Exhibit A: Draft Ordinance

155.304.150 Gulch Greenways

A. **Purpose.** This section establishes standards and permitting requirements pertaining to the use and development of land within and adjacent to the City’s gulch greenways. These regulations are intended to preserve gulch greenways as a unique and valuable community asset by:

1. Protecting, and where feasible, enhancing and restoring, wildlife habitat and movement corridor values, stormwater management and flood control functions, natural and scenic character, and recreational and open space values;
2. Minimizing fragmentation of vegetation and alteration of the natural topography of gulches and the natural course of waterways, while allowing for appropriately sited and designed development and public recreation;
3. Avoiding damage to development from erosion, flooding and fire hazards; and
4. Establishing appropriate buffers between sensitive habitat and adjacent urban uses in order to avoid degradation of habitat values and functions.

B. **Relationship to Other Regulations.**

1. The requirements of this section apply in all zoning districts in addition to all other applicable provisions of the Zoning Code.
2. Whenever the provisions of these regulations conflict with or are inconsistent in application with any other regulation, the regulation most protective of natural resources will apply.
3. This section shall not be applied in a manner that supersedes state and federal environmental laws.

C. **Definitions.**

1. Bird nesting season: The period from February 1 through August 15 of each year or as defined by the California Department of Fish and Wildlife.
2. Daylighting: The unearthing of a culverted stream or other buried watercourse and restoration to more natural conditions with an open channel.
3. Disturbed area: An area that has experienced significant alteration from its natural condition as a result of legally-authorized clearing, grading, paving, construction, landscaping, or other activities, as determined by the Director.
4. Gulch Greenway: A valley or ravine that varies in size and topography, and the trees, shrubs, and herbaceous vegetation that exists or is established within, or adjacent to the valley or ravine. These vegetated corridors most often, but not always, contains a watercourse.
5. Gulch Greenway Management Area (GGMA). Any land indicated on the Gulch Greenway Management Area (GGMA) Map, as well as the following features when they are located within or along a gulch greenway, regardless of inclusion on the official map:
   a. Slopes of 20% or greater;
b. Stream channels and banks and associated FEMA mapped floodplains, not including segments of watercourses consisting entirely of a manmade drainage ditch, or other manmade drainage device or system; and

c. Wetlands; and
d. Setback areas adjacent to streams and wetlands.

6. Emergency: A sudden and/or unexpected occurrence creating a clear and imminent danger, demanding immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public services.

7. Feasible: Capable of being accomplished in a successful manner, accounting for current economic, environmental, social, and technological factors.

8. Floodplain: The relatively flat area of lowland on either side of the banks of a stream or other watercourse which has been or may be covered by water or a flood of a 500-year frequency as specified by the Army Corps of Engineers through the National Flood Insurance Program.

9. Public Utilities: Underground and overhead utilities that serve the general public, including, but not limited to, gas, electricity, telecommunications, water, sewer, and storm drains.

10. Riparian vegetation: Vegetation associated with a watercourse and relying on the higher level of water provided by the watercourse. Riparian vegetation can include trees, shrubs, and/or herbaceous plants. Woody riparian vegetation includes plants that have tough, fibrous stems and branches covered with bark and composed largely of cellulose and lignin. Herbaceous riparian vegetation includes grasses, sedges, rushes and forbs – broad-leaved plants that lack a woody skeleton.

11. Setback area: An area that provides a physical buffer between a wetland or stream and adjacent development. Setback areas are measured using horizontal distance, perpendicular to the stream or wetland, regardless of slope. Setback area widths are as follows:
   a. Along both sides of perennial and intermittent streams: a setback area of 100 feet from the top of bank or 50 feet from the edge of the riparian drip line, whichever is greater. For the purposes of establishing the edge of the riparian drip line, the outer edge shall be determined on the basis of the most recent aerial photography on file with the City.
   b. Around wetlands: a setback of 50 feet from the edge of seasonal wetlands and 100 feet from perennial wetlands, measured from the edge of the delineated wetland.
   c. Where necessary to protect riparian resources or mitigate potentially significant environmental impacts in compliance with the California Environmental Quality Act, as determined by the Director, the width of the GGMA may be expanded to include significant areas of woody vegetation adjacent to setback areas, not to exceed 200 feet measured as a horizontal distance from the top of bank.

12. Stream: A perennial, intermittent, or ephemeral watercourse, whether naturally or artificially created, identified through site inspection or on U.S. Geological Survey Maps.

13. Stream Channel: The physical confine of a stream consisting of the bed and banks of the stream, that contains an intermittent or perennial base flow.
14. Top of bank: The elevation of land that confines waters of a stream to their channel in their normal course of flow, and above which the waters will leave the channel and disperse in an uncontrolled manner.

15. Trails: Publicly-accessible routes intended to facilitate multi-modal transportation and nature viewing opportunities.

16. Watercourse: A defined channel which conveys natural flows of water such as a river, stream, or even a ditch.

17. Wetland: An area where, under normal circumstances, all of the following occur:
   a. Continuous or recurrent saturation of the upper substrate occurs, caused by groundwater, or shallow surface water, or both;
   b. The duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate;
   c. The area’s vegetation is dominated by hydrophytes or the area lacks vegetation; and
   d. The area meets the State Water Resources Control Board’s definition of Waters of the State.

D. Applicability.
1. Applicable Developments and Uses. This section applies to all development and uses that otherwise require a City permit or approval pursuant to the City's zoning code (Chapter 155), subdivision regulations (Chapter 154), or building regulations (Chapter 150), as well as removal of native woody riparian plants, excavation and/or fill of wetlands, or alteration of a stream bed, bank or channel.

2. Exemptions. The following development and uses are exempt from this section. A site evaluation may be necessary to determine if a project meets these exemption provisions.
   a. Any project where an application has been deemed complete prior to the effective date of this section and any subsequent amendments.
   b. Maintenance or replacement of existing maintained outdoor areas associated with a legally-established structure or use, such as yards, gardens, landscaping, and perimeter fencing, where the work would not involve further encroachment within the GGMA or result in the removal of woody riparian vegetation.
   c. Trash removal performed without wheeled mechanized equipment entering the GGMA, carried out consistent with 155.304.050.J (Standards for Developments and Uses within GGMAs).
   d. Invasive and exotic plant removal, such as Himalayan blackberry and English Ivy, and associated incidental trimming of native plants, performed without wheeled mechanized equipment entering the GGMA, consistent with 155.304.050.J (Standards for Developments and Uses within GGMAs).
   e. Vegetation maintenance and the addition of 120 square feet of impervious surface within setback areas outside of streams, wetlands, and areas with 20% or greater slopes, provided:
      i. The work will not involve removal of native riparian vegetation;
      ii. The work will not include tree removal requiring a Tree Permit or Use Permit under Section 155.304.140; and
iii. Any new impervious surface will be located at least 20 feet from the top of stream bank.

f. Resource management programs carried out in accordance with the programmatic requirements or funding of a governmental agency or in coordination with a governmental agency.

g. Public utilities and trails and associated maintenance.
h. Timber operations in compliance with a timber harvest plan approved and carried out consistent with the California Forest Practices Act and Zoning Code.

E. **Confirmation of Projects within GGMA.**
   1. The GGMA shall be shown on all project plans subject to City approval.
   2. The location of the GGMA is subject to confirmation by the Director. An on-site inspection by City staff, and/or a field investigation by a qualified professional with expertise in hydrology, biology, or geology may be required to identify the boundaries of the GGMA in the field.

F. **Reduction or Elimination of GGMA.** Reductions in the GGMA are allowed in the following cases:
   1. The GGMA may be reduced or eliminated if land officially mapped within the GGMA does not meet one or more of the four criteria outlined in the GGMA definition under 155.304.050.C.5 as determined by the Director.
   2. The Director may establish a reduced GGMA in association with stream daylighting projects to incentivize such projects.
   3. If the proposed development or use is not otherwise subject to discretionary review, then reductions in setback areas may be allowed with a Zoning Clearance in consultation with CDFW, as determined by the Director. In all other cases, reductions in setback areas are allowed with a Setback Reduction. The procedures for a Setback Reduction are described in 155.304.050.K.
   4. Where no portion of a stream or wetland is located on a parcel and the parcel is completely separated from the stream or wetland by an existing improved public street or improved property under separate ownership, no setback area is required on the parcel.

G. **GGMA Map Amendments.** The Director may amend the GGMA Map to add unmapped areas that meet one or more of the four criteria outlined in the GGMA definition under 155.304.050.C.5, and to remove areas from the map that qualify for removal pursuant to 155.304.050.F.

H. **Permits Required.**
   1. **Zoning Clearance.** The following developments and uses are permitted within a GGMA with a Zoning Clearance.
      1. The structural alteration, repair, remodeling, or demolition and reconstruction of, and additions to, any legally-established building, structure, pedestrian or vehicular

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access route, utility crossing, or drainage facility provided the development footprint within and/or projection into the GGMA will not increase, the project will not result in increased untreated runoff or light pollution entering the GGMA, and the project will not result in the permanent displacement of woody riparian plants within the GGMA.

2. Small habitat restoration projects, as described by State CEQA Guidelines Section 15333.

3. Tree removal authorized by a Tree Permit pursuant to Section 155.304.140.

4. Installation and maintenance of buried private utility lines in compliance with City and applicable utility company standards and maintenance guidelines.

5. New fences or walls in compliance with Section 155.320 et seq. that do not restrict wildlife access or impede natural drainage and, if feasible, are located within or on the perimeter of a previously disturbed area.

6. Drainage, erosion control, or habitat restoration measures required as a condition of City approval of a project.

7. Temporary ground disturbance and vegetation removal associated with the construction of a project or permit approved by the City, provided the disturbed area is restored to pre-disturbance conditions or better within two (2) years.

2. Use Permit. The following developments and uses are permitted within a GGMA with a Minor Use Permit. If the proposed project otherwise requires a Conditional Use Permit, these developments and uses will instead be permitted as part of the Conditional Use Permit.

a. Habitat restoration projects not meeting the applicable limitations required for an exemption or Zoning Clearance as determined by the Director.

b. Tree and vegetation removal or trimming, not covered by other listed allowances, for the purposes of invasive and exotic plant removal, noncommercial cutting of firewood, disease control, protecting life or property from a fire hazard or any other threat to public health and safety, or maintaining the passage of sunlight through a solar easement. A Vegetation Management Plan may be permitted for permissible vegetation maintenance and management on an ongoing basis.

c. Tree removal requiring a Conditional Use Permit pursuant to Section 155.304.140.

d. Drainage improvements, utility crossings, and access routes not meeting the applicable limitations required for an exemption or Zoning Clearance as determined by the Director.

e. Flood control and bank stabilization necessary for the protection of legally-existing buildings, necessary access roads, and utilities in danger of erosion and flooding, provided there is no less environmentally damaging feasible alternative and feasible mitigation measures are incorporated.

f. New fences or walls not meeting the applicable limitations required for an exemption or Zoning Clearance as determined by the Director.

g. Agricultural uses, community gardens, and publicly-accessible recreational facilities determined by the Director to be compatible with maintenance of watercourse, wetland, and riparian resources.

h. Subdivisions in compliance with Chapter 154, provided:
i. Resulting parcels contain adequate space to place all new building sites outside of the GGMA; and

ii. The GGMA is designated on the recorded Map.

i. Developments and uses not listed above provided the applicant can demonstrate, to the City’s satisfaction:
   i. The application of this section to the project would prohibit development of a legal parcel for the principal use for which it is designated, and there is no feasible, less environmentally damaging alternative that would allow a reasonable economic use of the parcel.
   ii. Denial of the project would continue or exacerbate a threat to the public's health or safety (e.g., the work is necessary to protect drainage facilities, prevent or repair erosion/landslides) and there is no feasible, less environmentally damaging alternative to the project; or
   iii. The project would result in restoration or improvement to stream water quality, hydrology and/or riparian habitat that would be infeasible without the project.

3. Nonconformities. Any enlargement or intensification of an existing building, structure, or site feature not otherwise allowed in a GGMA may be allowed through a Minor Modification or Variance pursuant to 155.424 (Nonconformities).

4. Emergency Work. Work to address an emergency may be undertaken prior to the issuance of necessary authorizations under this section with written authorization by the Director. Such emergency work shall be limited to the abatement of the imminent threat. An application for the necessary authorization shall be initiated as soon as practical, but in no event later than 14 calendar days after the completion of the emergency work, and said application shall be diligently pursued to completion by the applicant.

I. Findings of Use Permit Approval. To approve a Use Permit for developments and uses within a GGMA, the review authority must make the findings in 155.412.110.F (Findings for Approval) and the following findings:
   1. The project meets all standards for developments and uses within GGMAs under 155.304.050.J; and
   2. The project protects the values and functions of the GGMA consistent with the purposes of this section.

J. Standards for Developments and Uses within GGMAs. Site-specific technical reports prepared by qualified professionals may be required to ensure proposed developments and uses are carried out consistent with the following standards and with the purposes of this section.
   1. All Developments and Uses within GGMAs
      a. Adequate erosion and sediment control and pollution prevention measures must be implemented as necessary to avoid adverse impacts on the water quality and hydrology of nearby streams and/or wetlands.
b. Runoff from new impervious surfaces must not drain directly to a stream or wetland and shall instead flow in a non-erosive manner to an adjacent pervious area capable of retention, infiltration, and treatment of anticipated runoff, to the extent feasible.

c. Native tree canopies over streams and wetlands shall be maintained to the extent feasible.

d. Snags and live trees with visible use as nesting sites shall be retained to the extent feasible.

e. Ground disturbance shall avoid damage to structural roots of native trees to be retained.

f. Introduction of invasive vegetation or wildlife must be avoided.

g. Vegetation to be removed during the bird nesting season shall be surveyed by a qualified professional, and a report shall be provided to the City indicating removal of the vegetation will not impact active nesting or roosting sites of a listed bird species or bird species of special concern.

h. Work in seasonal wetlands and watercourses shall be scheduled for the dry season if feasible.

2. Temporary Disturbances within GGMAs. Areas of temporary disturbance shall be restored to their pre-disturbance state or to a state of greater biological and hydrological function and value. Restoration may occur passively if feasible within two (2) years of completion of activities. If necessary, restoration measures may include decompacting soil, site recontouring, and/or revegetation with native species of local genetic stock.

3. Permanent Conversion of Wetland, Stream, or Riparian Habitat Areas to Other Uses.

a. The project must be the least environmentally damaging feasible alternative. The level of alternatives analysis required shall be commensurate with the significance of the impacts.

b. Feasible measures shall be provided to adequately mitigate adverse environmental effects. Such measures shall be commensurate with the nature and scope of potential impacts and may include, but are not limited to:

i. Removal of invasive or noxious vegetation.

ii. Transplanting of native trees, brambles, and other vegetation to be displaced and/or planting of new native vegetation.

iii. Placement of signage and/or symbolic fencing to discourage human encroachment into habitat areas.

iv. Improvements to stormwater management in and/or adjacent to the GGMA.

v. Use of fire resistive construction materials to avoid or minimize the need for vegetation removal.

vi. Modifications to site design and development to reduce light and/or noise pollution entering the GGMA.

vii. Establishment of new or substantial restoration or enhancement of existing wetland or stream habitat on- or off-site under an approved Mitigation and Monitoring Plan, or payment of in-lieu fee for such work.

viii. Recordation of a conservation easement or other legal mechanism that permanently restrict the use of the GGMA consistent with this section.
K. **Procedures for a Setback Reduction.**

1. **Application.** A Setback Reduction can be granted for a specific project, for a range of potential future projects, or for any and all potential future projects that could be allowed on the site pursuant to current zoning district standards.

2. **Review Authority.** If the Setback Reduction is requested for a project subject to discretionary approval, the request is considered by the review authority responsible for that discretionary approval as part of the overall project. In all other cases, the Director reviews and takes action on Setback Reduction applications.

3. **Application Requirements.** Setback Reduction applications must be submitted and reviewed in compliance with 155.408 (Permit Procedures).

4. **Findings for Approval.** To approve a Setback Reduction, the review authority must find the reduced setback adequately protects the values and functions of the resource area consistent with the purposes of this section. The following criteria may be used to review the adequacy of a Setback Reduction:
   a. The site-specific characteristics of the GGMA resources, including, but not limited to, the value/functions of the habitat, and the sensitivity of species to disturbance;
   b. The type and intensity of potential disturbances, including, but not limited to, light, noise, human/pet encroachment, erosion, runoff, and fuel modification for fire safety;
   c. The buffering capability of the proposed setback area;
   d. Proposed measures to reduce or shield impacts or improve the quality of the GGMA, such as measures included in 155.304.050.J.3.b above; and
   e. Parcel size, lot configuration, and the locations of existing, legally-authorized development and disturbed areas within the vicinity.

5. **Conditions of Approval.** In approving a Setback Reduction, the review authority may impose conditions of approval as necessary in order to make the findings of approval.

6. **Effects of Decision.**
   a. A decision on a Setback Reduction is based on the merits of an individual application and the conditions in the field at the time of the decision. Approval of a Setback Reduction does not establish a precedent for future similar applications on any site.
   b. A Setback Reduction not approved in association with a specific project automatically expires three (3) years from the date of approval unless:
      i. The Setback Reduction is analyzed and approved as a setback that applies to any and all future projects; and
      ii. The resulting GGMA is recorded against the property consistent with 155.304.050.L.

L. **Procedures for GGMA Recordation.**

1. When required as a condition of approval of developments and uses within GGMA's or requested by an applicant to document a Setback Reduction, a notice shall be recorded in a manner and form prescribed by the City declaring the presence of the GGMA and containing information regarding the location and nature of the GGMA, and any
applicable restrictions. The notice shall be recorded with the Humboldt County
Recorder’s Office at the expense of the applicant.

2. Prior to recordation, the Direction shall review and approve the notice. The Director
may require further legal review of any documents submitted, the cost of which shall be
borne by the applicant.

M. Implementation of Required Mitigation Measures.

1. The monitoring of mitigation measures and reporting of monitoring activities made as
conditions to any discretionary permit issued pursuant to this section shall be
performed as specified in the project’s adopted Mitigation and Monitoring Plan.

2. Where a project is phased or where mitigation measures are to be monitored beyond an
initial building, grading, or construction period, or where mitigation measures are
required beyond this initial period, as described within the permit, the permittee shall
post a bond or equal security with the City Engineer prior to commencing any grading or
construction activities. The amount of the bond or security is to be based upon the cost
of performing the required mitigation measures, the related monitoring and reporting
activities, and the City’s administrative and processing costs.

3. Following a written notice to the permittee of a failure to complete or fully implement
mitigation or monitoring measures within the time period specified within the permit
conditions, the bond or other security may be forfeited and applied to the incomplete
mitigation or monitoring measures at the discretion of the City Engineer.
Exhibit B: Mapping Methodology

A. Gulch Greenways: General Area of Interest

A gulch greenway is a valley or ravine that varies in size and topography, and the trees, shrubs, and herbaceous vegetation that exists or is established within or adjacent to the valley or ravine. These vegetated corridors include watercourses and wetlands. A critical component of protecting these areas is developing a clear definition of what constitutes a gulch greenway, and where these areas are located within the City of Eureka.

While there are many small gulch or gully systems within the City, the intent of this planning effort is to focus on the portions of the following larger, intact systems within the City limits (and outside of the Coastal Zone):

- Cooper Gulch and Second Gulch, located on the northern edge of the City, draining northward to Eureka Slough; and
- The Gulches of Martin Slough, located generally south of Harris Street and to the west and east of the F and H Street corridors, draining towards the southwest to Martin Slough, a tributary of the Elk River.

The general location of these gulch greenways is apparent on an aerial image of the City; they are the green corridors disrupting the City’s urban street grid pattern. There are, however, many ways the City could define and map the outer boundaries of these areas.

B. Defining the Area

The City is developing a Gulch Greenway Ordinance to protect the important values and functions of the aforementioned gulch greenways, including, but not limited to: wildlife habitat and movement corridor values, stormwater management and flood control functions, and natural and scenic character. The intent of the ordinance is also to protect development from erosion, flooding, and fire hazards that exist in and adjacent to these areas. The current draft of the Gulch Greenway Ordinance calls these areas the “Gulch Greenway Management Area (GGMA).”

The GGMA definition in the current draft of the ordinance includes:

- steep slopes (20% or greater),
- streams (defined as perennial, intermittent, or ephemeral watercourses), and associated FEMA mapped 500-year floodplains,
- wetlands (defined consistent with the State Water Resources Control Board), and
- 50-100 feet setback areas adjacent to streams and wetlands. Consistent with California Department of Fish and Wildlife guidance, the setback area from streams is measured from the top of bank or edge of the riparian drip line, whichever is greater.

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1 California Department of Fish and Wildlife Northern Region. Technical Memorandum: Development, Land Use, and Climate Change Impacts on Wetland and Riparian Habitats. May 21, 2014.
While the draft definition includes a large setback distance, the draft ordinance includes exemptions for existing development. For example, maintenance or replacement of existing maintained outdoor areas (e.g., yards, gardens, landscaping, and perimeter fencing) is exempt from the ordinance. The ordinance also allows vegetation maintenance and the addition of 120 square feet of impervious surface within setback areas. In addition, the draft ordinance allows reductions in setback distances based on site-specific information, and provides a ministerial setback reduction process for proposed development not otherwise subject to discretionary review.

C. Mapping the Area
The City is in the process of developing a GGMA Map to accompany the Gulch Greenway Ordinance. The GGMA (i.e., the regulated area) will include land indicated on the GGMA Map, as well as any land within or along a gulch greenway that meets the GGMA textual definition, regardless of inclusion on the official map.

While the City has access to mapping of stream centerlines and general wetland mapping, the only way to accurately identify all wetlands and watercourses is in the field, site by site. We know there are watercourses at the bottom of the gulches, and wetlands both at the bottom and along the sides of the gulches, often on benches below steep slopes. Therefore, it makes sense to map steep slopes (the 20% slope threshold included in the textual definition) and all land below those steep slopes as part of the GGMA. The City is capable of accurately mapping steep slopes with available high-resolution topographic data (LiDAR).

Because the textual definition also includes a 50- to 100-foot setback from streams and wetlands, the defined area may extend above the mapped 20% slopes, keeping in mind that work within previously developed/maintained yards is exempt from the ordinance. Therefore, it makes sense to continue mapping above 20% slopes to the edge of unmaintained vegetation. The City can largely distinguish maintained vs. unmaintained vegetation with aerial imagery.

As a result, the City’s working methodology is to map 20% slopes, as well as areas below those slopes, and the edge of unmaintained vegetation above those slopes. It is important to note that some areas around the gulch greenways include a gradual rise that never reaches 20%; in these cases, the City is working on further methodology to follow contour lines between steep slopes.

D. Mapping as An Ongoing Process
The City’s intent is to allow frequent, ongoing refinement of the map as the ordinance is applied in the field. Under the current draft ordinance, if land officially mapped within the GGMA does not meet the textual definition, it may be removed from the GGMA, as determined by the Director. The draft ordinance allows the Director to amend the GGMA Map (i.e., staff level decision without Planning Commission/City Council approval) to add unmapped areas that meet the GGMA textual definition and remove areas that qualify for removal under the ordinance.