

## Master Response 3: Local Coastal Program Policy Issues

This master response addresses the issues comments raise with respect to the proposed project's uses and their compliance with the Local Coastal Program (LCP) and/or their appropriateness for the waterfront. The Draft EIR addresses this topic in Chapter IV.I, Land Use and Planning. See especially Impact I-2 (the potential for the proposed project to conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect) and Impact I-4 (the potential for the proposed project, together with other developments in the vicinity, to result in any adverse cumulative land use impacts).

This master response addresses all or part of the following comments: 3-1, 3-16, 3-17, 3-19, 3-20, 3-21, 3-25, 3-26, 9-15, 9-17, 16-61, 16-69, 16-95, 16-96, 16-118, 16-148, 16-168, 17-4, 17-6, 17-26, 24-1, 24-3, 24-8, 24-30, 25-28, 25-30, 31-5, 31-11, 37-1, 50-5, 52-38, 52-39, 52-40, 58-16, 66-9, 83-1, 84-7, 87-3, 88-14, 95-16, 95-17, 108-1, 108-4, 113-1 117-4, 117-8, 122-22, 133-2, 133-3, 142-5, 148-8, 148-9, 151-11, 151-12, 173-3, 174-4, 179-15, 179-21, and 179-22.

The comments suggest that the proposed project's uses are inconsistent with the Local Coastal Program and/or the General Plan, are out of character with the waterfront, and are inappropriate waterfront uses. The comments specifically state that:

- The Draft EIR should be supplemented to include a quantitative analysis of the bulk and scale of development in the surrounding area and in the proposed project, and a determination of whether the project is visually compatible.
- The project is in direct conflict with the General Plan and/or the Local Coastal Program. Some proposed uses, such as the shopping center, are in direct conflict with uses recommended in the area. The project does not include coastal-dependent or even coastal-related businesses, for which the land along the waterfront is reserved. The uses proposed are the lowest priority uses for the Coastal Zone.
- The retail plan does not increase public access to the waterfront, as required by the Local Coastal Program.
- Other coastal-dependent, or at least -related, uses should be analyzed as Alternatives in the EIR, especially recreation- and tourism-related uses, given they would comply with the Local Coastal Program.
- If the proposed project's approvals are obtained but the development does not move forward, the City would be left with a piece of property zoned for uses specific to this project and not consistent with the Local Coastal Program.

A number of comments on the Draft EIR have raised concerns that the proposed project would be inconsistent with the adopted Local Coastal Program (LCP). This is acknowledged in the Draft EIR, and the project description states that the project would require an amendment to the adopted LCP. The potential physical impacts of the project's inconsistency with the LCP are discussed and analyzed in Chapter IV.I, Land Use and Planning, of the Draft EIR; the majority of

issues raised in the comments are policy questions that do not fall within the scope of CEQA but are nonetheless addressed in this Master Response.

This master response will:

- summarize the discussion in the Draft EIR concerning the Local Coastal Program
- summarize the Draft EIR discussion of the existing and proposed amendments to the Land Use Plan and the Implementation Plan
- discuss what uses would be permitted should the proposed LCP amendment be denied
- examine the proposed LCP Amendment for conformity with Chapter 3 of the Coastal Act
- discuss the range of allowed uses of the property should the LCP amendment be approved

## **Response**

### ***Local Coastal Program***

The California Coastal Commission was established by voter initiative in 1972 (Proposition 20) and made permanent by the Legislature in 1976. The mission of the Coastal Commission, as the lead agency responsible for carrying out California's coastal management program, is to plan for and regulate development in the coastal zone consistent with the policies of the California Coastal Act. In order to carry out the policies of the Coastal Act, each of the 73 cities and counties in California's coastal zone were charged with preparing and implementing Local Coastal Programs (LCPs) to carry out the Coastal Act's mandate to protect coastal resources and maximize public access to the shoreline. These LCPs established the allowable kinds, locations, and intensities of new development in the coastal zone, and set out other development limitations, to achieve the objectives of the Coastal Act. Once each Local Coastal Program was certified, responsibility for implementation of State Coastal Act provisions reverted to the local government and the Coastal Commission assumed a secondary role, conducting appeals of local permit decisions under limited circumstances, considering proposed amendments to LCPs, providing technical assistance and advice, monitoring local permits to assure compliance, and performing five-year evaluations of LCPs.

According to the Coastal Act, a Local Coastal Program is divided into two components: (1) the Land Use Plan (LUP), which outlines the existing conditions, permitted uses, and policies needed to achieve the goals of the Coastal Act and includes the general plan map; and (2) the Implementation Plan (IP), which includes zoning regulations, the zoning map and specific coastal zone ordinances to implement the policies of the LUP. The proposed project would require an amendment to both the LUP and the IP.

LCPs have become an important part of California's coastal zone management program, and they need to be updated to remain effective. Significant changes have occurred that directly impact efforts to protect California's coast. Population and development patterns have changed, leading to new pressures on resources and public access. New nonpoint source pollution laws are in

place, and scientists have learned more about sensitive species, habitats and other coastal resources. Global warming and sea level rise are concerns are now under consideration.

Successfully providing for a community's need to grow and thrive while protecting resources depends on the ability to address such changes in planning documents. If an LCP is out of sync with current conditions, knowledge, and practices, the potential for land use conflicts is exacerbated, and it is less likely either appropriate development or coastal resource protection can be achieved.

In May 1984, the City of Eureka adopted its LCP in accordance with the California Coastal Act. The LCP governs land use and development within the coastal zone, superseding the land use provisions of the 1977 General Plan and preexisting zoning in the coastal zone. In the 1990s, the City of Eureka updated its LUP through a citywide General Plan update. The City determined that the most effective way to address the separate legal requirements of State General Plan law and the California Coastal Act was to combine the goals, policies, and programs addressing these requirements (i.e., non-coastal and coastal) into a single, unified document. The current City of Eureka LUP, as an integral component of the citywide General Plan for Eureka, was certified by the Coastal Commission on September 9, 1998, and adopted by the City Council on February 23, 1999.

The adopted General Plan and LUP have a planning horizon of 15 to 25 years, and together they formalize a long-term vision for the physical evolution of Eureka. To achieve their purposes, the General Plan and LUP must be flexible enough to respond to changing conditions and at the same time specific enough to provide predictability and consistency in guiding day-to-day land use and development decisions. Over the years, conditions and community needs change and new opportunities arise; the General Plan and LUP need to keep up with these changes and new opportunities.

### ***Existing and Proposed Land Use Plan and Implementation Plan Designations***

The project site currently has three LUP designations: Light Industrial (LI), Highway Service Commercial (HSC), and Public/Quasi-Public (PQP). The implementing zoning designations are Limited Industrial (ML), Service Commercial (CS), and Public (P). The Draft EIR Figure IV.I-1 shows the existing and proposed land use designations, Figure IV.I-2 shows the existing and proposed zoning designations, and the Table IV.I-1 shows the existing and proposed zoning and land use designations by assessor parcel number.

Under the proposed project, approximately 3.50 acres between the northerly extension of the west line of Broadway to A Street and between Second Street and Waterfront Drive, the LCP would not be amended and would continue to have a general plan designation of Light Industrial (LI) with a corresponding zoning of Limited Industrial (ML).

Approximately 3.54 acres from west of the northerly extension of the west line of Broadway to the proposed Fourth Street extension and between Waterfront Drive and the proposed Second

Street extension, the proposed LCP amendment would include a general plan designation of Waterfront Commercial (WFC) with a corresponding zoning of Waterfront Commercial (CW).

Approximately 5.91 acres west of Broadway, south and east of the proposed Second Street extension and north of the proposed Fourth Street extension, the proposed LCP amendment would include a general plan designation of Professional Office (PO) with a corresponding zoning of Office and Multi-Family Residential (OR).

Approximately 16.65 acres south of the proposed Fourth Street extension to the south property line and between the eastern edge of the proposed wetland restoration area and the west line of Broadway, the proposed LCP amendment would include a general plan designation of General Service Commercial (GSC) with a corresponding zoning of Service Commercial (CS).

Approximately 13.13 acres for the proposed wetland restoration area, the LCP amendment would have a general plan designation of Water - Conservation (WC) with a corresponding zoning of Conservation Water (WC).

### ***Permitted Uses under Existing Land Use Plan and Implementation Plan Designations***

There are three existing zoning designations covering the property: Limited Industrial (ML), Service Commercial (CS), and Public (P). The uses of the ML and CS zones are described below in the section discussing the allowed uses of the site should the proposed LCP amendment be approved.

Pursuant to Eureka Municipal Code Section 156.079, the P Public District is included in the zoning regulations to provide a procedure for the orderly establishment of public facilities, expansion of their operations, or changes in the use of lands owned by governmental agencies. In addition to the uses and structures that existed on the property as of the adoption date of the regulations, the P District principally permits the following nineteen uses:

- (1) Airports;
- (2) Animal shelters;
- (3) Boat harbors and wharves;
- (4) Cemeteries;
- (5) Corporation yards;
- (6) Fire stations;
- (7) Hospitals;
- (8) Libraries;
- (9) Offices;
- (10) Police stations;
- (11) Power stations;
- (12) Pumping stations;

- (13) Public recreation facilities, including parks, playgrounds, zoos, and golf courses;
- (14) Public buildings and grounds;
- (15) Public schools, including nursery, elementary, junior high, and high schools, colleges and universities;
- (16) Reservoirs;
- (17) Sewage treatment plants;
- (18) Storage tanks;
- (19) Uses which are accessory and incidental to a permitted use.

The following three uses are permitted upon the granting of a use permit:

- (1) Oil and gas pipelines;
- (2) Parking facilities located on a site separated from the use which the facilities serve;
- (3) Storage or processing of materials or equipment accessory to other permitted or conditional uses.

As discussed in the Draft EIR, the subject property is privately owned. Although Section 156.079, states that the P District provides for the development of lands owned by governmental agencies, the regulations would not prohibit a private owner of lands in the P District from developing the lands with any of the uses listed above. If the proposed LCP amendment is denied and the property remains zoned Public, and if the private property owner were to propose the development of any of the uses allowed in the P District, the proposal would be reviewed by the city for conformance with the applicable adopted regulations. But, because the property is privately owned, the City cannot dictate to the private property owner which of the above uses the owner must develop. Even though the property is in the P District, it does not eliminate the private property rights of the owner.

### ***Proposed LCP Amendment Conformance with Chapter 3***

Although an LCP amendment is required for the proposed project, approval of the LCP amendment is not approval of the proposed project. Conceivably, the LCP amendment could be approved and the proposed project denied. As discussed in the Draft EIR and in this master response, the proposed LCP amendment includes amendments to both the Land Use Plan (LUP) and the Implementation Plan (IP). The amendments to the LUP include both mapping amendments and a text amendment, the amendments to the IP are mapping only. The Coastal Act sets the standards of review for the LUP and the IP amendments.

The standard of review for LUP amendments is found in Section 30512 of the Coastal Act, which requires the Coastal Commission to certify a Land Use Plan amendment if it finds that the amendment meets the requirements of, and is in conformity with, the policies of Chapter 3 of the Coastal Act. Chapter 3 of the Coastal Act, commencing with Section 30200, contains seven Articles: General; Public Access; Recreation; Marine Environment; Land Resources; Development; and Industrial Development.

In April 2007, the Coastal Commission issued a report titled *Updating the LCP—A Place to Start*. The document provides guidance to local governments about issues that should be addressed in an LCP update and it highlights recent Coastal Commission decisions and policy concerns. Although the document is intended to guide an LCP update, it is also relevant to LCP amendments. The guide broadens the seven Articles of Chapter 3 into a list of ten topics for discussion. The ten topics recommended by the Coastal Commission for discussion are:

- Public Access
- Recreation and Visitor Serving Facilities
- Water Quality
- Natural Resources (ESHA, Wetlands, etc.)
- Agricultural Resources
- Planning and Locating New Development
- Scenic Resources
- Coastal Hazards
- Shoreline Erosion and Protective Structures
- Energy, Industrial and Other Coastal Development

This master response will divide discussion of the proposed LUP mapping amendments into the ten topics listed above. The discussion will focus on conformance of the LUP mapping amendments with Chapter 3 of the Coastal Act, not the subsequent development project's compliance with Chapter 3.

### **Public Access**

Providing maximum public access to the coastal and public recreation areas is a fundamental goal of the Coastal Act. This goal includes the protection of existing and the provision of new public access to and along the shoreline with new development when warranted. Eureka's adopted LCP includes such provisions by requiring that new development protect existing and provide new vertical and lateral public access to the shoreline. The proposed LCP amendment would change the LUP designations of the property for the purpose of facilitating private development of the subject property. A subsequent section of this master response lists the types of uses that would be allowed if the LUP mapping amendments were approved. The proposed LCP amendment, however, would make no changes to the adopted LCP policies or regulations pertaining to coastal public access. Therefore, the existing coastal public access policies and regulations would be equally applicable regardless if the LUP mapping amendments were approved or not.

Some comments on the Draft EIR suggest that mitigation should be required to provide coastal public access. There are no significant impacts to public access identified in the Draft EIR and therefore, no mitigation is required. In addition, the subject property is not located on the "coast" and is separated from the shoreline of Humboldt Bay by Waterfront Drive. Therefore, regardless of the LUP mapping amendments, the City cannot require the Project Applicant to develop access to or along the shoreline because the Applicant has no control of the lands upon which such shoreline access would be developed. Nonetheless, there already exists in the area public access

to and along the shoreline including, but not limited to, Waterfront Drive, the public parking area on Marina Way, and the public parking lot and boat launch at the marina. Furthermore, if the LCP amendment was approved, and if subsequently the proposed project was approved, access to Waterfront Drive from U.S. 101 (Broadway) would be improved by construction of Fourth Street from Broadway to Waterfront Drive through the project site; thereby improving public access to the coast.

### **Recreation and Visitor Serving Facilities**

The Coastal Act emphasizes protection of oceanfront land suitable for recreation uses and with respect to visitor serving uses and notes in Section 30222 that “The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.” The City’s adopted LCP includes a policy (1.N.6) to “ensure that sufficient area is provided for parks and open space in all of the City’s residential neighborhoods...”

As noted above, the project site is not waterfront or oceanfront and is separated from Humboldt Bay by two roads, a railroad line, and waterfront property already in public ownership. Consequently, the project would not negatively affect the ability of the City to provide water-oriented and other related recreation uses and publicly owned waterfront property is available in the immediate project site vicinity to meet that type of land use demand. In addition, the proposed wetland reserve and associated open space uses in the southwest portion of the project site would in effect allocate sufficient area to parks and open space to satisfy City recreation policies related to residential neighborhoods.

With respect to visitor serving facilities, the proposed LUP amendments would specifically provide for uses that are considered visitor serving, such uses could include the proposed 12,500 square foot museum in the northern portion of the site and some of the restaurant and retail uses. As noted later in this Master Response, the proposed zoning designations (e.g. Waterfront Commercial, Service Commercial, Conservation Water District) would allow for a wide range of potential future uses, including many that could be considered visitor serving.

Therefore, the proposed LUP amendment is consistent with this provision of Chapter 3.

### **Water Quality Protection**

The Coastal Act requires the protection and enhancement of marine and coastal water quality. The adopted LCP provides the planning and regulatory framework for addressing water quality impacts and it includes policies, ordinances, and programs that establish Best Management Practices (BMPs) for new development both during construction and for the life of a project. The proposed LUP amendments do not alter the adopted LCP with regard to any policy, program or regulation concerning marine and coastal water quality. Therefore, the proposed LUP amendment is consistent with this provision of Chapter 3.

### **Protecting Sensitive Habitats and Other Natural Resources**

The Coastal Act sets high standards for the protection of Environmentally Sensitive Habitat Areas (ESHAs), wetlands, riparian areas, and other natural resources in the coastal zone. The City's adopted LCP includes policies and regulations that require the identification of ESHAs, wetlands, etc. through an evaluation of existing known resources at the time of proposed development regardless of a site's inclusion or lack thereof on a resource map.

The proposed LUP amendments would allow the development of a broader range of uses than is currently allowed. However, the identification of ESHAs is not dependent on the range of uses, but the actual existence of ESHAs; and any area that meets the definition of ESHA must be given all the protection provided for in the Coastal Act regardless of whether the proposed LUP amendment is approved or not.

As discussed in the Draft EIR and in Master Response 4, the property is under a Clean-Up and Abatement Order from the Regional Water Quality Control Board. The implementation of the Interim Remedial Action Plan (IRAP) would result in the loss of existing scattered low-quality wetlands on the site. The IRAP includes onsite mitigation of the impacted wetlands, and the proposed LUP amendment would facilitate such mitigation by designating approximately 13.13 acres "Conservation Water" for the purpose of creating a wetland restoration area.

### **Protecting Agricultural Resources**

The adopted LCP includes policies and ordinances to ensure the long term protection of prime coastal agricultural and rural lands through such means as agricultural use designations, minimum parcel sizes, designation of stable boundaries separating urban and rural areas and restrictions on divisions of lands outside the urban limit line. As discussed in the Draft EIR, there are no prime coastal agricultural lands on the project or in the vicinity; therefore, the proposed LUP mapping amendment would not convert agricultural lands to non-agricultural uses.

### **Planning and Locating New Development**

The proposed LUP mapping amendments would alter the allowed uses of the property. The most prominent LUP mapping amendment would change the lands designated Public-Quasi Public (PQP) to a combination of designations that would support commercial, office & residential and open space uses. Some comments on the Draft EIR assert that because the proposed project is not a coastal-dependent development or use, it should not be approved; by extension, the commenters evidently believe that because the LUP amendment would not restrict future development or uses to coastal-dependent development, the LUP amendment should not be approved. However, as discussed in the Draft EIR and this master response, the proposed LUP designations would, in fact, allow priority uses including coastal-dependent development, in addition to a broad range of other uses.

The Coastal Act, Section 30101 defines "coastal dependent development or use" as any development or use which requires a site on, or adjacent to, the sea to be able to function at all. As stated previously, the subject property is not on or adjacent to the sea, therefore, it is arguable whether coastal-dependent uses could even be developed on the property (regardless of the LUP

designation). Priority uses including public accessways and related support facilities, water-oriented public and private recreation, coastal-dependent industrial operations.... and this LCP amendment doesn't preclude the development of coastal dependant land uses.

Some comments on the Draft EIR state that the proposed project should include more housing. Under the proposed LUP designations of Waterfront Commercial (WFC), Professional Office (PO) and General Service Commercial (GSC), the residential uses permitted in the multi-family residential districts would be allowed; the land area for these three designations is about 26 acres. Therefore, the LUP amendment could facilitate additional housing should the developer chose to do so.

Given the site characteristics and constraints, ownership, and applicable policies, there appear to be no other higher-priority uses that could be more effectively provided for at the project site in a more expeditious timeframe. Please also see response to comment 3-25.

### **Protecting Coastal Scenic Resources**

The adopted LCP provides for the protection of significant public views to and along the shoreline and critical scenic views. The Draft EIR analyzes the potential impacts of the proposed project on coastal and scenic views and vistas. Regardless of the LUP general plan designation, any development of the property would have the same or similar impacts as discussed and analyzed in the Draft EIR. Therefore, the proposed LUP mapping amendments would have no change on how development of the site would affect coastal scenic resources.

### **Managing Coastal Hazards**

Managing coastal hazards is a key component of the coastal program. The adopted LCP aims to reduce risks to life and property and avoid substantial changes to natural landforms, and it contains hazard policies that direct the siting and design of new development so as to minimize risk to life and property as well as impacts to coastal resources. The proposed LUP amendments would not amend any of the existing policies or regulations pertaining to coastal hazards. Any development, regardless of the LUP General Plan designation, would be required to comply with the policies and regulations protecting coastal landforms and guarding against risks to life and property.

### **Shoreline Erosion & Protective Structures**

As discussed in the Draft EIR and in this master response, the subject property is not located on the shoreline and it does not have any coastal bluff faces, sandy and rocky beach areas, or other sensitive coastal resources that would require protection through the construction of shoreline erosion or protective measures. The proposed restoration and enhancement of Clark Slough on the project site could entail some limited erosion control structures at the point that it would pass under Waterfront Drive. But the LUP amendment would not increase the potential for shoreline erosion or impact protected structures.

### **Energy and Industrial Development**

The adopted LCP contains policies for the expansion and location of energy and coastal-dependent industry. The proposed LUP amendments would not amend any of the policies or regulations pertaining to the siting, development or expansion of energy or coastal-dependent industrial development.

By definition, coastal-dependent industrial development would be industrial development that requires a site on, or adjacent to, the sea to be able to function at all. The subject property is not located on or adjacent to the sea—it is separated from Humboldt Bay by Waterfront Drive; therefore, it is arguable whether coastal-dependent industrial development could be developed on the property regardless of the LUP land use designation.

With regard to the proposed LUP text amendment, applying the land use designation “Professional Office” would require an amendment to Table B-1 of Appendix B of the General Plan Policy Document. Appendix B is titled “Coastal Land Use Policy,” and it addresses the coastal planning requirements established by the California Coastal Act. Table B-1 is a matrix that lists the (inland) general plan designations, the comparable LUP plan designation and the corresponding Implementation Plan zoning designation. It also lists the purposes, principal uses and conditional uses for each LUP plan designation.

Under Table B-1, there is no corresponding LUP plan designation for the (inland) general plan designation of Professional Office (PO). However, the Coastal Zoning Regulations (Section 156.071) include the Office and Multi-Family Residential zone district (OR), and pursuant to Table 1-1 of the adopted General Plan, the corresponding zoning district for the Professional Office land use designation is the OR district.

Table B-1 does include a LUP plan designation of Core-Residential Office (C-RO) which has as its implementing ordinance the Office and Multi-Family Residential zone district (OR). The portion of the City’s core area that is in the coastal zone between roughly “I” and “O” Streets and First and Third Streets has an LUP designation of C-RO with a corresponding zone designation of OR. However, because the corresponding LUP designation for the OR zone is only in the core area, the OR zone cannot be expanded to lands within the coastal zone but outside the core area. The proposed amendment to Table B-1 would allow the expansion of the OR zone within the coastal zone and outside the core area of the city through the use of the Professional Office LUP designation. It is important to note that the proposed amendment to Table B-1 would not permit a use that is not already allowed in the coastal zone.

The proposed amendment to General Plan Table B-1 with strikethrough/underline is shown below.

With regard to the Implementation Plan amendments, pursuant to Coastal Act Section 30513 the Coastal Commission may only reject IP amendments if they do not conform with, or are inadequate to carry out, the provisions of the certified Land Use Plan. Because the proposed IP mapping amendments would be specifically designed to conform with and carry out the proposed LUP mapping amendments, this master response will not include a detailed discussion of the proposed IP amendments.

<b>GP Designation(s)</b>	<b>LCP-LUP Designation(s)</b>	<b>LCP-IP (Zoning) Designation(s)</b>	<b>Purpose(s)</b>	<b>Principal Use(s)</b>	<b>Conditional Uses</b>
PO Professional Office	<u>No corresponding LUP designation PO Professional Office</u>	<u>N/A OR Office/Multi- Family Residential</u>	<u>N/A To provide opportunities for offices of a commercial character to locate outside commercial districts and to provide opportunities for compatible mixed uses such as commercial and single and multiple family dwellings.</u>	<u>N/A Single family residences, multi- family residences, administrative, business, and professional offices.</u>	<u>N/A Hotels, motels, boarding houses, private institutions, retail services compatible with principal uses.</u>

**Range of Allowed Uses Under Proposed LCP Amendment.** If the LCP amendment is approved and certified by the Coastal Commission, the land use and zoning designations would change as described in the Draft EIR and summarized above. If the LCP is amended, the uses allowed in each District would not be limited to only those uses proposed for the project, rather the full range of permitted and conditional uses for each District would be allowed.

As evident by the following list, an array of permitted and conditional uses would be possible under each designation. It would be unreasonable and speculative to analyze what uses could be realistically proposed for the project site in the future, should the LCP amendment be approved but the proposed project not go forward. In addition, any different subsequent project would be subject to CEQA environmental review and an updated regulatory approved process.

Below is the list of principally and conditionally permitted uses for each District proposed in the LCP amendment.

### **Limited Industrial (ML)**

#### ***Permitted uses.***

- (1) Manufacturing, assembling, compounding, packaging, and processing of articles or merchandise from the following previously prepared materials: asbestos, bone, canvas, cellophane, cellulose, cloth, cork, feathers, felt, fiber, and synthetic fiber, fur, glass, hair, ink, horn, leather, paint (not employing a boiling process), paper, plastics, precious or semi-precious metals or stones, rubber and synthetic rubber, shells, straw, textiles, tobacco, and wood (not including a planing mill or saw mill);
- (2) Manufacturing, assembling, compounding, packaging, and processing cosmetics, drugs, pharmaceuticals, perfumes, perfumed toilet soap (not including refining or rendering of fats or oils), and toiletries;
- (3) Manufacture of ceramic products, such as pottery, figurines, and small glazed tile, utilizing only previously pulverized slag, providing that kilns are fired only by electricity or gas;

- (4) Manufacture and maintenance of electric and neon signs, commercial advertising structures, and light sheet metal products, including heating, and ventilating ducts and equipment, cornices, eaves, and the like;
- (5) Manufacture of scientific, medical, dental, and drafting instruments, orthopedic and medical appliances, optical goods, watches and clocks, electronics equipment, precision instruments, musical instruments, and cameras and photographic equipment, except film;
- (6) Assembly of small electric appliances, such as lighting fixtures, irons, fans, toasters, and electric toys, but not including refrigerators, washing machines, dryers, dishwashers, and similar home appliances;
- (7) Assembly of electrical equipment, such as radio and television receivers, phonographs, and home motion picture equipment, but not including electrical machinery;
- (8) Manufacture and assembly of electrical supplies, such as coils, condensers, crystal holders, insulation, lamps, switches, and wire and cable assembly, provided no noxious or offensive fumes or odors are produced;
- (9) Manufacture of cutlery, hardware, and hand tools, die and pattern making, metal stamping, and extrusion of small products, such as costume jewelry, pins and needles, razor blades, bottle caps, buttons, and kitchen utensils;
- (10) Manufacturing, canning, and packing of food products, including fruits and vegetables, but not including meat products, pickles, sauerkraut, vinegar, or yeast, dehydrating of garlic or onions, or refining or rendering of fats and oils;
- (11) Processing, packing, and canning of seafood for human consumption, not including processing seafood for fish oils;
- (12) Bakeries;
- (13) Blacksmith shops;
- (14) Boat buildings;
- (15) Bottling works;
- (16) Building material storage yards;
- (17) Bus depots;
- (18) Cold storage plants;
- (19) Contractors' equipment yards;
- (20) Dairy products plants;
- (21) Freight forwarding terminals;
- (22) Furniture manufacture;
- (23) Ice manufacture;
- (24) Janitorial services and supplies;
- (25) Kennels;
- (26) Laboratories;
- (27) Laundry and cleaning plants;
- (28) Lumber yards, not including planing mills or saw mills;

- (29) Machine shops not involving the use of drop hammers, automatic screw machines, or punch presses with a rated capacity of over 20 tons;
  - (30) Mattress manufacture;
  - (31) Metal finishing and plating;
  - (32) Offices, not including medical or dental offices;
  - (33) Printing, lithographing, and engraving;
  - (34) Public utility and public service pumping stations, equipment buildings and installations, service yards, power stations, drainage ways and structures, storage tanks, and transmission lines;
  - (35) Railroad stations;
  - (36) Repair shops, including electrical, glass and automotive;
  - (37) Sheet metal shops;
  - (38) Storage yards for commercial vehicles;
  - (39) Textile, knitting and hosiery mills;
  - (40) Trucking terminals;
  - (41) Veterinarians' offices and small animal hospitals;
  - (42) Warehouses, except for the storage of fuel or flammable liquids;
  - (43) Welding shops;
  - (44) Woodworking shops and cabinet shops;
  - (45) Pickup truck camper and canopy assembly;
  - (46) Retail sales establishments with single occupant floor areas of 40,000 square feet or larger;
  - (47) Wholesale stores with single occupant floor areas of 40,000 square feet or larger and public utility building, and uses;
  - (48) Parking lots;
  - (49) Accessory structures and uses located on the same site as a permitted use.
- ('63 Code, Section 10-5.29162)
- (50) Emergency shelters pursuant to the requirements and regulations contained in Section 156.041 of this chapter.

***Conditional uses.***

- (1) The following conditional uses shall be permitted upon the granting of a use permit in accord with the provisions of Sections 155.280 through 155.299 of this title:
  - (a) Accessory structures and uses located on the same site as a conditional use;
  - (b) Motor vehicle wrecking yards and scrap metal yards;
  - (c) Oil and gas pipelines;
  - (d) Recreational vehicle parks in accordance with the regulations prescribed in Sections 155.230 through 155.232 of this title.
  - (e) Storage of fuel and flammable liquids;
  - (f) Storage of logs or wood chips;

- (g) Gymnastics schools and health clubs.
- (2) Any of these uses listed as permitted uses in the MG District provided that, on the basis of the use permit application and evidence submitted, the Planning Commission makes the following findings:
  - (a) The consideration of all determinable characteristics of the use that is the subject of the application indicates that the use has the same essential characteristics as the uses listed as permitted uses in the ML District with respect to the method of operations, type of process, materials, equipment, structures, storage, and appearance;
  - (b) That the use will conform with each of the principles and standards prescribed for uses in the ML District;
  - (c) That the use will not create significantly, more vehicular or rail traffic than the volumes normally created by the permitted uses of the ML District.

### **Waterfront Commercial (CW)**

#### ***Permitted uses.***

- (1) Docks, piers and wharfs;
- (2) Boat launching;
- (3) Commercial fishing facilities;
- (4) Recreational boating facilities;
- (5) Public and commercial recreation;
- (6) Hotels and motels;
- (7) 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;
- (8) Offices related to or dependent upon coastal-dependent or coastal-related uses;
- (9) Ice vending stations;
- (10) Marine and boat sales, services and repairs;
- (11) Coastal-dependent and coastal-related uses.

#### ***Conditional uses.***

- (1) 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 Section 155.280 through 155.299 of this title. The Applicant shall demonstrate and the city shall find that granting of a use permit will not diminish recreational or visitor-serving opportunities.
  - (a) Accessory uses and structures located on the same site as a permitted use;
  - (b) Administrative, business, and professional offices, except medical and dental offices;
  - (c) Art and artists' supply stores;
  - (d) [Reserved]
  - (e) Arts and crafts schools and colleges;

- (f) Bakeries, including baking for sale on the premises only;
- (g) Banks;
- (h) Barber shops and beauty shops;
- (i) Bus depot;
- (j) 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;
- (k) Business, professional, and trade schools and colleges;
- (l) Charitable institutions;
- (m) Churches, parsonages, parish houses and other religious institutions;
- (n) Christmas tree sales lots;
- (o) Cleaning, coin-operated;
- (p) Clothing and costume rental establishments;
- (q) Clothing stores;
- (r) Conference center;
- (s) Dairy products manufacturing for retail sales on the premises only;
- (t) Dance halls;
- (u) Department stores;
- (v) Dry goods stores;
- (w) Finance companies;
- (x) Florists;
- (y) Food stores and supermarkets;
- (z) Fur shops;
- (aa) Furniture stores;
- (bb) Garden shops;
- (cc) Gunsmiths;
- (dd) Gymnasiums;
- (ee) Hardware stores;
- (ff) Ice storage houses;
- (gg) Interior decorating shops;
- (hh) Jewelry stores;
- (ii) Laundries, self-service type;
- (jj) Leather goods and luggage stores;
- (kk) Liquor stores;
- (ll) Locksmiths;
- (mm) Massage and physical culture studios;
- (nn) Medical and dental offices;
- (oo) Medical and orthopedic appliance stores;
- (pp) Meeting halls;
- (qq) Mens' furnishing stores;
- (rr) Messengers' offices;
- (ss) Millinery shops;
- (tt) Music and dance studios;

- (uu) Music stores;
- (vv) Musical instrument repair shops;
- (ww) Office and business machine stores;
- (xx) Offices and office buildings;
- (yy) Oil and gas pipelines;
- (zz) Optician and optometrical shops;
- (aaa) Parking facilities, including fee parking facilities;
- (bbb) Passenger railroad stations;
- (ccc) Pet and bird stores;
- (ddd) Picture framing shops;
- (eee) Post offices;
- (fff) Prescription pharmacies and dental and optical laboratories;
- (ggg) Pressing establishments;
- (hhh) Printing shops, including lithographing and engraving;
- (iii) Radio and television broadcasting studios;
- (jjj) Realtors and real estate offices;
- (kkk) Recreational vehicle parks;
- (lll) 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;
- (mmm) Saving and loan offices;
- (nnn) Scientific instrument shops;
- (ooo) Skating rinks within buildings;
- (ppp) Sporting goods stores;
- (qqq) Sports arenas within buildings;
- (rrr) Stamp and coin stores;
- (sss) Stationery stores;
- (ttt) Stenographic services;
- (uuu) Tailor and dressmaking shops;
- (vvv) Telegraph offices;
- (www) Television and radio sales and repair stores;
- (xxx) Theaters and auditoriums within buildings;
- (yyy) Toy stores;
- (zzz) Variety stores;
- (aaaa) Warehouses;
- (bbbb) Watch and clock repair shops;
- (cccc) Wholesale establishments without stocks;
- (dddd) Women's apparel accessory stores;
- (eeee) Public utility service pumping stations, power stations, equipment buildings and installations, drainageways and structures, storage tanks, and transmission lines found by the Planning Commission to be necessary for the public health, safety or welfare.

**Office and Multi-Family Residential (OR)*****Permitted uses.***

- (1) Any use permitted under Section 155.053(C) of this title in RM Districts, provided that there shall be not less than 1,000 square feet of site area per dwelling unit, and provided that units not located above a permitted nonresidential use shall be subject to the requirements of usable open space per dwelling unit of the RM-1,000 District. Yards at and above the first level occupied by dwelling units shall be as required in the RM District;
- (2) Administrative, business, and professional offices;
- (3) Any other use which is determined by the Planning Commission, as provided in Sections 155.265 through 155.270 of this title, to be similar to be used listed in subsection (2) of this division;
- (4) Parking facilities, including fee parking facilities improved in conformity with the standards prescribed for required off-street parking facilities in Section 155.118 of this title; and,
- (5) Accessory structures and uses located on the same site as a permitted use.

***Conditional uses.***

- (1) Nursing homes, not including nursing homes for mental, drug addict, or liquor addict cases;
- (2) Private schools and colleges, including music and dance studios not less than 150 feet from an R District;
- (3) Public utility and public service pumping stations, power stations, equipment buildings and installations, drainageways and structures, storage tanks, and transmission lines found by the Planning Commission and to be necessary for the public health, safety, or welfare;
- (4) Accessory structures and uses located on the same site as a conditional use;
- (5) Family care homes and halfway houses;
- (6) Charitable institutions;
- (7) Churches and other religious institutions;
- (8) Nursery schools;
- (9) Private noncommercial clubs and lodges;
- (10) Mortuaries;
- (11) Motels and hotels; and,
- (12) Retail and service establishments that are compatible with and complementary to other permitted uses, including only:
  - (a) Art and artists' supply stores;
  - (b) Art galleries and stores selling objects of art;
  - (c) Banks and savings and loan offices;
  - (d) Bail bonding establishments;
  - (e) Bars not less than 150 feet from an R District;

- (f) Barber shops and beauty shops;
  - (g) Book stores and rental shops;
  - (h) Candy stores;
  - (i) Finance companies;
  - (j) Florists;
  - (k) Gift shops;
  - (l) Interior decorating shops;
  - (m) Prescription pharmacies provided at least 80% of the interior display area of a pharmacy shall be used for the sale of prescription or trade drugs and provided liquor shall not be sold;
  - (n) Restaurants and soda fountains, not including drive-in establishments, not less than 150 feet from an R District;
  - (o) Telegraph offices; and,
  - (p) Travel agencies.
- (13) Timber harvest of less than three acres.

**Service Commercial (CS)**

***Permitted uses.***

- (1) Accessory uses and structures located on the same site as a permitted use;
- (2) Accessory uses and structures located on the same site as conditional use;
- (3) Addressograph services;
- (4) Administrative, business, and professional offices, except medical and dental offices;
- (5) Art and artists' supply stores;
- (6) Art galleries and stores selling objects of art;
- (7) Arts and crafts schools and colleges;
- (8) Auction rooms;
- (9) Auction establishments, including outdoor displays;
- (10) Ambulance services;
- (11) [Reserved]
- (12) [Reserved]
- (13) [Reserved]
- (14) [Reserved]
- (15) [Reserved]
- (16) Automobile rental agencies;
- (17) Automobile repairing, overhauling, rebuilding, and painting;
- (18) Automobile (new car) sales and services, including used car sales incidental to new car sales;
- (19) Automobile (used car) sales;

- (20) Automobile supply stores;
- (21) Automobile upholstery and top shops;
- (22) Automobile washing, including the use of mechanical conveyors, blowers, and steam cleaners;
- (23) Bail bonds;
- (24) Bakeries;
- (25) Bakeries, including baking for sale on the premises only;
- (26) Banks;
- (27) Banquet rooms;
- (28) Barber shops and beauty shops;
- (29) Bars;
- (30) Beverage distributors;
- (31) Bicycle shops;
- (32) Blacksmith shops not less than 300 feet from an R or OR District;
- (33) Blueprint and photostat shops;
- (34) Boat sales, services, and repairs;
- (35) Book stores and rental libraries;
- (36) Bookbinding;
- (37) Bottling works;
- (38) Bowling alleys;
- (39) Building materials' yards and other than gravel, rock, or cement yards not less than 300 feet from an R or OR District;
- (40) Bus depots, provided buses shall not be stored on the site and no repair work or servicing of vehicles shall be conducted on the site;
- (41) Business, professional, and trade schools and colleges;
- (42) Cabinet shops;
- (43) Candy shops;
- (44) Carpenter shops;
- (45) Carpet and rug cleaning and dyeing;
- (46) Catering establishments;
- (47) Christmas tree sales lots;
- (48) Cigar stores;
- (49) Cleaning and dyeing;
- (50) Cleaning and dyeing, including the use of one synthetic dry cleaning machine using nonexplosive solvents and having a capacity of not more than 40 pounds per cycle only;
- (51) Cleaning, coin-operated;

- (52) Clothing and costume rental establishments;
- (53) Clothing stores;
- (54) Cold storage plants;
- (55) Columbariums and crematories not less than 300 feet from an R or OR District;
- (56) Contractors' equipment rental or storage yards not less than 300 feet from an R or OR District;
- (57) Dairy products plants;
- (58) Dairy products manufacturing for retail sales on the premises only;
- (59) Dance halls;
- (60) Delicatessen stores;
- (61) Department stores;
- (62) Diaper supply services;
- (63) Drugstores;
- (64) Dry goods stores;
- (65) Electrical appliance sales and repair stores, provided repair services shall be incidental to retail stores;
- (66) Electrical repair shops;
- (67) Employment agencies;
- (67.1) Emergency shelters pursuant to the requirements and regulations contained in Section 156.041 of this chapter.
- (68) Feed and fuel stores;
- (69) Finance companies;
- (70) Florists;
- (71) Food lockers;
- (72) Food stores and supermarkets;
- (73) Freight forwarding terminals;
- (74) Frozen food distributors;
- (75) Fur shops;
- (76) Furniture stores;
- (77) Garden shops;
- (78) Gift shops;
- (79) Glass replacement and repair shops;
- (80) Golf driving ranges;
- (81) Gunsmiths;
- (82) Gymnasiums;
- (83) Hardware stores;

- (84) Heating and ventilating shops;
- (85) Hobby shops;
- (86) Hospital equipment;
- (87) Hotels and motels;
- (88) Household appliance stores;
- (89) Household repair shops;
- (90) Ice storage houses;
- (91) Ice vending stations;
- (92) Interior decorating shops;
- (93) Janitorial services and supplies;
- (94) Jewelry stores;
- (95) Laboratories;
- (96) Laundry plants;
- (97) Laundries, self-service type;
- (98) Leather goods and luggage stores;
- (99) Linen supply services;
- (100) Liquor stores;
- (101) Live storage, killing, or dressing of poultry or rabbits for retail sale on premises not less than 300 feet from an R or OR District;
- (102) Locksmiths;
- (103) Lumberyards, not including planing mills or saw mills, not less than 300 feet from an R or OR District;
- (104) Machinery sales and rentals;
- (105) Massage and physical culture studios;
- (106) Mattress repair shops;
- (107) Marine sales, services, and repairs;
- (107.1) Medical and dental offices;
- (108) Medical and orthopedic appliance stores;
- (109) Meeting halls;
- (110) Men's' furnishing stores;
- (111) Millinery shops;
- (112) Motorcycle sales and services;
- (113) Mortuaries;
- (114) Motels and hotels;
- (115) Music and dance studios;
- (116) Music stores;

- (117) Musical instrument repair shops;
- (118) Newsstands;
- (119) Nurseries and garden supply stores;
- (120) Nurseries and garden supply stores provided all equipment, supplies, and merchandise other than plants shall be kept within a completely enclosed building, and fertilizer of any type shall be stored and sold in packaged form only;
- (121) Office and business machine stores;
- (122) Offices and office buildings;
- (122.1) Optician and optometrical shops;
- (123) Packing and crating;
- (124) Paint, glass, and wallpaper shops;
- (125) Parcel delivery services, including garage facilities for trucks but excluding repair shop facilities and repair shop facilities;
- (126) Parking facilities, including fee parking facilities improved in conformity with the standards prescribed for required off-street parking facilities in Section 155.118 of this title;
- (127) Passenger railroad stations;
- (128) Pet and bird stores;
- (129) Phonograph record stores;
- (130) Photographic supply stores and studios;
- (131) Pickup truck camper, and canopy assembly, sales, and service;
- (132) Picture framing shops;
- (133) Plumbing, heating, and ventilating equipment showrooms with storage for floor samples only;
- (134) Plumbing shops;
- (135) Pool halls;
- (136) Post offices;
- (137) Prescription pharmacies and dental and optical laboratories;
- (138) Pressing establishments;
- (139) Printing, including lithographing and engraving;
- (140) Printing shops;
- (141) Private clubs and lodges;
- (142) Public utility and public service pumping stations, power stations, equipment buildings and installations, drainageways and structures, storage tanks, and transmission lines;
- (143) Radio and television broadcasting studios;
- (144) Realtors and real estate offices;
- (145) Refrigeration equipment;

- (146) Rental and tools, garden tools, power tools, trailers, and other similar equipment;
- (147) Residential uses permitted under permitted uses in RM Districts shall be permitted in a CS District provided the minimum size of such dwelling units shall be not less than as set forth in the Building Code and Housing Code of the city;
- (148) Riding stables;
- (149) Saving and loan offices;
- (150) Safe and vault repairing;
- (151) Scientific instrument, shops;
- (152) Secondhand stores and pawn shops;
- (153) Self-service laundries and self-service drycleaning establishments;
- (154) Septic tank and cesspool installation and service;
- (155) Service stations, including automobile, truck, and trailer rentals as accessory uses only;
- (156) Sheet metal shops;
- (157) Shoe repair shops;
- (158) Shoe stores;
- (159) Shooting galleries within buildings;
- (160) Sign painting shops;
- (161) Skating rinks;
- (162) Skating rinks within buildings;
- (163) Small animal boarding not less than 300 feet from an R or OR District;
- (164) Sporting goods stores;
- (165) Sports arenas within buildings;
- (166) Stamp and coin stores;
- (167) Stationery stores;
- (168) Stenographic services;
- (169) Stone and monument yards not less than 300 feet from an R or OR District;
- (170) Storage buildings for household goods;
- (171) Storage yards for commercial vehicles;
- (172) Swimming pool sales and services;
- (173) Tailor and dressmaking shops;
- (174) Taxidermist;
- (175) Taxicab stands;
- (176) Telegraph offices;
- (177) Television and radio sales and repair stores;
- (178) Theaters and auditoriums within buildings;

- (179) Ticket agencies;
- (180) Tire sales and service, not including retreading and recapping, or mounting of heavy truck tires;
- (181) Tire sales and service, including retreading and recapping;
- (182) Tool and cutlery sharpening or grinding;
- (183) Toy stores;
- (184) Travel agencies and bureaus;
- (185) Travelers' aid societies;
- (186) Truck and trailer rentals, sales and services;
- (187) Truck sales;
- (188) Trucking terminals not less than 150 feet from an R or OR District;
- (189) Umbrella repair shops;
- (190) Variety stores;
- (191) Vending machine services;
- (192) Veterinarians' offices and small animal hospitals, including short-term boarding of animals and incidental care, such as bathing and trimming, provided all operations are conducted entirely within a completely enclosed building which complies with the specifications of soundproof construction by the Building Inspector;
- (193) Warehouses except for the storage of fuel or flammable liquids;
- (194) Watch and clock repair shops;
- (195) Welding shops not less than 300 feet from an R or OR District;
- (196) Wholesale establishments;
- (197) Women's apparel accessory stores.

***Conditional uses.***

- (1) Accessory uses and structure located on the same site as a conditional use;
- (2) Amusement parks;
- (3) Automobile and motorcycle racing stadiums and drag strips;
- (4) Charitable institutions;
- (5) Churches, parsonages, parish houses, monasteries, convents, and other religious institutions;
- (6) Circuses, carnivals, and other transient amusement enterprises;
- (7) Drive-in theaters;
- (8) Kennels not less than 300 feet from an R or OR District;
- (9) Light industrial uses permitted in the ML Limited Industrial District;
- (10) Mobile home parks in accordance with the regulations prescribed in Sections 155.230 through 155.232 of this title;
- (11) Oil and gas pipelines;

- (12) Pony riding rings;
- (13) Prefabricated structures sales;
- (14) Racetracks;
- (15) Recreational vehicle parks in accordance with the regulations prescribed in Sections 155.230 through 155.232 of this title;
- (16) Restaurants and soda fountains, including drive-in establishments;
- (17) Riding stables;
- (18) Sports areas or stadium;
- (19) Storage yards for fuel or flammable liquids;
- (20) Veterinarians' offices and small animal hospitals, including operations not conducted within a completely enclosed building, not less than 300 feet from an R or OD District.

### **Conservation Water District (WC)**

#### ***Permitted uses***

- (1) Management for fish and wildlife habitat, and nature study.

#### ***Conditional uses.***

- (1) Aquaculture, mariculture, noriculture, and similar resource-dependent activities;
- (2) Passive recreation;
- (3) Public access facilities consistent with resource protection;
- (4) Resource restoration and enhancement;
- (5) Restoration and maintenance dredging of previously dredged navigation channels;
- (6) Boat launch ramps;
- (7) Oil and gas pipelines;
- (8) Incidental public works projects, including but not limited to, burying cables and pipes.