

ORDINANCE 2013-_____

AN ORDINANCE AMENDING TITLE 17 OF THE GENERAL ORDINANCE CODE OF THE COUNTY OF ALAMEDA ADDRESSING DEVELOPMENT WITHIN SCENIC CORRIDORS

The Board of Supervisors of the County of Alameda ordains as follows:

SECTION I

In enacting this ordinance, the Alameda County Board of Supervisors makes the following findings:

1. The Alameda County Planning Department did submit to this Board of Supervisors ("Board") its report recommending that the Board add Article VIII of Chapter 17.30 to the Alameda County General Ordinance Code to create a combining district in Unincorporated Alameda County that could be applied to scenic corridors (hereinafter referred to as the "Scenic Corridor Combining District").
2. The Alameda County Planning Commission did hold three public meetings and hearings on the proposed Scenic Corridor Combining District on the October 15, November 5 and December 17, 2012 at the County of Alameda, 224 West Winton Avenue, Hayward, California, for which notice was given as required by law, and at which time the Commission took public testimony.
3. The Alameda County Planning Commission did review this draft Ordinance amendment in accordance with the provisions of the California Environmental Quality Act, and considered an exemption under Section 15061(b)(3).
4. This Board did hold a public hearing on the Scenic Corridor Combining District of Alameda County at the hour of 1:00 PM on Tuesday the 7th day of May 2013, in the Board Chambers, County Administration Building, 1221 Oak Street, Oakland, for which notice was given as required by law and at which the Board took public testimony.
5. This Board did review this Ordinance amendment in accordance with the provisions of the California Environmental Quality Act (CEQA). Under Section 15061(b)(3) of CEQA, as the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.
6. It is the finding of this Board that the approval of the Scenic Corridor Combining District is in the public interest for the reasons that it would establish a discretionary review process for development within areas of scenic value.

SECTION II

Article VIII of Chapter 17.30 is added to the General Ordinance Code of the County of Alameda to read as follows:

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Chapter 17.30, Article VIII - SC DISTRICTS

17.30.190 - Purpose.

The District, hereinafter designated as combining SC (Scenic Corridor) District, is established to be combined with other Districts containing lands located within scenic corridors as designated by the Board of Supervisors. The purpose of this Article is to provide guidelines and approval procedures for the development and improvement of land within combining SC Districts in unincorporated Alameda County.

17.30.200 - Regulations.

In a combining SC District all regulations shall remain the same as in the district with which it is combined except as to the matters hereinafter described.

17.30.210 - General Provisions.

- A.** All new development within the District shall comply with the provisions of this Article; provided, however, that the following shall be exempt from compliance:
 - 1.** Agricultural-related structures outside of the forty (40) foot roadway buffer.
 - 2.** Single-family dwellings and manufactured homes on an existing lot of record where no increase in habitable floor space or building height is proposed.
 - 3.** Developments existing on the effective date of this Article, provided that expansions or additions to existing development on or after the effective date of this Article shall be subject to compliance with these regulations.
- B.** In the event of a conflict among the regulations in this Article and those elsewhere in this Code, the regulations in this article shall prevail. The provisions of this Article shall also apply to projects undertaken by public agencies and special districts except for the maintenance of existing County public roads within existing rights-of-way.
- C.** All future building sites identified on a tentative parcel map, final map, or subdivision map shall be reviewed and conditions of approval established to ensure conformity with the purpose and intent of this Article.
- D.** Applications requiring the issuance of a Conditional Use Permit, as required by this Title, will be reviewed for their adherence to the requirements of this Article during the application process for the issuance of the Conditional Use Permit.

17.30.220 - SC Districts - Site Development Review—Procedures.

- A.** Site Development Review pursuant to Section 17.54.210 is required for any project for which a Building or Grading Permit is required.
- B.** A Site Development Review application shall be in the form specified by the County.
- C.** Upon receipt of a Site Development Review application, the Planning Department shall give notice of hearing shall be given pursuant to Section 17.54.830.
- D.** The County Planning Commission shall hold public hearing and make a recommendation to the County Board of Supervisors regarding the Site Development Review application. The County Board of Supervisors shall hold a public hearing and render a decision on the application.
- E.** In determining whether to grant or deny a Site Development Review application, the Planning Commission and Board of Supervisors shall consider whether the proposed development complies with the development guidelines contained in Section 17.30.240.
- F.** Prior to the issuance of a Building Permit for any project authorized under this section, the property owner shall execute and record in the County Recorder's office a use restriction, in a form approved by the County, requiring structures, existing and proposed covering vegetation, as well as any equivalent level of replacement vegetation, to be maintained by

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the owner or the owner's successor so as to maintain conformance with the written decision of the Board of Supervisors.

- G. The written decision of the Board of Supervisors is final and not administratively appealable. Following a final decision by the Board of Supervisors any concerned person may seek judicial review of the final decision to grant or deny a Site Development Review application pursuant to California Code of Civil Procedure section 1094.5, in conjunction with sections 1094.6 or 1094.8, as applicable.

17.30.230 - SC Districts - Site Development Review—Planning Director Review.

- A. If the Planning Director determines that the project cannot be viewed from any designated public road, because of its relationship to surrounding topography or existing vegetation, then the project shall be reviewed by the Planning Director in accordance with section 17.54.210.
- B. The Planning Director shall hold a public hearing regarding a Site Development Review application.
- C. The Planning Director shall not approve a project unless it complies with the development guidelines provided in Section 17.30.240.
- D. If the determination was made based on existing vegetation coverage, then the property owner, prior to the issuance of a building permit, shall be required to execute and record in the County Recorder's office a use restriction, in a form approved by County Counsel, requiring that existing covering vegetation be maintained, or replaced with equivalent vegetation, by the owner or the owner's successors, so as to prevent the project from being viewed from any designated public road.
- E. Projects that do not satisfy the criteria and standards contained in Section 17.30.230 (A) shall be subject to review and approval under Section 17.30.220

17.30.240 - SC Districts - Development Guidelines.

- A. Unless exempted as provided above in Section 17.30.210 (A), development or improvements within a combining SC District shall comply with the following guidelines:
 - 1. The design and location of each structure and any landscaping shall create a compatible visual relationship with surrounding development and with the natural terrain and vegetation. Road widths and road configurations should be considered as part of the development's design.
 - 2. Structures and landscaping shall be so located that each does not create a walled effect along the scenic corridor. The positioning of structures shall be varied in order to create a complimentary relationship between mass and void.
 - 3. All developments shall maintain a one hundred (100) foot setback for all structures and property improvements such as parking lots, except for approved road, driveway and utility crossings. Structures twenty (20) feet in height or less that otherwise have been found consistent with this Article may be located within the one hundred (100) foot setback.
 - 4. A roadway buffer of at least forty (40) feet shall be provided within the required development setback, abutting the right-of-way of the scenic corridor. Where existing trees and significant vegetation exist within the roadway buffer, they shall be retained as determined appropriate and directed by the County. Vegetation within a roadway buffer that is required to remain within a roadway buffer may be pruned or removed only if necessary to ensure proper sight visibility, remove safety hazards or dying or diseased vegetation, or for other good cause as approved by the County.
 - 5. Existing topography, vegetation, and scenic features of the site shall be retained and incorporated into the proposed development wherever possible. Manmade structures, as

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a visual element in the scenic corridor, should be secondary in importance to natural growth.

6. Each structure or feature reviewable under this article shall be limited in scale and siting to reduce visual dominance or obstruction of existing landforms, vegetation, water bodies, and adjoining structures.
 7. Each structure shall be constructed, painted, and maintained, and all planted material shall be planted and maintained to complement and enhance scenic views and the natural landscape.
 8. Unnatural and conflicting aesthetic elements shall be eliminated to the extent feasible consistent with safety requirements. Where it is not possible to locate such a feature out of view, it must be located in an area so as to minimize visibility from a scenic corridor or screened from view by planting, fence wall, or berm. Where the screen consists of a fence, wall, or berm, it may not be higher than six feet. Screening shall consist of primarily natural materials rather than solid fencing. Preference shall be given to vegetation in conjunction with a low earth berm.
 9. Lighting shall be directed on site and compatible in type, style, and intensity to the surrounding elements and not cause undue or aggravating disruption, glare, or brightness.
 10. Grading or earth-moving shall be planned and executed in such manner that final contours appear consistent with a natural appearing terrain. Finished contours shall be planted with plant materials native to the area so that minimum care is required and the material is visually compatible with the existing ground cover.
 11. A road pattern or characteristics of any road pattern proposed as part of a development shall be designed and constructed to contribute to the scenic character of the landscape in view. New roads and driveways constructed within the scenic corridor shall not be dominant visually and there should be only a minimal amount of road in view within the roadway buffer.
 12. The number of access points to and from the scenic corridor shall be minimized consistent with safety and circulation needs.
 13. Parking on the scenic corridor roadways should be minimized.
 14. No Advertising signs shall be permitted.
 15. All utility lines improved or installed in order to directly serve uses proposed or developed within the scenic corridor, including electric, telephone, data, and cable television, shall be installed underground within the roadway buffer and development setback area. Underground utility trenches must be revegetated. Utility boxes and cabinets that are now or must, by necessity, be located above ground must be shielded from view from the scenic corridor with existing vegetation or revegetation. Any above-ground boxes that cannot be buried shall, in addition to being screened by vegetation, be painted a neutral or earth tone color or otherwise made to blend in with their surroundings.
 16. All development shall be consistent with the Alameda County General Plan.
- B.** Violations of this section shall be subject to enforcement, penalties, and abatement under Chapters 17.58 and 17.59 of this Title.

SECTION III

Should any section or other portion of this chapter be determined to be unlawful or unenforceable by a court of competent jurisdiction, the remaining section(s) and portion(s) of this chapter shall be considered severable and shall remain in full force and effect.

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SECTION IV

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage and ordinance summary, pursuant to Government Code section 25124(b)(1), shall be published in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California,
_____, 2013 by the following called vote:

AYES:

NOES:

EXCUSED:

KEITH CARSON
President of the Board of Supervisors
County of Alameda, State of California

ATTEST: Clerk of the Board of Supervisors, County of Alameda

By _____

Approved as to Form:
DONNA ZIEGLER, County Counsel

By _____
BRIAN WASHINGTON
Chief Assistant County Counsel