supporting members of a structure, such as bearing walls, columns, beams, or girders, which change will prolong the life of the structure.

(f) "Appealable development" shall mean any of the following:

(1) Developments approved by the City between the sea and the first public road paralleling the sea, or within three hundred (300') feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, as generally indicated on the official appeals zone maps approved by the Coastal Commission.

(2) Developments approved by the City not included within paragraph (1) but located on tidelands, submerged lands, public trust lands, or within one hundred (100') feet of any wetland, estuary, or stream, or within three hundred (300') feet of the top of the seaward face of any coastal bluff, as generally indicated on the official appeals zone maps approved by the Coastal Commission.

(3) Any development which constitutes a major public works project or a major energy facility (see definition in Section 10-5.29301(c)).

(g) "Appellant" shall mean any person who may file an appeal, which includes an applicant, any aggrieved person, or any two (2) members of the Coastal Commission.

(h) "Applicant" shall mean the person, partnership, corporation, or State or local governmental agency applying for a coastal development permit.

(i) "Approving authority" shall mean the City official, Planning Commission, or Council that approves a coastal development permit.

(j) "Block" shall mean the properties abutting on one side of a street and lying between the two (2) nearest intersecting or intercepting streets or nearest intersecting or intercepting street and railroad right-of-way. unsubdivided land, watercourse, or City boundary.

(k) "Boutique" shall mean a shop that specializes in selling sophisticated or fashionable clothing and accessories, or unique or harder to find items. A "Boutique" is smaller and more intimate than a "Store".

(l) "Building" shall mean any structure having a roof sup- ported by columns or walls for the housing or enclosure of persons, animals, chattels, or property of any kind. For the purposes of this section "Building" shall mean manufactured homes and mobilehomes as hereinafter defined.

(m) "Categorically excluded development" shall mean a development (upon request of the City, public agency or other person) which the Coastal Commission has determined pursuant to Section 30610(e) of the Public Resources Code to have no potential for significant adverse environmental effects and therefore has issued an exclusion from the coastal development permit requirements in accordance with the applicable regulations.

(n) "Charitable institution" shall mean a non-profit institution devoted to the housing, training, or care of children, or of aged, indigent, handicapped, or underprivileged persons, but not including lodging houses, or dormitories providing temporary quarters for transient unemployed persons, organizations devoted to collecting or salvaging new or used materials, or organizations devoted principally to distributing food, clothing, or supplies on a charitable basis.

(o) "Coastal Commission" means the California Coastal Commission.

(p) "Coastal development permit" shall mean a letter or certificate issued by the City in accordance with the provisions of this chapter, after the applicant has submitted all necessary supplementary documentation required to satisfy the conditions precedent in the notice to issue a coastal development permit.

(q) "Court" shall mean an unoccupied open space on the same site with a building, which space is bounded on three (3) or more sides by exterior building walls.

(r) "Depth" shall mean the horizontal distance between the front and rear property lines of a site measured along a line midway between the side property lines.

(s) "District" shall mean a portion of the City within which the use of land and structures and the location, height, and bulk of structures are governed by this chapter.

(t) "Drive-in" shall mean an establishment serving food or beverages to customers who remain in, or leave and return to, their cars for consumption.

(u) "Delicatessen store" shall mean an establishment which primarily retails cooked meats, foods, and condiments for consumption off the premises, and which does not offer the range of meats, foods, and goods carried by food stores or supermarkets, but which may have accessory seating for not more than twelve (12) persons within an enclosed structure and on-site consumption of food outside the enclosed structure is not permitted.

(v) "Development" shall mean, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water. or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 451 1). As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

10-5.2906.3.

(a) "Driveway" shall mean a private road, the use of which is limited to persons residing or working on the site and their invitees, licensees, and business visitors, and which provides access to off-street parking or loading facilities.

(b) "Dwelling" shall mean a one-family dwelling or multi- family dwelling other than an automobile trailer, hotel, motel, labor camp, camp car, tent, railroad car, or temporary structure.

(c) "Dwelling unit" shall mean one or more rooms and a single kitchen designed for occupancy by one family for living and sleeping purposes.

(d) "Emergency" means a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.

(e) "Family" shall mean an individual or two (2) or more persons related by blood, marriage, or adoption, or a group of not more than five (5) persons, not including servants, who need not be related, living as a single housekeeping unit.

(f) "Floor area, basic" shall mean the total amount of gross floor area a building contains, expressed as a percentage of the total area of the lot.

(g) "Family care home" shall mean a residence wherein the owner or proprietor is certified and supervised by the Department of Mental Hygiene of the State to furnish food and lodging in a family atmosphere plus varying amounts of custodial care to one or more persons, not exceeding six (6) persons, who have been "mentally deficient" as defined in Sections 5040 and 5250, respectively, of the Welfare and Institutions Code of the State.

10-5.2906.4.

(a) "Floor area, gross" shall mean the sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same site excluding: basement or cellar areas used only for storage; space used for off-street parking or loading; steps, patios, decks, terraces, porches, and exterior balconies, if not enclosed on more than three (3) sides. Unless excepted above, floor area includes, but is not limited to, elevator shafts and stairwells measured at each floor (but not mechanical shafts, penthouses, enclosed porches, interior balconies, and mezzanines.

(b) "Frontage" shall mean the property line of a site abutting on a street, other than the side line of a corner lot. Frontage shall be measured as the shortest distance between the points at which the side property lines intersect the street property line.

(c) "Garage" or "carport" shall mean an accessory structure, or a portion of a main structure, having a permanent roof and designed for the storage of motor vehicles.

(d) "Garage, repair" shall mean a structure or part thereof where motor vehicles or parts thereof are repaired or painted.

(e) "Garage, parking" shall mean a structure or part thereof used for the storage, parking, or servicing of motor vehicles, but not for the repair thereof.

(f) "Garden shop" shall mean a shop that specializes in selling hand gardening tools, garden décor, small plants, seeds, and the like. A "Garden shop" does not contain a plant nursery, large outdoor product displays, or large bags or quantities of mulch, compost, fertilizer, or soil.

10-5.2906.5.

(a) "Habitable room" shall mean a room meeting the requirements of Chapter 1 of Title 9 of this Code (Building Code) for sleeping, living, cooking, or dining purposes, excluding such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms, and similar spaces.

(b) "Home occupation" shall mean the conduct of an art or profession, the offering of a service, the conduct of a business, or the handcraft manufacture or products in a dwelling in accordance with the provisions of Article 19 of this chapter (Home Occupations).

(c) "Hotel". (See "Motel".)

(d) "Indirect illumination" shall mean illumination of a sign by means of light cast upon it from a concealed source outside the sign itself.

(e) "Intersection, street" shall mean the area common to two (2) or more intersecting streets.

(f) "Junk yard" shall mean a site or portion of a site on which waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including used furniture and household equipment yards, house wrecking yards, used lumber yards, and the like, except a site on which such uses are conducted within a completely enclosed structure and except scrap metal yards, as defined in subsection (b) of Section 10-5.2906.11. An establishment for the sale, purchase, or storage of used cars or salvaged machinery in operable condition and the processing of used or salvaged materials as part of a manufacturing operation shall not be deemed a junk yard. A motor vehicle wrecking yard, as defined in subsection (f) of Section 10-5.2906.8, shall be deemed a junk yard.

(g) "Halfway house" shall mean a residence wherein food, lodging, and a certain amount of custodial and counseling care as provided to one or more persons who have recently been released from either a State penal institution or from a Federal penal institution.

10-5.2906.6.

(a) "Kennel" shall mean any premises, except where accessory to an agricultural use, where four (4) or more dogs or cats four (4) months of age or older are kept.

(b) "Living room" shall mean the principal room designed for general living purposes in a dwelling unit. Each dwelling unit shall have a living room.

(c) "Local Coastal Program" shall mean the City's land use plan, zoning ordinance, zoning maps, and other implementing actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.

(d) "Lodging house" shall mean a dwelling in which lodging or lodging and meals are provided for compensation for more than three (3) but not more than fifteen (15) persons other than members of the resident family, excepting a nursing home as defined in subsection (a) of Section 10-5.2906.10.

(e) "Lot". (See "Site".)

(f) "Lot, corner" shall mean a site bounded by two (2) or more adjacent street lines which have an angle of intersection of not more than one hundred thirty-five (135) degrees.

10-5.2906.7.

(a) "Lot, corridor" shall mean a site with access to a street by means of a corridor having not less than twenty (20') feet of frontage and a width less than the required site width but at no point less than twenty (20') feet. The length of a corridor shall be measured from the frontage line to the nearest point of intersection with that property line parallel or most nearly

parallel to the frontage line. The area of an access corridor shall not be included in determining the site area of a corridor lot.

(b) "Lot, double frontage" shall mean an interior lot having frontage on two (2) parallel or approximately parallel streets. For the purpose of determining front yard requirements, both frontages shall be deemed front lot lines.

(c) "Lot, interior" shall mean a lot other than a corner lot.

(d) "Lot, key" shall mean the first interior lot to the rear of a reversed corner lot.

(e) "Lot, reversed corner" shall mean a corner lot the side line of which is substantially a continuation of the front property line of the first lot to its rear.

10-5.2906.8.

(a) "Lot line, front" shall mean a line separating an interior lot from a street, or a line separating either the narrower or the wider street frontage of a corner lot from a street at the option of the owner.

(b) "Lot line, rear" shall mean a lot line, not a front lot line, which is parallel or approximately parallel to the front lot line. Where no lot line is within forty-five (45) degrees of being parallel to the front lot line, a line ten (10') feet in length within the lot, parallel to and at the maximum possible distance from the front lot line, shall be deemed the rear lot line.

(c) "Lot line, side" shall mean any lot line which is not a front lot line or a rear lot line.

(d) "Manufactured home" shall mean a factory-built structure that is manufactured or constructed under the authority of 42 United States Code Section 5401 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobilehome is not a manufactured home, except as hereinafter provided.

(e) "Mobilehome" shall mean a transportable, factory built home, designed to be used as a year-round residential dwelling and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. In many cases, mobilehomes were built to a voluntary industry standard of the American National Standards Institute (ANSI) –A119.1 Standards for Mobilehomes.

(f) "Mobilehome park" shall mean any area or tract of land where two (2) or more lots or spaces are rented or leased or held out for rent or lease to accommodate manufactured homes or mobilehomes used for human habitation.

(g) "Modular home" shall mean factory-built housing certified as meeting the (local or) State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.

(h) "Motel" or "hotel" shall mean a structure or portion thereof or a group of attached or detached structures, containing completely furnished individual guest rooms or suites, containing on a transient basis for compensation, and in which more than sixty (60%) percent of the individual guest rooms or suites are without kitchens or cooking facilities.

(i) "Motor vehicle wrecking yard" shall mean a site or portion of a site on which the dismantling or wrecking of used vehicles, whether self-propelled or not, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts is conducted. The presence outside a fully enclosed structure of three (3) or more used motor vehicles which are not capable of operating under their own power shall constitute prima facie evidence of a motor vehicle wrecking yard. A motor vehicle wrecking yard shall be deemed a junk yard.

10-5.2906.9.

(a) "Multi-family dwelling" shall mean a structure, containing more than one dwelling unit, designed for occupancy or occupied by more than one family.

(b) "Nonconforming sign" shall mean a sign, outdoor advertising structure, or display of any character which was lawfully erected or displayed, but which does not conform with standards for location, size, or illumination for the district in which it is located by reason of the ad option or amendment of this chapter, or by reason of annexation of territory to the City.

(c) "Nonconforming structure" shall mean a structure which was lawfully erected, but which does not conform with the standards for yard spaces, height of structures, or distances between structures prescribed in the regulations for the district in which the structure is located by reason of the adoption or amendment of this chapter, or by reason of annexation of territory to the City.

(d) "Nonconforming use" shall mean a use of a structure or land which was lawfully established and maintained, but which does not conform with the use regulations or required conditions for the district in which it is located by reason of the adoption or amendment of this chapter, or by reason of annexation of territory to the City.

(e) "Notice to issue coastal development permit" shall mean a letter or certificate issued by the City in accordance with the provisions of this article, approving a development subject to fulfillment of conditions prior to issuance of a coastal development permit, but if such conditions are fulfilled, as being in conformance with and adequate to carry out the Local Coastal Program.

(f) "Nursery school" shall mean a school for five (5) or more pre-elementary school age children, or the use of a site or portion of a site for a group day-care program for five (5) children or more other than those resident on the site, including a day nursery, playgroup, or after-school group.

10-5.2906.10.

(a) "Nursing home" shall mean a structure operated as a lodging house in which nursing, dietary, and other personal services are rendered to convalescents, invalids, or aged persons, not including persons suffering from contagious or mental diseases, alcoholism, or drug addiction, and in which surgery is not performed and primary treatments, such as customarily are given in hospitals or sanitariums, are not provided. A convalescent home or a rest home shall be deemed a nursing home.

(b) "Off-street loading facilities" shall mean site or portion of a site devoted to the loading or unloading of motor vehicles or trailers including loading berths, aisles, access drives,

and landscaped areas.

(c) "Off-street parking facilities" shall mean a site or portion of a site devoted to the off-street parking of motor vehicles, including parking spaces, aisles, access drives, and landscaped areas.

(d) "Oil and gas pipeline" shall mean any public or private facility for transmitting hydrocarbons.

(e) "One-family dwelling" shall mean a building designed for and/or occupied as a residence by one (1) family or individual. The term "one-family dwelling" shall include manufactured homes when placed on permanent foundation, converted to real property, and taxed as a site-built dwelling as provided by law.

(f) "Oriel-window" shall mean a window which projects from the main line of an enclosing wall of a building and is carried on brackets or corbels.

(g) "Other permits and approvals" shall mean permits and approvals, other than a coastal development permit, required to be issued by the approving authority before a development may proceed.

(h) "Outdoor advertising structure" shall mean a structure of any kind or character, erected or maintained for outdoor advertising purposes, upon which any advertising sign may be placed.

(i) "Patio, covered" shall mean an attached or detached structure not exceeding fourteen (14') feet in height and enclosed on not more than three (3) sides except for posts necessary for roof support.

(j) "Permitted use" shall mean any use allowed by right which does not require a public hearing, but does require a discretionary or non-discretionary permit (e.g., building permit) to be issued by the approving authority.

(k) "Pre-existing" shall mean prior to the adoption of this chapter.

10-5.2906.11.

(a) "Railroad right-of-way" shall mean a strip of land on which railroad tracks, switching equipment, signals and other facilities normally associated with and owned by a railroad are located. Areas of railroad rights-of-way may be used solely for the purpose of accommodating tracks, signals, and other operative devices and facilities related to and necessary for the operation of a railroad, and for public accessways at or above grade to and along the shoreline.

(b) "Recreational vehicle" shall mean a vehicle with or without motive power designed for human habitation for recreational or emergency occupancy meeting the criteria of Division 13, Part 2.11, Section 18215.5 of the California Health and Safety Code. A "recreational vehicle" shall include a motorhome, travel trailer, truck camper or camping trailer.

(c) "Recreational vehicle park" shall mean any area or tract of land or a separate designated section within a mobilehome park, where one or more lots are rented or leased or held out for rent, or lease to owners or users of recreational vehicles or tents used for travel or recreational purposes on a transient basis.

(d) "Scrap metal yard" shall mean a site or portion of a site used for storage, sorting, collecting, or baling of previously semi- prepared scrap metal, provided that no burning shall

be permitted.

(e) "Service station" shall mean a place where gasoline or any other motor fuel, lubricating oil, or grease for the operation of motor vehicles is offered for sale to the public and deliveries are made directly into the vehicle, including the sale of accessories, performance of minor repairs and lubrication, and the washing of automobiles where no chain conveyor or blower is used.

(f) "Shop" shall mean a small, usually independent retail establishment that offers specialized goods, services, or products. The size of a "Shop" is determined relative to other similar visitor-serving and retail businesses in the Waterfront Commercial zone district.

10-5.2906.12.

(a) "Sign" shall mean any lettering or symbol made of cloth, metal, paint, paper, wood, or other material of any kind whatsoever placed for advertising, identification, or other purposes on the ground or on any bush, tree, rock, wall, post, fence, building, structure, vehicle, or on any place whatsoever. The term "placed" shall include constructing, erecting, posting, painting, printing, tacking, nailing, gluing, sticking, carving, or otherwise fastening, affixing, or making visible in any manner whatsoever beyond the boundaries of a site.

(b) "Sign area" .The area of a sign having an integral part of a building, awning, canopy, or marquee as its background shall be the area within the shortest line drawn to include all letters, designs, and tubing which are a part of the sign. The area of all other signs shall be the largest cross-sectional area of the sign measured to a line encompassing all portions of the sign, including background and tubing, but excluding supporting posts without attached lighting. In computing the area of a sign having more than one face, all faces of the sign shall be included.

(c) "Sign, subdivision" shall mean any sign located either on or off a subdivision tract, which sign indicates the direction to or advertises the location, existence, or sale of a subdivision or any part thereof.

(d) "Single ownership" shall mean holding record title, possession under a contract to purchase, or possession under a lease by a person, firm, corporation, or partnership, individually, jointly, in common, or in any other manner whereby the property is or will be under unitary or unified control.

(e) "Site" or "lot" shall mean a parcel of land or a portion thereof, considered as a unit, devoted to or intended for a use or occupied by a structure or a group of structures that are united by a common interest or use. A site or lot shall have frontage on a street.

(f) "Site area" shall mean the total horizontal area included within the property lines of a site, exclusive of the area of access corridors, streets, portions of the site within future street plan lines, and portions of the site within which a square having a minimum dimension of thirty-five (35') feet cannot be inscribed.

(g) "Spa" shall mean a commercial establishment offering a variety of services to improve health and beauty and provide relaxation through personal care treatments such as baths, saunas, massage, facials, and the like.

10-5.2906.13.

(a) "Stationery shop" shall mean a shop that sells paper and other materials needed for

writing. A "Stationery shop" is not an office supply store.

(b) "Store" shall mean a large, often corporate-owned or mainstream retail establishment. A "Store" is larger and less intimate than a "Shop" or a "Boutique".

(c) "Street" shall mean a thoroughfare right-of-way, dedicated as such or acquired for public use as such, other than an alley, which affords the principal means of access to abutting land.

(d) In the coastal zone, "structure" includes, but is not limited to any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, electrical power transmission and distribution line, and fences and walls exceeding six (6) feet in height. Between the first public road and the sea, however, all fences and walls shall constitute a "structure" for purposes of this definition.

(e) "Structure, accessory" shall mean a subordinate structure the use of which is appropriate, subordinate, and customarily incidental to that of the main structure or the main use of the land and which is located on the same site with the main structure or use.

(f) "Structure, main" shall mean a structure housing the principal use of a site or functioning as the principal use.

(g) "Swimming pool" shall mean a pool, pond, lake, or open tank capable of containing water to a depth greater than one and one-half (1/2) feet at any point.

10-5.2906.14.

(a) "Theater, small" shall mean a theater, playhouse, or music hall that has seating space for less than 300 patrons.

(b) "Toy shop" shall mean a small shop that specializes in selling toys and games.

(c) "Transmission lines" shall mean electric power lines bringing power to a receiving substation or a distribution substation.

(d) "Use" shall mean the purpose for which a site or structure is arranged, designed, intended, constructed, erected, moved, altered, or enlarged or for which either a site or a structure is or may be occupied or maintained.

(e) "Use, accessory" shall mean a use which is appropriate, subordinate, and customarily incidental to the main use of the site and which is located on the same site as the main use.

10-5.2906.15.

(a) "Usable open space" shall mean open space meeting the requirements of Section 10-5.212 of Article 2 of this chapter.

(b) "Variety shop" shall mean a shop that sells a wide variety of inexpensive items for personal or household use.

(c) "Width" shall mean the horizontal distance between the side property lines of a site measured at right angles to the depth at a point midway between the front and rear property lines.

(d) "Yard" shall mean an open space on the same site as a structure located between a structure and the adjoining lot lines, unoccupied and unobstructed by structures from the ground upward or from the level of the structure requiring the yard upward except

as otherwise provided in this chapter, including a front yard, side yard, or rear yard.

(e) "Yard, front" shall mean a yard extending across the full width of a site, the depth of which is the minimum horizontal distance between the front property line and a line parallel thereto on the site.

(f) "Yard, rear" shall mean a yard extending across a full width of a site, the depth of which is the minimum horizontal distance between the rear property line and a line parallel thereto on the site.

(g) "Yard, side" shall mean a yard between the main building and the adjacent side line of the lot and extending entirely from the front yard to the rear yard.

Section 2.
Title 10, Chapter 5, Article 29, Part 11. CW – Waterfront Commercial Districts, Section 10-5.29110., is hereby amended to read as follows:

SECTION 10-5.29110. TITLE: PURPOSES.

Sec. 10-5.29110. Purposes

In addition to the objectives prescribed in Section 10-5.102 of Article 1 of this chapter (Objectives), the CW Waterfront Commercial Districts are included in the zoning regulations to achieve the following purposes:

(a) To encourage, protect and maintain coastal-dependent and coastal-related uses;

(b) To encourage development of recreational and visitor-serving uses;

(c) To provide appropriately located areas for retail stores, offices, service establishments, amusement establishments, and wholesale businesses offering commodities and services required by residents of the city and its surrounding market area;

(d) To provide opportunities for retail stores, offices, service establishments, amusement establishments, and wholesale businesses to concentrate for the convenience of the public and in mutually beneficial relationships to each other;

(e) To provide space for community facilities and institutions that appropriately may be located in commercial areas;

(f) To provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas;

(g) To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them;

(h) To protect commercial properties from noise, odor, dust, dirt, smoke, vibration, heat, glare, heavy truck traffic, and other objectionable influences incidental to industrial uses;

(i) To protect commercial properties from fire, explosion, noxious fumes, and other hazards;

(j) To encourage upgrading of the use of strategically located sites between the central business district and Humboldt Bay by creating an environment suitable for establishments catering to tourists; and

(k) To protect and maintain certain industrial uses that require waterfront locations.

Sec. 10-5.29111. Required conditions.

(a) All uses shall comply with the regulations prescribed in Article 2 of this chapter (Site, Yard, Bulk, Usable Open Space, and Screening and Landscaping Regulations).

(b) In a CW District all businesses, services, and processes shall be conducted entirely within a completely enclosed structure, except for off-street parking and loading areas, exhibits of goods sold, manufactured, or processed on the premises, outdoor dining areas, and utility substations and equipment installations.

(c) No use shall be permitted, and no process, equipment, or material shall be employed which is found by the Planning Commission to be objectionable to persons residing or working in the vicinity by reason of odor, insect nuisance, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, unsightliness, or heavy truck traffic or to involve any hazard of fire or explosion.

Sec. 10-5.29112. Permitted uses.

The following uses shall be permitted in the CW Waterfront Commercial District, provided that when recreation and visitor-serving facilities are integrated with coastal-dependent uses (noted below with an asterisk), the recreation and visitor-serving areas shall be secondary to and compatible with the coastal-dependent uses:

(a) Accessory uses and structures located on the same site as a permitted use;

* (b) Boat launching;

(c) Coastal dependent and coastal-related uses;

* (d) Commercial fishing facilities;

* (e) Docks, piers and wharfs;

(f) Hotels and motels;

(g) Ice vending stations;

(h) Marine and boat sales, services and repairs;

(i) Offices related to or dependent upon coastal-dependent or coastal-related uses;

(j) Public and commercial recreation;

(k) Recreational boating facilities;

(l) Visitor-serving facilities and other establishments that offer retail sales and services to visitors, including but not limited to:

Antique shops;

Art and artists' supply stores;

Art galleries and stores selling objects of art;

Bakeries baking for retail sale on the premises only;

Bars and taverns;

Bicycle shops;

Book stores and newsstands;

Candy stores/shops;

Clothing shops, boutique;

Dairy products manufacturing for retail sales on the premises only;

Day or destination spas;

Florists;

Garden shops;

Gift shops;

Jewelry stores;

Leather goods and luggage stores;

Music, record, and CD stores;

Picture framing shops;

Restaurants (not including drive-in establishments)

Shoe shops, boutique;

Sporting goods stores that primarily include rental and sales of equipment, gear, clothing, and other goods, for coastal-dependent or –related recreation activities;

Stamp and coin stores;

Stationery shops;

Theaters, small;

Toy shops, and;

Variety shops.

Sec. 10-5.29113. Conditional uses.

The following conditional uses shall be permitted in the CW Waterfront Commercial District upon the granting of a use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses). The applicant shall demonstrate and the City shall find that granting of a use permit will not diminish recreational or visitor-serving opportunities.

Administrative, business, and professional offices, except medical and dental offices;

Arts and crafts schools and colleges;

Bakeries;

Banks;

Barber shops and beauty shops;

Bus depot;

Bus depots, provided all buses shall not be stored on the site and no repair work or servicing of vehicles shall be conducted on the site;

Business, professional, and trade schools and colleges;

Charitable institutions;

Christmas tree sales lots;

Churches, parsonages, parish houses and other religious institutions;

Cigar stores;

Cleaning, coin-operated;

Clothing and costume rental establishments;

Clothing stores;

Conference center;

Dance halls;

Department stores;

Finance companies;

Food stores and supermarkets;

Furniture stores;

Gunsmiths;

Gymnasiums;

Hardware stores;

Health clubs, neighborhood;

Ice storage houses;

Interior decorating shops;

Laundries, self-service type;

Liquor stores;

Locksmiths;

Massage and physical culture studios;

Medical and dental offices;

Medical and orthopedic appliance stores;

Meeting halls;

Messengers' offices;

Music and dance studios;

Musical instrument repair shops;

Office and business machine stores;

Offices and office buildings;

Oil and gas pipelines;

Optician and optometrical shops;

Parking facilities, including fee parking facilities;

Passenger railroad stations;

Pet and bird stores;

Photographic supply stores and studios;

Post offices;

Prescription pharmacies and dental and optical laboratories;

Pressing establishments;

Printing shops, including lithographing and engraving;

Public utility service pumping stations, power stations, equipment buildings and installations, drainage ways and structures, storage tanks, and transmission lines found by the Planning Commission to be necessary for the public health, safety or welfare;

Radio and television broadcasting studios;

Realtors and real estate offices;

Recreational vehicle parks;

Residential uses permitted in the RM Districts shall be permitted in a CW District, provided the residential units are located above the ground floor of commercial structures and the minimum size of such dwelling units shall not be less than what is required in the Building and Housing Code;

Saving and loan offices;

Scientific instrument shops;

Skating rinks;

Skating rinks within buildings;

Sporting goods stores;

Sports arenas within buildings;

Stationery stores;

Stenographic services;

Telegraph offices;

Television and radio sales and repair stores;

Theaters and auditoriums within buildings;

Toy stores;

Variety stores;

Warehouses;

Watch and clock repair shops;

Wholesale establishments without stocks; and

Any other use which is determined by the Planning Commission to be similar to the listed conditional uses and which conform to the policies of the Land Use Plan. In making such a determination, in addition to the findings prescribed in Article 24 of this chapter (Conditional Uses), the Planning Commission must find:

(a) That consideration of all determinable characteristics of the use that is subject to the application indicates that the use has the same essential characteristics as a permitted or conditional use;

(b) That the use conforms to the purposes of the CW Waterfront Commercial District;

(c) That the use will not create significantly more vehicular traffic or congestion than associated with permitted or conditional uses; or

(d) That the proposed use will not negatively affect recreation or visitor-serving facilities and coastal-dependent uses.

Sec. 10-5.29114. Off-street parking.

Off-street parking facilities shall be provided for each use as prescribed in Article 15 of this chapter (Off-Street Parking Facilities).

Sec. 10-5.29115. Off-street loading.

Off-street loading facilities shall be provided for each use as prescribed in Article 16 of this chapter (Off-Street Loading Facilities).

Sec. 10-5.29116. Signs.

No sign, outdoor advertising structure or display of any character shall be permitted except as prescribed in Article 17 of this chapter (Signs)

Sec. 10-5.29117. Site plan review and architectural review.

All permitted uses shall be subject to site plan review as prescribed in Article 18 of this chapter (Site Plan Review and Architectural Review). Conditional uses shall be subject to architectural review.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 19th day of May, 2015 by the following vote:

AYES: COUNCILMEMBERS BRADY, ATKINS, BERGEL, ARROYO
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS CIARABELLINI
ABSTAIN: COUNCILMEMBERS

Melinda Ciarabellini, Mayor Pro Tem

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the 4th day of June, 2015, and hereby approved.

Frank J. Jäger, Mayor

Approved as to Administration:

Greg L. Sparks, City Manager

Approved as to form:

Cyndy Day-Wilson, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the 5th day of June, 2015.

Pamela J. Powell, City Clerk

RESOLUTION NO. 2015-20

A RESOLUTION OF TRANSMITTAL OF THE CITY COUNCIL OF THE CITY OF EUREKA TRANSMITTING TO THE CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION AN AMENDMENT TO THE IMPLEMENTATION PLAN PORTION OF THE ADOPTED AND CERTIFIED CITY OF EUREKA LOCAL COASTAL PROGRAM

WHEREAS, on January 11, 2013, Eureka Main Street submitted an application for a Text and Local Coastal Program (Implementation Plan) Amendment to modify the CW (Waterfront Commercial) zone district and Project Nos. TA-13-0003 and LCP-13-0001 were assigned; and

WHEREAS, the Local Coastal Program Amendment includes an amendment to the text of the Implementation Plan; and

WHEREAS, the proposed Local Coastal Program Amendment will affect the entire Waterfront Commercial (CW) zone district; and

WHEREAS, the Implementation Plan Amendment will modify the principally and conditionally permitted uses in the Waterfront Commercial (CW) zone district, and add new definitions to the Implementation Plan; and

WHEREAS, pursuant to Title 14 California Code of Regulations, Section 13515, on December 30, 2014 a *"Notice of Public Hearing"* for the draft Amendment was mailed to all property owners and occupants of properties in the CW zone and within at least, 300 feet of the CW zone; local and state agencies; the Humboldt County Library; and one newspaper of general circulation; and

WHEREAS, on January 2, 2015, the same Notice was published in the Times Standard, a daily newspaper of general circulation; and

WHEREAS, the Notice advised of a public hearing scheduled before the Planning Commission on January 12, 2015; and

WHEREAS, pursuant to Title 14 California Code of Regulations, Section 13515, the mailing on December 30, 2014 and the publication on January 2, 2015, was at least ten days prior to the scheduled public hearing; and

WHEREAS, pursuant to Title 14 California Code of Regulations, Section 13515, on April 3, 2015, a *"Notice of Public Hearing"* for a revised draft Amendment was mailed to all property owners and occupants of properties in the CW zone and within at least 300 feet of the CW zone; local and state agencies; the Humboldt County Library; and one newspaper of general circulation; and

WHEREAS, on April 3, 2015, the same Notice was published in the Times

Standard, a daily newspaper of general circulation; and

WHEREAS, the Notice advised of a public hearing scheduled before the Planning Commission on April 13, 2015; and

WHEREAS, pursuant to Title 14 California Code of Regulations, Section 13515, the mailing and publication on April 3, 2015, was at least ten days prior to the scheduled public hearing; and

WHEREAS, pursuant to Section 21080.9 and 21080.5 and Division 20, Chapter 6 of the Public Resources Code, the Coastal Commission's review and development process for Local Coastal Programs and Local Coastal Program amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA; and

WHEREAS, at the public hearing held by the Planning Commission on January 12, 2015, three persons provided testimony in favor of the Local Coastal Program amendment; and

WHEREAS, at the public hearing held by the Planning Commission on April 13, 2015, three persons provided testimony in favor of the Local Coastal Program amendment; and

WHEREAS, upon closing the public hearing, the Planning Commission considered the Implementation Plan portion of the CW Text Amendment and Local Coastal Program Amendment and took action to adopt Planning Commission Resolution No. 2015-05, "*Resolution of the Planning Commission of the City of Eureka Recommending the City council approve the text amendment to modify the principally and conditionally permitted uses in the CW Zone, approve the Local Coastal Program Amendment and direct Staff to submit the Local Coastal Program Amendment to the California Coastal Commission.*"; and

WHEREAS, pursuant to Title 14 California Code of Regulations, Section 13515, on April 25, 2015, a "*Notice of Public Hearing*" was published in the Times Standard, a daily newspaper of general circulation; and

WHEREAS, the Notice advised of a public hearing scheduled before the City Council on May 5, 2015; and

WHEREAS, pursuant to Title 14 California Code of Regulations, Section 13515, the mailing and publication on April 25, 2015, was at least ten days prior to the scheduled public hearing; and

WHEREAS, the City Council held a public hearing on May 5, 2015, to consider the CW Text Amendment and Local Coastal Program Amendment. Three persons provided testimony either in favor or against the Local Coastal Program amendment; and

WHEREAS, on May 5, 2015, upon closing the public hearing, the City Council considered CW Text Amendment and Local Coastal Program Amendment and the Planning Commission's recommendation, and took action to waive reading, read by title only and introduce Bill No. 882-C.S., an *"An Ordinance of the City of Eureka Amending Eureka Municipal Code Title 10 Chapter 5 Article 29"*; and

WHEREAS, on May 19, 2015, the City Council adopted *"A Resolution of Transmittal of the City Council of the City of Eureka Transmitting to the California Coastal Commission for certification an Amendment to the Implementation Plan portion of the Adopted and Certified City of Eureka Local Coastal Program"*; and

WHEREAS, on May 19, 2015, the City Council took action to waive reading, read by title only and adopt Bill No. 882-C.S., *"An Ordinance of the City of Eureka Amending Eureka Municipal Code Title 10 Chapter 5 Article 29"*; and

WHEREAS, Section 13515(c) of Title 14 Code of Regulations requires that there be a minimum of six weeks (42 days) between the *"Notice of Public Hearing"* for the draft Local Coastal Program Amendment and the City's final action; and

WHEREAS, the City Council's final action on the Local Coastal Program occurred on May 19, 2015, which is 140 days following the December 30, 2015, mailing of the *Notice of Public Hearing,* and the publication of the same notice in the Times Standard.

NOW, THEREFORE, BE IT RESOLVED BY the City Council of the City of Eureka as follows:

SECTION 1 Amending the text of the Eureka Municipal Code is a "project" for the purposes of the California Environmental Quality Act (CEQA). The City Council hereby finds the CW Text Amendment exempt under CEQA pursuant to CEQA Guidelines §15061, which states that where an activity can be seen with certainty to have no potential for causing a significant effect on the environment, the project can be found exempt from CEQA. Because the uses that are being added as principally permitted uses to the zone are similar to the uses that currently exist and are being modified (e.g. visitor-serving, retail); the uses that are being added as conditionally permitted uses will receive CEQA review during the use permit process; many of the uses that are changing from conditional to principally permitted are either continuing non-conforming uses or have use permits that have been exempted from CEQA; and because no changes are being made to development standards (including setbacks, parking, height, FAR, etc.) it is certain that the Text Amendment will not result in a significant effect on the environment.

SECTION 2 The City Council hereby finds that the CW Text Amendment conforms with Chapter 3 of the Coastal Act, and.

SECTION 3 The City Council hereby finds that the CW Text Amendment, which amends the Implementation Plan of the Local Coastal Program, is consistent with the adopted Land Use Plan and is not known to create any conflicts or contradictions to adopted Plan policy, nor any inconsistencies within the General Plan itself, and

furthermore, is generally found to be consistent with existing General Plan objectives to protect the public health, safety, peace, comfort, convenience, prosperity and general welfare in the City of Eureka

SECTION 4 The City Council hereby declares that pursuant to Coastal Act Section 30510(a), the City of Eureka will carry out the CW Text Amendment Local Coastal Program Amendment in a manner fully consistent with the California Coastal Act.

SECTION 5 The City Council directs Staff to transmit the adopted CW Text Amendment Local Coastal Program Amendment to the Coastal Commission for approval and certification.

SECTION 6 The City Council directs that the CW Text Amendment Implementation Plan Amendment of the Local Coastal Program Amendment take effect automatically upon Coastal Commission approval and certification pursuant to Public Resources Code Section 30512, 30513, and 30519.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka, County of Humboldt, State of California, on the 19th day of May 2015, by the following vote:

AYES:	COUNCILMEMBERS:	BRADY, ATKINS, BERGEL, ARROYO
NOES:	COUNCILMEMBERS:	
ABSENT:	COUNCILMEMBERS:	CIARABELLINI
ABSTAIN:	COUNCILMEMBERS:	

Frank J. Jäger, Mayor of the City of Eureka

Attest:

Pamela J. Powell, City Clerk

Approved as to Administration:

Greg L. Sparks, City Manager

Approved as to form:

Cyndy Day-Wilson, City Attorney

TEXT OF REVISIONS TO ZONING REGULATION'S DEFINITIONS AND WATERFRONT COMMERCIAL (CW) ZONING DISTRICT STANDARDS AMENDMENT

The following table depicts the proposed changes to the Zoning Regulations for the City for the Coastal Zone's definitions and CW zoning district's enumerated Principally- and Conditionally Uses. Reclassified Conditional-to-Principal and/or Re-alphabetized Uses are indicated in ~~single-strikethrough~~ and single-underline; fully deleted uses and uses that have been separated out from broader categories of previously certified uses are shown in ~~**bold double-strikethrough**~~ and **bold double-underline**, respectively.

Sec. 10-5.2906. Definitions.

For the purpose of this article, certain words and terms used in it are defined as follows:

10-5.2906.1.

(a) "City Planning Commission" and "Commission" shall mean the duly appointed City Planning Commission. "Design Review Committee" and "Committee" shall mean the duly appointed Design Review Committee established by Article 18, Site Plan Review and Architectural Review, of this chapter.

(b) "City Clerk" shall mean the City Clerk of the City. "Secretary" shall mean the Secretary of the Eureka City Planning Commission, and Design Review Committee. "Building Inspector" shall mean the Chief Building Official of the City. "Director of Public Works" shall mean the Director of Public Works of the City. "Director of Planning" shall mean the Director of Community Development of the City. "City Attorney" shall mean the City Attorney of the City. "Chief of Police" shall mean the Chief of Police of the City.

10-5.2906.2.

(a) "Advertising sign" shall mean a sign having more than one-half (1/2) its area devoted to directing attention to a business, profession, commodity, or service that is not the primary business, profession, commodity, or service sold, manufactured, conducted, or offered on the site on which the sign is located.

(b) "Aggrieved person" shall mean any person who, in person or through a representative, appeared at a public hearing of the approving authority in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the local government of the nature of his or her concerns or who for good cause was unable to do either.

(c) "Alley" shall mean a public way permanently reserved primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

(d) "Allowable use" shall mean any use allowed by right which does not require a public hearing or any discretionary or nondiscretionary permit from the approving authority.

(e) "Alter" shall mean to make a change in the supporting members of a structure, such as bearing walls, columns, beams, or girders, which change will prolong the life of the structure.

(f) "Appealable development" shall mean any of the following:

(1) Developments approved by the city between the sea and the first public road paralleling the sea, or within three hundred (300') of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, as generally indicated on the official appeals zone map approved by the Coastal Commission.

(2) Developments approved by the City not included within paragraph (1), but located on tidelands, submerged lands, public trust lands, or within one hundred (100') of any wetland, estuary, or stream, or within three hundred (300') of the top of the seaward face of any coastal bluff, as generally indicated on the official appeals zone map approved by the Coastal Commission.

(3) Any development which constitutes a major public works project or a major energy facility (see definition in Section 10-5.29301(c)).

(g) "Appellant" shall mean any person who may file an appeal, which includes an applicant, any aggrieved person, or any two (2) members of the Coastal Commission.

(h) "Applicant" shall mean the person, partnership, corporation, or state or local governmental agency applying for a coastal development permit.

(i) "Approving authority" shall mean the City official, Planning Commission, or Council that approves a coastal development permit.

(j) "Block" shall mean the properties abutting on one side of a street and lying between the two (2) nearest intersecting or intercepting streets or nearest intersecting or intercepting street and railroad right-of-way, unsubdivided land, watercourse, or City boundary.

(k) "Boutique" shall mean a shop that specializes in selling sophisticated or fashionable clothing and accessories, or unique or harder to find items. A "Boutique" is smaller and more intimate than a "Store".

(~~k~~l) "Building" shall mean any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, chattels or property of any kind. For the purposes of this section," Building" shall mean manufactured homes and mobilehomes as hereinafter defined.

(~~l~~m) "Categorically excluded development" shall mean A development (upon request of the City, public agency or other person) which the Coastal Commission has determined pursuant to Section 30610(e) of the Public Resources Code to have no potential for significant adverse environmental effect's and therefore has issued an exclusion from the coastal development permit requirements in accordance with the applicable regulations.

(~~m~~n) "Charitable institution" shall mean a non-profit institution devoted to the housing, training, or care of children, or of aged, indigent, handicapped, or underprivileged persons, but not including lodging houses, or dormitories providing temporary quarters for transient unemployed persons, organizations devoted to collecting or salvaging new or used materials, or organizations devoted principally to distributing food, clothing or supplies on a charitable basis.

(~~n~~o) "Coastal Commission" means the California Coastal Commission.

(~~o~~p) "Coastal development permit" shall mean a letter or certificate issued by the City in accordance with the provisions of this chapter, after the applicant has submitted all necessary supplementary documentation required to satisfy the conditions precedent in the notice to issue a coastal development permit.

(~~p~~q) "Court" shall mean an unoccupied open space on the same site with a building, which space is bounded on three (3) or more sides by exterior building walls.

(~~q~~r) "Depth" shall mean the horizontal distance between the front and rear property lines of a site measured along a line midway between the side property lines.

(~~r~~s) "District" shall mean a portion of the City within which the use of land and structures and the location, height and bulk of structures are governed by this chapter.

(~~s~~t) "Drive-in" shall mean an establishment serving food or beverages to customers who remain in or leave and return to their cars for consumption.

(~~t~~u) "Delicatessen store" shall mean an establishment which primarily retails cooked meats, foods and condiments for consumption off the premises, and which does not offer the range of meats, foods and goods carried by food stores or supermarkets, but which may have accessory seating for not more than twelve (12) persons within an enclosed structure, and on-site consumption of food outside the enclosed structure is not permitted.

(~~u~~v) "Development" shall mean, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division

10-5.2906.3.

(a) "Driveway" shall mean a private road, the use of which is limited to persons residing or working on the site and their invitees, licensees, and business visitors, and which provides access to off-street parking or loading facilities.

(b) "Dwelling" shall mean a one-family dwelling or multi-family dwelling other than an automobile trailer, hotel, motel, labor camp, camp car, tent, railroad car, or temporary structure.

(c) "Dwelling unit" shall mean one or more rooms and a single kitchen designed for occupancy by one family for living and sleeping purposes.

(d) "Emergency" shall mean a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.

(e) "Family" shall mean an individual or two (2) or more persons related by blood, marriage, or adoption, or a group of not more than five (5) persons, not including servants, who need not be related, living as a single housekeeping unit.

(f) "Floor area, basic" shall mean the total amount of gross floor area a building contains expressed as a percentage of the total area of the lot.

(g) "Family care home" shall mean a residence wherein the owner or proprietor is certified and supervised by the Department of Mental Hygiene of the state to furnish food and lodging in a family atmosphere plus varying amounts of custodial care to one or more persons, not exceeding six (6) persons, who have been "mentally deficient" as defined in Section 5040 and 5250, respectively, of the Welfare and Institutions Code of the State.

10-5.2906.4.

(a) "Floor area, gross" shall mean the sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same site excluding: basement or cellar areas used only for storage; space used for off-street parking or loading; steps, patios, decks, terraces, porches, and exterior balconies, if not enclosed on more than three sides. Unless excepted above, floor area includes, but is not limited to, elevator shafts and stairwells measured at each floor (but not mechanical shafts, penthouses, enclosed porches, interior balconies, and mezzanines).

(b) "Frontage" shall mean the property line of a site abutting on a street, other than the side line of a corner lot. Frontage shall be measured as the shortest distance between the points at which the side property lines intersect the street property line.

(c) "Garage or carport" shall mean an accessory structure, or a portion of a main structure, having a permanent roof and designed for the storage of motor vehicles.

(d) "Garage, repair" shall mean a structure or part thereof where motor vehicles or parts thereof are repaired or painted.

(e) "Garage, parking" shall mean a structure or part thereof used for the storage, parking, or servicing of motor vehicles, but not for the repair thereof.

(f) "Garden shop" shall mean a shop that specializes in selling hand gardening tools, garden décor, small plants, seeds, and the like. A "Garden shop" does not contain a plant nursery, large outdoor product displays, or large bags or quantities of mulch, compost, fertilizer, or soil.

10-5.2906.5.

(a) "Habitable room" shall mean a room meeting the requirements of Chapter 1 of Title 9 of this Code (Building Code) for sleeping, living, cooking, or, dining purposes, excluding such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms, and similar spaces.

(b) "Home occupation" shall mean the conduct of an art or profession, the offering of a service, the conduct of a business, or the handcraft manufacture or products in a dwelling in accordance with the provisions of Article 19 of this chapter (Home Occupations).

(c) "Hotel" (See "Motel".)

(d) "Indirect illumination" shall mean illumination of a sign by means of light cast upon it from a concealed source outside the sign itself.

(e) "Intersection, street" shall mean the area common to two (2) or more intersecting streets.

(f) "Junk yard" shall mean a site or portion of a site on which waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including used furniture and household equipment yards, house wrecking yards, used lumber yards, and the like, except a site on which such uses are conducted within a completely enclosed structure and except scrap metal yards as defined in subsection (b) of Section 10-52906.11. An establishment for the sale, purchase, or storage of used cars or salvaged machinery in operable condition and the processing of used or salvaged materials as part of a manufacturing operation shall not be deemed a junk yard. A motor vehicle wrecking yard, as defined in this subsection (f) of Section 10-5.2906.8, shall be deemed a junk yard.

(g) "Halfway house" shall mean a residence wherein food, lodging, and a certain amount of custodial and counseling care as provided to one or more persons who have recently been released from either a state penal institution or from a federal penal institution.

10-5.2906.6.

(a) "Kennel" shall mean any premises, except where accessory to an agricultural use, where four (4) or more dogs or cats four (4) months of age or older are kept.

(b) "Living room" shall mean the principal room designed for general living purposes in a dwelling unit. Each dwelling unit shall have a living room.

(c) "Local Coastal Program" shall mean The City's land use plan, zoning ordinance, zoning maps, and other implementing actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.

(d) "Lodging house" shall mean a dwelling in which lodging only or lodging and meals only are provided for compensation for more than three (3) but not more than fifteen (15) persons other than members of the resident family, excepting a nursing home as defined in subsection (a) of Section 10-5.2906.10.

(e) "Lot". See "Site".

(f) "Lot, corner" shall mean a site bounded by two (2) or more adjacent street lines which have an angle of intersection of not more than one hundred thirty-five (135) degrees.

10-5.2906.7.

a) "Lot, corridor" shall mean a site with access to a street by means of a corridor having not less than twenty (20') feet of frontage and a width less than the required site width but at no point less than twenty (20') feet. The length of a corridor shall be measured from the frontage line to the nearest point of intersection with that property line parallel most nearly parallel to the frontage line. The area of an access corridor shall not be included in determining the site area of a corridor lot.

(b) "Lot, double frontage" shall mean an interior lot having frontage on two (2) parallel or approximately parallel streets. For the purpose of determining front yard requirements, both frontages shall be deemed front lot lines.

(c) "Lot, interior" shall mean a lot other than a corner lot.

(d) "Lot, key" shall mean the first interior lot to the rear of a reversed corner lot.

(e) "Lot, reversed corner" shall mean a corner lot, the side line of which is substantially a continuation of the front property line of the first lot to its rear.

10-5.2906.8.

(a) "Lot line, front" shall mean a line separating an interior lot from a street, or a line separating either the narrower or the wider street frontage of a corner lot from a street at the option of the owner.

(b) "Lot line, rear" shall mean a lot line, not a front lot line, which is parallel or approximately parallel to the front lot line. Where no lot line is within forty-five (45) degrees of being parallel to the front lot line, a line ten (10') feet in length within the lot, parallel to and at the maximum possible distance from the front lot line shall be deemed the rear lot line.

(c) "Lot line, side" shall mean any lot line which is not a front lot line or a rear lot line.

(d) "Manufactured home" shall mean a factory-built structure that is manufactured or constructed under the authority of 42 United States Code Section 5401 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobilehome is not a manufactured home, except as hereinafter provided.

(e) "Mobilehome" shall mean a transportable, factory built home, designed to be used as a year-round residential dwelling and built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. In many cases, mobilehomes were built to a voluntary industry standard of the American National Standards Institute (ANSI) -A119.1 Standards for Mobilehomes.

(f) "Mobilehome park". shall mean any area or tract of land where (2) two or more lots or spaces are rented or leased or held out for rent or lease to accommodate manufactured homes or mobilehomes used for human habitation.

(g) "Modular home" shall mean a factory-built housing certified as meeting the (local or) State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.

(h) "Motel or hotel" shall mean a structure or portion thereof or a group of attached or detached structures, containing completely furnished individual guest rooms or suites, containing on a transient basis for compensation, and in which more than sixty (60) percent of the individual guest rooms or suites are without kitchens or cooking facilities.

(i) "Motor vehicle wrecking yard" shall mean a site or portion of a site on which the dismantling or wrecking of used vehicles, whether self-propelled or not, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts is conducted. The presence outside a fully enclosed structure of (3) three or more used motor vehicles which are not capable of operating under their own power shall constitute prima facie evidence of a motor vehicle wrecking yard. A motor vehicle wrecking yard shall be deemed a junk yard.

10-5.2906.9.

(a) "Multi-family dwelling" shall mean a structure, containing more than one dwelling unit, designed for occupancy or occupied by more than one family.

(b) "Nonconforming sign" shall mean a sign, outdoor advertising structure, or display of any character which was lawfully erected or displayed, but which does not conform with standards for location, size, or illumination for the district in which it is located by reason of the adoption or amendment of this chapter, or by reason of annexation of territory to the city.

(c) "Nonconforming structure" shall mean a structure which was lawfully erected, but which does not conform with the standards for yard spaces, height of structures, or distances between structures prescribed in the regulations for the district in which the structure is located by reason of the adoption or amendment of this chapter, or by reason of annexation of territory to the city.

(d) "Nonconforming use" shall mean a use of a structure or land which was lawfully established and maintained, but which does not conform with the use regulations or required conditions for the district in which it is located by reason of the adoption or amendment of this chapter, or by reason of annexation of territory to the city.

(e) "Notice to issue coastal development permit" shall mean a letter or certificate issued by the City in accordance with the provisions of this article, approving a development subject to fulfillment of conditions prior to issuance of a coastal development permit, but if such conditions are fulfilled, as being in conformance with and adequate to carry out the Local Coastal Program.

(f) "Nursery school" shall mean a school for five (5) or more pre-elementary school age children, or the use of a site or portion of a site for a group day-care program for five (5) children or more other than those resident on the site, including a day nursery, play group, or after-school group.

10-5.2906.10.

(a) "Nursing home" shall mean a structure operated as a lodging house in which nursing, dietary, and other personal services are rendered to convalescents, invalids, or aged

persons, not including persons suffering from contagious or mental diseases, alcoholism, or drug addiction, and in which surgery is not performed and primary treatments, such as customarily are given in hospitals or sanitariums, are not provided. A convalescent home or a rest home shall be deemed a nursing home.

(b) "Off-street loading facilities" shall mean site or portion of a site devoted to the loading or unloading of motor vehicles or trailers, including loading berths, aisles, access drives, and landscaped areas.

(c) "Off-street parking facilities" shall mean a site or portion of a site devoted to the off-street parking of motor vehicles, including parking spaces, aisles, access drives, and landscaped areas.

(d) "Oil and gas pipeline" shall mean any public or private facility for transmitting hydrocarbons.

(e) "One-family dwelling" shall mean a building designed for and/or occupied as a residence by one (1) family or individual. The term "one-family dwelling" shall include manufactured homes when placed on permanent foundation, converted to real property, and taxed as a site-built dwelling as provided by law.

(f) "Oriel window" shall mean a window which projects from the main line of an enclosing wall of a building and is carried on brackets or corbels.

(g) "Other permits and approvals" shall mean a permits and approvals, other than a coastal development permit, required to be issued by the approving authority before a development may proceed.

(h) "Outdoor advertising structure" shall mean a structure of any kind or character, erected or maintained for outdoor advertising purposes, upon which any advertising sign may be placed.

(i) "Patio, covered" shall mean an attached or detached structure not exceeding fourteen 14 feet in height and enclosed on not more than three (3) sides except for posts necessary for roof support.

(j) "Permitted use" shall mean any use allowed by right which does not require a public hearing, but does require a discretionary or non-discretionary permit (e.g., building permit) to be issued by the approving authority.

(k) "Pre-existing" shall mean prior to the adoption of this chapter.

10-5.2906.11.

(a) "Railroad right-of-way" shall mean a strip of land on which railroad tracks, switching equipment, signals and other facilities normally associated with and owned by a railroad are located. Areas of railroad rights-of-way may be used solely for the purpose of accommodating tracks, signals, and other operative devices and facilities related to and necessary for the operation of a railroad, and for public accessways at or above grade to and along the shoreline.

(b) "Recreational vehicle" shall mean a vehicle with or without motive power designed for human habitation for recreational or emergency occupancy meeting the criteria of Division 13, Part 12.11, Section 18215.5 of the California Health and Safety Code. A "recreational vehicle" shall include a motorhome, travel trailer, truck camper or camping trailer.

(c) "Recreational vehicle park" shall mean any area or tract of land or a separate designated section within a mobilehome park, where one or more lots are rented or leased or held out for rent, or lease to owners or users of recreational vehicles or tents used for travel or recreational purposes on a transient basis

(d) "Scrap metal yard" shall mean a site or portion of a site used for storage, sorting, collecting, or baling of previously semi-prepared scrap metal, provided that no burning shall be permitted.

(e) "Service station" shall mean a place where gasoline or any other motor fuel, lubricating oil, or grease for the operation of motor vehicles is offered for sale to the public and deliveries are made directly into the vehicle, including the sale of accessories, performance of minor repairs and lubrication, and the washing of automobiles where no chain conveyor or blower is used.

(f) "Shop" shall mean a small, usually independent retail establishment that offers specialized goods, services, or products. The size of a "Shop" is determined relative to other similar visitor-serving and retail businesses in the Waterfront Commercial zone district.

10-5.2906.12.

(a) "Sign" shall mean any lettering or symbol made of cloth, metal, paint, paper, wood, or other material of any kind whatsoever placed for advertising, identification, or other purposes on the ground or on any bush, tree, rock, wall, post, fence building, structure, vehicle, or on any place whatsoever. The term "placed" shall include constructing, erecting, posting, painting, printing, tacking, nailing, gluing, sticking, carving, or otherwise fastening, affixing, or making visible in any manner whatsoever beyond the boundaries of a site.

(b) "Sign area" The area of a sign having an integral part of a building, awning, canopy, or marquee as its background shall be the area within the shortest line drawn to include all letters, designs, and tubing which are a part of the sign. The area of all other signs shall be the largest cross-sectional area of the sign measured to a line encompassing all portions of the sign, including background and tubing, but excluding supporting posts without attached lighting. In computing the area of a sign having more than one face, all faces of the sign shall be included.

(c) "Sign, subdivision" shall mean any sign located either on or off a subdivision tract, which sign indicates the direction to or advertises the location, existence, or sale of a subdivision or any part thereof.

(d) "Single ownership" shall mean holding record title, possession under a contract to purchase, or possession under a lease by a person, firm, corporation, or partnership, individually, jointly, in common, or in any other manner whereby the property is or will be under unitary or unified control.

(e) "Site or lot" shall mean a parcel of land or a portion thereof, considered as a unit, devoted to or intended for a use or occupied by a structure or a group of structures that are united by a common interest or use. A site or lot shall have frontage on a street.

(f) "Site area" shall mean the total horizontal area included within the property lines of a site, exclusive of the area of access corridors, streets, portions of the site within future street plan lines, and portions of the site within which a square having a minimum dimension of thirty-five (35') feet cannot be inscribed.

(g) "Spa" shall mean a commercial establishment offering a variety of services to improve health and beauty and provide relaxation through personal care treatments such as baths, saunas, massage, facials, and the like.

10-5.2906.13.

(a) "Stationery shop" shall mean a shop that sells paper and other materials needed for writing. A "Stationery shop" is not an office supply store.

(b) "Store" shall mean a large, often corporate-owned or mainstream retail establishment. A "Store" is larger and less intimate than a "Shop" or a "Boutique".

(~~a~~c) "Street" shall mean a thoroughfare right-of-way, dedicated as such or acquired for public use as such, other than an alley, which affords the principal means of access to abutting land.

(~~b~~d) In the coastal zone, "structure" includes, but is not limited to any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, electrical power transmission and distribution line, and fences and walls exceeding six (6) feet in height. Between the first public road and the sea, however, all fences and walls shall constitute a "structure" for purposes of this definition.

(~~e~~e) "Structure, accessory" shall mean a subordinate structure, the use of which is appropriate, subordinate, and customarily incidental to that of the main structure or the main use of the land and which is located on the same site with the main structure or use.

(~~d~~f) "Structure, main" shall mean a structure housing the principal use of a site or functioning as the principal use.

(~~e~~g) "Swimming pool" shall mean a pool, pond, lake, or open tank capable of containing water to a depth greater than one and one-half (½) feet at any point.

10-5.2906.14.

(a) "Theater, small" shall mean a theater, playhouse, or music hall that has seating space for less than 300 patrons.

(b) "Toy shop" shall mean a small shop that specializes in selling toys and games.

(~~a~~c) "Transmission lines" shall mean electric power lines bringing power to a receiving substation or a distribution substation.

(~~b~~d) "Use" shall mean the purpose for which a site or structure is arranged, designed, intended, constructed, erected, moved, altered, or enlarged or for which either a site or a structure is or may be occupied or maintained.

(~~e~~e) "Use, accessory" shall mean a use which is appropriate, subordinate, and customarily incidental to the main use of the site and which is located on the same site as the main use.

10-5.2906.15.

(a) "Usable open space" shall mean open space meeting the requirements of Section 10-5.212 of Article 2 of this chapter.

(b) "Variety shop" shall mean a shop that sells a wide variety of inexpensive items for personal or household use.

(~~b~~c) "Width" shall mean the horizontal distance between the side property lines of a site measured at right angles to the depth at a point midway between the front and rear property lines.

(~~e~~d) "Yard" shall mean an open space on the same site as a structure located between a structure and the adjoining lot lines, unoccupied and unobstructed by structures from the ground upward or from the level of the structure requiring the yard upward except as otherwise provided in this chapter, including a front yard, side yard, or rear yard.

(~~d~~c) "Yard, front" shall mean a yard extending across the full width of a site, the depth of which is the minimum horizontal distance between the front property line and a line parallel thereto on the site.

(~~e~~f) "Yard, rear" shall mean a yard extending across a full width of a site, the depth of which is the minimum horizontal distance between the rear property line and a line parallel thereto on the site.

(~~f~~g) "Yard, side" shall mean a yard between the main building and the adjacent side line of the lot and extending entirely from the front yard to the rear yard.

Sec. 10-5.29112. Permitted uses.

The following uses shall be permitted in the CW Waterfront Commercial District, provided that when recreation and visitor-serving facilities are integrated with coastal-dependent uses (noted below with an asterisk), the recreation and visitor-serving areas shall be secondary to and compatible with the coastal-dependent uses:

(a) Accessory uses and structures located on the same site as a permitted use

~~* (a) Docks, piers and wharfs;~~

*(b) Boat launching;

(c) Coastal dependent and coastal-related uses;

*(~~e~~ d) Commercial fishing facilities;

~~(d) Recreational boating facilities;~~

*(e) Docks, piers and wharfs;

~~(e) Public and commercial recreation;~~

(f) Hotels and motels;

~~(g) Visitor-serving facilities, including antique shops, art galleries, restaurants (but not including drive-in establishments), bars and taverns, and other establishments that offer retail sales and services to visitors;~~

(g) Ice vending stations;

(h) Marine and boat sales, services and repairs;

(~~h~~ i) Offices related to or dependent upon coastal-dependent or coastal-related uses;

~~(i) Ice vending stations;~~

(j) Marine and boat sales, services and repairs; and

(j) Public and commercial recreation;

~~(k) Coastal dependent and coastal-related uses.~~

(k) Recreational boating facilities;

(l) Visitor-serving facilities and other establishments that offer retail sales and services to visitors:

Antique shops;
Art and artists' supply stores;
Art galleries and stores selling objects of art;
Bakeries baking for retail sale on the premises only;
Bars and taverns;
Bicycle shops;
Book stores and newsstands;
Candy stores/shops;
Clothing shops, boutiques;
Dairy products manufacturing for retail sales on the premises only;
Day or destination spas;
Florists;
Garden shops;
Gift shops;
Jewelry stores;
Leather goods and luggage stores;
Music, **record, and CD** stores;
Picture framing shops;
Restaurants (not including drive-in establishments)~~;~~

Shoe shops, boutiques;
Sporting goods stores that primarily include rental and sales of equipment, gear, clothing, and other goods, for coastal-dependent or -related recreational activities;
Stamp and coin stores;
Stationery shops;
Theaters, small;
Toy shops, and;
Variety shops.

Sec. 10-5.29113. Conditional uses.

The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of Article 24 of this chapter (Conditional Uses). The applicant shall demonstrate and the City shall find that granting of a use permit will not diminish recreational or visitor-serving opportunities.

~~Accessory uses and structures located on the same site as a permitted use;~~
Administrative, business, and professional offices, except medical and dental offices;
~~Art and artists' supply stores;~~
~~Art galleries and stores selling objects of art;~~
Arts and crafts schools and colleges;
Bakeries~~, including baking for sale on the premises only~~;
Banks;
Barber shops and beauty shops;
Bus depot;
Bus depots, provided all buses shall not be stored on the site and no repair work or servicing of vehicles shall be conducted on the site;
Business, professional, and trade schools and colleges;
Charitable institutions;
Christmas tree sales lots;
Churches, parsonages, parish houses and other religious institutions;
~~Christmas tree sales lots;~~
Cigar stores;
Cleaning, coin-operated;
Clothing and costume rental establishments;
Clothing stores;
Conference center;
~~Dairy products manufacturing for retail sales on the premises only;~~
Dance halls;
Department stores;
~~**Dry goods stores;**~~
Finance companies;
~~Florists;~~
Food stores and supermarkets;
~~**Fur shops;**~~
Furniture stores;
~~Garden shops;~~

Gunsmiths;
Gymnasiums;
Hardware stores;
Health clubs, neighborhood;
Ice storage houses;
Interior decorating shops;
~~Jewelry stores;~~
Laundries, self-service type;
~~Leather goods and luggage stores;~~
Liquor stores;
Locksmiths;
Massage and physical culture studios;
Medical and dental offices;
Medical and orthopedic appliance stores;
Meeting halls;
~~**Mens' furnishing stores;**~~
Messengers' offices;
~~**Millinery shops;**~~
Music and dance studios;
~~Music stores;~~
Musical instrument repair shops;
Office and business machine stores;
Offices and office buildings;
Oil and gas pipelines;
Optician and optometrical shops;
Parking facilities, including fee parking facilities;
Passenger railroad stations;
Pet and bird stores;
~~Picture framing shops;~~
Photographic supply stores and studios;
Post offices;
Prescription pharmacies and dental and optical laboratories;
Pressing establishments;
Printing shops, including lithographing and engraving;
Public utility service pumping stations, power stations, equipment buildings and installations, drainage ways and structures, storage tanks, and transmission lines found by the Planning Commission to be necessary for the public health, safety or welfare;
Radio and television broadcasting studios;
Realtors and real estate offices;
Recreational vehicle parks;
Residential uses permitted in the RM Districts shall be permitted in a CW District, provided the residential units are located above the ground floor of commercial structures and the minimum size of such dwelling units shall not be less than what is required in the Building and Housing Code;
Saving and loan offices;
Scientific instrument shops;

Skating rinks;
Skating rinks within buildings;
Sporting goods stores;
Sports arenas within buildings;
~~Stamp and coin stores;~~
Stationery stores;
Stenographic services;
~~**Tailor and dressmaking shops;**~~
Telegraph offices;
Television and radio sales and repair stores;
Theaters and auditoriums within buildings;
Toy stores;
Variety stores;
Warehouses;
Watch and clock repair shops;
Wholesale establishments without stocks;
Women's apparel accessory stores; and
~~Public utility service pumping stations, power stations, equipment buildings and installations, drainage ways and structures, storage tanks, and transmission lines found by the Planning Commission to be necessary for the public health, safety or welfare.~~
Any other use which is determined by the Planning Commission to be similar to the listed conditional uses and which conform to the policies of the Land Use Plan. In making such a determination, in addition to the findings prescribed in Article 24 of this chapter (Conditional Uses), the Planning Commission must find:
(a) That consideration of all determinable characteristics of the use that is subject to the application indicates that the use has the same essential characteristics as a permitted or conditional use;
(b) That the use conforms to the purposes of the CW Waterfront Commercial District;
(c) That the use will not create significantly more vehicular traffic or congestion than associated with permitted or conditional uses; or
(d) That the proposed use will not negatively affect recreation or visitor-serving facilities and coastal-dependent uses.