

ATTACHMENT B

RESPONSE TO COMMENTS ON LAFAYETTE DOWNTOWN CREEKS PLAN (AUGUST 2016 DRAFT)

March 8, 2017 version

Note: Additional comments addressed non-substantive items, such as minor wording changes, and typographic or format errors. These are not included on this table, but will be corrected in the Final Draft. An Executive Summary will also be added to the Final Draft.

	COMMENTS	RESPONSE TO COMMENTS	PROPOSED REVISION
	Parks, Trails & Recreation (PTR) Commission		
1	Are there priorities for creek enhancements? PTR Commission does not have priorities for any of its downtown projects.	Progress on creek enhancements is made when opportunities occur since most affect private property. The City can initiate creek enhancements on the property it owns. A high-priority project is the West Reach Catalyst Project. The City owns this highly visible stretch of Lafayette Creek that can be used to demonstrate the benefits of creek enhancements to the public and downtown property owners. This project can also be used to troubleshoot the permit process with regulatory agencies. P. 67 describes a process for project prioritization.	P. 67: Revise “Project Prioritization” section to address only City –sponsored projects, include a table describing these projects, their priorities for implementation and the basis for the priorities. See table of City-sponsored projects attached to this Response to Comments matrix.

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2	For the Library Park, removal of the flood control channel should be explored as part of the park’s master plan.	<p>P. 41, column 1: “A hydraulic study would be necessary to determine the impacts of altering the channel wall at this location to provide a more naturalized or terraced creek bank at the park site.” Further discussion follows.</p> <p>P.42, “The Flood Control District’s 50-Year Plan supports the concept of replacing the channel with a more natural flood protection facility integrated into a redeveloped urban landscape.”</p> <p>Flood Control District has agreed to include the Lafayette Creek flood control channel in its current study of conceptual alternatives for more naturalized flood control channels.</p>	<p>Table 8-2, P. 73: Under Implementation Actions 2.D, add policy: <i>Any modification to the concrete channel shall be prepared in cooperation with the Contra Costa County Flood Control District and shall require preparation of a hydraulic study of the creek to determine flow velocity, potential for flooding, and any upstream and downstream impacts.</i></p> <p>Add action: <i>Report to City Council on progress with Flood Control District’s 50-Year Plan.</i></p> <p>P. 42: Include mention of study underway by Flood Control District to develop conceptual alternatives for a naturalized flood control channel.</p>
3	How will we ensure access to creek beds is provided in a safe manner?	Specific access/safety issues will be addressed when individual projects are designed.	<p>P. 20: add text describing how safety issues were addressed in the public access improvements at confluence of Las Trampas Creek and Grizzly Creek. Require that safety issues be addressed during the design phase of each project.</p> <p>P. 20 (West Reach) and P. 25 (East Reach 3): add text recommending installation of measures such as signs to prohibit access during high water events.</p>
4	The PTR Commission supports the Shield Block Trail as described in <i>the Downtown Creeks Plan (Plan)</i> . This trail should be for pedestrians only. A 5-foot wide trail is ample.	P. 32, graphic and text: this trail is described as a “5’ wide pedestrian path”.	P. 32: Reference the <i>Trails Master Plan</i> and <i>Trails Implementation Plan</i> for details on the trail design process.

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5	The PTR Commission is open to the idea of considering other trails proposed in the <i>Plan</i> for inclusion in the <i>Trails Master Plan</i> . New trails may also be candidates for the <i>Master Walkways Plan</i> . The Chair of the Trails Subcommittee said these new trails may also be candidates for the <i>Master Walkways Plan</i> , which is under the jurisdiction of the Circulation Commission. The Circulation Commission annually updates the <i>Walkways Master Plan</i> .	See Comment #39 for Circulation Commission comments on the proposed trails. The PTR Commission is currently updating the <i>Trails Master Plan</i> .	P. 69: Describe the role of the PTR Commission in implementation and maintenance of trail improvements described in the <i>Plan</i> . Table 8-2, P. 74: Under Implementation Actions 3.A, add policy: <i>Develop list of trails appropriate for including in the Trails Master Plan update.</i>
6	Most trails are 3-feet wide and are dirt, so current trail maintenance needs are minimal. The PTR Commission has an annual maintenance budget for some trail maintenance (mostly spraying and pruning). The PTR Commission also works with volunteers on maintenance issues (e.g. Eagle Scout projects).	The design and maintenance responsibilities of any trail improvement that is also included in the <i>Trails Master Plan</i> will be addressed by the PTR Commission.	See Comment #5 for responsibilities of the PTR Commission.
7	The City takes liability for existing trails <i>on a city easement</i> .	The liability for any trail improvement that is also included in the <i>Trails Master Plan</i> will be addressed by the PTR Commission.	See Comment #5 for responsibilities of the PTR Commission.
8	PTR Commission is open to the idea of endorsing the <i>Plan</i> , but they want to review it after revisions are made to address any comments on the current draft. The PTR Commission would make a motion to endorse the <i>Plan</i> , and staff would write a letter to the City Council indicating this support.	Proposed revisions to the August draft are documented in this Response to Comments matrix and will be submitted to the PTR Commission, Design Review Commission (DRC), Circulation Commission, and Downtown Street Improvement Master Plan Committee for their endorsement.	No revisions needed.
9	The end of the trail along the flood control channel in East Reaches 1 and 2 is unclear. Show on a map (figure).	Text on pp. 40-41 indicates that the trail along the north side of the channel would extend to the courtyard of the mixed use property shown on the graphic. The Flood Control District is being consulted on the ability to extend the trail to connect with the EBRPD trail at Gazebo Park.	Maps in the <i>Plan</i> will be revised to show the east end of the proposed trail.
10	PTR Commission will have its subcommittees review the <i>Plan</i> and provide us comments by the end of September.	No response needed.	No revision needed.

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	Property Owners		
11	Attendees were concerned about graphics and their potential implications of specific properties. Don't mention specific setback distances, and don't have cross sections apply to specific properties without providing more detailed analysis of the affected parcels.	Graphics are meant to represent concepts and not reflect requirements on specific properties.	P. 35: Delete the cross section mark on the View Map. Add the phrase <i>Conceptual Cross Section</i> to the title of the cross section.
12	There was concern about any loss of parking.	Table 8-2, P. 75, Implementation Action 3.F. and P. 74, Implementation Action 3. A, last bullet: proposed policies address mitigation for loss of parking. See Comment #45 regarding role of Circulation Commission and Parking Ordinance Committee.	Table 8-2, P. 75, modify Implementation Action 3.F: <i>Mitigate for the loss of parking from creek enhancements, such as by replacing parking with other conveniently located spaces or improving management of the existing supply (e.g., pricing, time restrictions).</i>
13	Who will pay for the creek enhancements? Will the <i>Downtown Creeks Plan</i> contain text that says the City will provide full compensation in some way for any creek enhancements that are imposed on private property?	The creek enhancements on public property will be paid for by funds obtained by the City. The creek enhancements on private property largely reflect guidance already contained in the <i>Downtown Specific Plan (DSP)</i> , <i>Downtown Design Guidelines (DDG)</i> and <i>Trails Master Plan</i> which are applied during the review of development applications. Property owner contributions would be determined at that time. The natural resource protection measures (e.g. creek revegetation) in Chapter 5 are new requirements to be funded by the property owner.	Where appropriate, add text describing which proposed creek enhancements reflect current City policies/guidance and existing policies/guidance that need to be amended. Add Appendix D, which recommends amendments to Downtown Design Guidelines, zoning code, tree protection ordinance, Trails Master Plan, and other ordinances that are needed for achieving the desired creek enhancements. (Appendix D is attached to this Response to Comments matrix).

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14	Are the <i>Plan's</i> recommendations requirements, a Specific Plan, or are they policies?	The <i>Plan's</i> recommendations vary. The North Reach Shield Block Trail is adopted policy in the <i>DSP</i> and the <i>Trails Master Plan</i> . The <i>Creeks Plan</i> recommends other creek side trails be added to the <i>Trails Master Plan</i> . The open spaces on private property (e.g. Town Green and Library Park) are adopted policy in the <i>DSP</i> , which acknowledges that these open spaces will occur in conjunction with adjacent development since the City will not use eminent domain to acquire these parcels. The <i>Creeks Plan</i> recommends the City offer incentives to property owners to achieve these public benefits. Other creek enhancements can be achieved through existing or amended <i>DDG</i> applied during the review of development applications. Low impact development (LID) measures will be required by city ordinance.	See Comment #13 for new text describing which proposed creek enhancements reflect current policies, and Appendix D which describes the regulatory amendments needed for the desired creek enhancements.
15	Are the <i>Downtown Design Guidelines</i> considered requirements or guidance for property owners? Attendees preferred the <i>Downtown Creeks Plan</i> to be policy-oriented and emphasize design concepts, not requirements.	The <i>DDG's</i> are applied during the review of development applications. The zoning code requires the applicant to “substantially comply” with the <i>DDG</i> . Proposed projects on private property in the <i>Downtown Creeks Plan</i> are conceptual.	Where appropriate, add text explaining that representation of creek enhancement projects on private property in the <i>Plan</i> is conceptual. See Comment #13 regarding proposed amendments to <i>DDG</i> .
16	The City should indicate where its priorities are with these creek enhancements.	See Response to Comment #1 on project priorities. P. 67 describes a process for project prioritization. For all properties in the Planning Area, the <i>Plan</i> is recommending revegetation with native riparian plant species, and LID measures.	P. 67: Add a reference to the City's process for adopting its Capital Improvement Program. See Comment #1 for revisions to project prioritization.

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	Design Review Commission (DRC)		
17	The <i>Plan</i> needs a commitment to design quality. Standards for hardscape materials have the potential to bring the creek environment alive. The materials and furnishings should be more exciting and naturalistic.	P. 57 describes desired characteristics of site furnishings and hardscape, and processes to oversee the final design and quality of materials and site furnishings. Materials and furnishings in new creekside development will be reviewed by the DRC using the <i>DDG</i> . Some amendments to the <i>DDG</i> are needed to provide consistency with the outcomes in the Downtown Creeks Plan.	P. 69: Add text describing the role of the DRC in implementation of creek enhancements described in the <i>Plan</i> . Additional photos of desired materials and furnishings will be provided. Photos of inappropriate materials and furnishings will be deleted. Guidance for pervious pavement and lighting will be removed from Chapter 6 since use of these materials is adequately addressed in existing City procedures. Guidance for riparian vegetation will be added. (Revisions to Chapter 6 are attached to this Response to Comments matrix). See Comment #13 for proposed amendments to <i>DDG</i> .
18	Are we planning to accommodate bike access? How can bicyclists be part of the creek experience?	Removal of invasive vegetation and native species revegetation of the downtown creeks will increase their visibility from public rights-of-way, including creek crossing areas and along the West Reach, improving visual access for cyclists. Generally, proposed top-of-bank trails lack sufficient space to be wide enough to accommodate bicyclists. The City’s parking requirements do not address bicycles. The <i>DDG</i> address accommodation of bicycles.	Add the following measure to Table 8-2, Implementation Action 3.A: <i>Consider revising the Downtown Design Guidelines, Parking & Circulation guidance for bicycles, to include placement of bicycle parking at the entrance to pedestrian zones. See new Appendix D for proposed changes to DDG for bike access.</i>

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19	Plant materials are addressed, but what about creek wildlife and aquatic life?	P. 13 describes Special Status Species. The western pond turtle is the only endangered species known to exist in the Planning Area. The <i>Downtown Creeks Plan</i> recommends creek revegetation with native species, which improves habitat value for creek wildlife and aquatic life. Additionally, proposed rain gardens and LID features (e.g. pervious paving) will improve the creeks' water quality, further enhancing habitat values.	No revision needed.
20	It would help if the <i>Downtown Creeks Plan</i> provided some standards or metrics that could be the basis for DRC findings for determining a project's consistency with the <i>Downtown Creeks Plan</i> . This type of checklist would tell the DRC what to look for when evaluating projects. Perhaps there needs to be coordination between the DRC and the Creeks Committee when reviewing projects that border downtown creeks.	See Comment #13 for existing guidance from the DDG used by the Design Review Commission. See Comment #17 on amendments to existing City plans and regulations	<u>See Comment #13 regarding proposed amendments to DDG, and #17 for role of DRC.</u>
21	Goals should be set by the Creeks Committee so we (the DRC) know how to make creeks an important part of the downtown.	See Comment #13 for guidance from existing plans and regulations. See Comment #18 for existing guidance on bicycle access.	See Comment #13 regarding new text for creek enhancements that reflect current policies and where existing policies need to be amended, adding Appendix D, and #17 regarding new text for role of DRC.

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22	The DDG guidance for landscaping is not limited to the areas outside the native riparian zone. Edges are important and there is a blending between ornamental and native riparian landscapes, although it can be abrupt in urban situations. Knowing where the setback is can help determine this. Further, the stated goal can be accomplished using native plant species.	The <i>Plan</i> will rely on the DRC to apply the plant palette in Table 5-2 of the <i>Plan</i> for riparian zones during the development review process.	Amend <i>DDG</i> to include Table 5-2. P. 71, Table 8-2, add the following measure to action 1.A: <i>Consult with the RWQCB, CDFW, Resource Conservation District and the Walnut Creek Watershed Council to develop a Riparian Vegetation Restoration Manual that would include a riparian zone map, planting plan, protocols for installing and maintaining plants and an outreach program.</i> See Comment #13 on proposed amendments to <i>DDG</i> .
23	The plant palette in the <i>Downtown Creeks Plan</i> is basic. How about trees? Could there be more grasses? Commissioners will provide comments on the draft plant palette.	Pages 46 and 48 discuss creek revegetation. A palette of native riparian plant species is provided, but the <i>Plan</i> states on p. 46, column 2, "This list can be expanded and adjusted as necessary based on input from a qualified restoration specialist or landscape architect experienced in native revegetation."	P. 48, Table 5-2: Add plant species identified in the vegetation analysis of the riparian zone land unit (Las Trampas and Grizzly Creeks) in the <i>Community Park Master Plan</i> . Add text that indicates most vegetative coverage consists of a limited plant palette, which changes over time based on the amount of shade. See Comment #22 on <i>Riparian Vegetation Restoration Manual</i> .
24	What is trying to be accomplished by Chapter 6? Rather than have "decoration", we have an opportunity to get good design here in a natural environment. What should the transition at the edges of hardscape look like? How do we get development to make enhancements that really capitalize on the creek? Don't be prescriptive, but provide policies and standards. Give the designers latitude to be creative. Materials and furnishings need to be coherent. Materials and furnishings need to be resilient. What happens to the riparian landscaping during a drought – what will it look like? Provide some standards and opportunities for interaction between the DRC and the Creeks Committee when appropriate.	Native riparian vegetation is adapted to drought conditions. The <i>Plan</i> will rely on the DRC to review development applications of creekside parcels using the <i>DDG</i> with amendments recommended by the <i>Plan</i> . See Comment #17 on proposed amendments to <i>DDG</i> .	See Comment #13 for proposed amendments to <i>DDG</i> and #17 on revisions to Chapter 6 (Materials & Furnishings).

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25	More research is needed on maintenance issues. The project summary table in the staff report needs a new column describing mitigations for the disadvantages of each project. There needs to be a commitment to design quality.	The issues raised will be clarified as the projects are proposed and designed. Maintenance issues are addressed on P. 73 in Table 8-2 (Implementation Actions 1.C, 1.D, 1.F and 2.A thru C) and will be affected by final design choices. Recommendations are provided in Table 8-2 to address the disadvantages or impacts of the proposed creek enhancements. Lafayette has a commitment to design quality through its development review procedures.	See Comment #22 on proposed amendments to <i>DDG</i> . P. 117 (Appendix C): Add annual maintenance costs for creek enhancements on public property using the City's current annual maintenance costs (\$1.30/sq.ft. in 2012).
Public Art Committee (Two representatives)			
26	Some photos in Chapter 6 (Materials & Furnishings) are examples of acceptable representations and some are not. For fencing, the treatment does not need to be uniform throughout the Planning Area, but fencing along one reach (or property) should relate to fencing on other reaches (or properties), and all fencing should be "organic".	P. 74, Table 8-2, Implementation Action 3.A, fifth bullet, proposes consulting with the Flood Control District on new fencing for the Lafayette Creek flood control channel. See Comment #17 Chapter 6 (Materials & Furnishings).	See Comment #17 on revisions to Chapter 6 (Materials & Furnishings).
27	An entire fence does not need to be public art. One section of a fence could be public art and the remaining fence sections should relate to and provide an effective backdrop for the public art fence section. Having the entire fence be made of the same material is a way to have the fence sections relate to each other.	Several of the options shown on page 57 are panels that can be singular or continuous. They are intended as examples; many excellent designs are possible. Comment #19 states: "Give the designers latitude to be creative". See Comment #17 on Chapter 6 (Materials & Furnishings).	See Comment #17 on revisions to Chapter 6 (Materials & Furnishings).
28	Dannenfelser will provide the Creeks Committee with additional photos of fencing that are good representations of public art.	No response needed.	No revision needed.

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	Downtown Street Improvement Master Plan Implementation Committee (DSIMPIC)		
30	Some photo simulations do not reflect the appropriate character for their neighborhood. For example, the photo simulation for the West Reach Catalyst Project is too urban. A design that reflects a more natural or rural character would be more appropriate. Without these photo-simulations, however, it would be difficult to comment on the draft plan. Maybe the photo-simulations should be considered “prototype images” and are not meant to convey the intended design for the project. The <i>Plan</i> should provide some guidance on the intended design, maybe in text form. For example, the design for the West Reach should reflect a “rustic” character. Terms for the appropriate design character might be semi-rural, natural, organic, softness, whimsy, fun. Terms for inappropriate design character might be urban, too trite, too designy, condo-complex.	Photo-simulations are intended to illustrate preliminary concepts. Design and character refinement can occur as the project is developed. Community input will be an important component of any major project that goes forward. Proposed projects will be subject to review by the appropriate commissions and/or committees. Design character is discussed in the <i>DSP</i> and <i>DDG</i> .	Add text to the <i>Plan</i> that emphasizes the conceptual nature of the images and project descriptions. Chapters 3 & 4: Add a description of the recommended design character from the <i>DDG</i> that would apply to each creek reach. Photos will be revised where appropriate.
31	The <i>Downtown Design Guidelines</i> divide the Mt Diablo Blvd corridor into segments and describes a design character for each segment. Refer to the <i>DDG</i> for this guidance.	The <i>Plan</i> is intended to work in conjunction with the <i>DSP</i> and the <i>DDG</i> .	See Comment #13 for proposed amendments to <i>DDG</i> and #30 design character of each creek reach.
32	The <i>Plan</i> should refer to guidance from the <i>Trees for Lafayette</i> , the City’s master tree plan. Specifically, the trees used in the riparian portion of a project should be consistent with the tree palette described in <i>Trees for Lafayette</i> .	The trees mentioned on pp. 46 and 48 are on the <i>Trees for Lafayette</i> list of trees for riparian woodlands.	P. 46, column 2, revise to say: “This list can be expanded and adjusted as necessary based on guidance from <i>Trees for Lafayette</i> or a qualified restoration specialist or landscape architect experienced in native revegetation.” Omitted trees (<i>Acer macrophyllum</i> , <i>Alnus rhombifolia</i> , and <i>Juglans hindsii</i>) will be added to Table 5-2.
33	Examples of appropriate materials/furnishings for fencing include the railing by Chow on the perimeter of the La Fiesta Square parking lot, and the railings at Costanoa in Pescadero.	Photo of simple cable rail fencing such as that at La Fiesta Square can be added if desired.	Photo of railing by Chow to be added. See Comment #17 on revisions to Chapter 6 (Materials & Furnishings).

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34	DSIMPIC is responsible for reviewing landscape and hardscape improvements in the public right-of-way proposed by specific projects when preliminary plans are presented to DSIMPIC. DSIMPIC does not comment on riparian areas so it is important to know where the boundary is for riparian areas.	This must be determined on a case by case basis at the time a project is proposed. See p. 12, end of column 2 for how riparian zones are defined. Table 8-2, P. 71, Implementation Action 1.A: “Consult with RWQCB regarding mapping the boundaries of the native riparian habitat in the Planning Area.”	P. 69: Add text describing the role of DSIMPIC in implementation of landscape and hardscape improvements in the public right-of-way relative to the proposed improvements described in the <i>Plan</i> . See Comment #22 regarding <i>Riparian Vegetation Restoration Manual</i> .
35	An entire fence does not need to reflect a particular design, but rather one section the fence (e.g. maybe a central section) can reflect a certain design that is interesting, while the rest of the fence can be low-key (not what is noticed and that doesn’t detract from the creek, which is what you want people to notice).	Fencing can be transparent and subtle, not necessarily naturalistic, rustic or organic. See Comment #27 on fence design and #33 on rail fencing.	See Comment #17 on revisions to Chapter 6 (Materials & Furnishings).
36	DSIMPIC would prefer to review a table or matrix that describes the comments received and how the Creeks Committee proposes to change the <i>Plan</i> to respond to these comments. DSIMPIC will consider a motion to endorse the <i>Plan</i> after reviewing this table/matrix. Don’t prepare a new version of the <i>Plan</i> for this follow-up review.	This document is a consolidation of all comments received and responses to those comments.	No revision needed.
Circulation Commission			
37	The <i>General Plan</i> Circulation Element and the <i>DSP</i> “Getting Around” chapter provide goals, policies, and programs to guide proposed improvements in the <i>Plan</i> that could affect the public transportation network, including those that would require connections to, or through, private property. This guidance should be specifically acknowledged in the <i>Plan</i> .	The Downtown Creeks Plan relies on existing City commissions, committees and procedures to guide proposed improvements to the public transportation network and their relationship to these plans.	P. 10, add text referencing the role of the Circulation Commission in reviewing projects for consistency with City transportation plans and policies.
38	Where proposed trails or walkways begin or terminate near active parking lots, driveways, and roadways, ensure there would be minimal conflict between vehicular and non-vehicular users. Provide specific analysis of opportunities and constraints related to property access where new trails and walkways are proposed.	These details would be refined when projects are developed, consistent with requirements of the <i>Trails Master Plan</i> and the <i>Master Walkways Plan</i> .	P. 10, add text referencing the <i>Master Walkways Plan</i> See Comment #37 on the role of Circulation Commission.

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39	<p>Where proposed trails are on, or adjacent to, private property, the <i>Plan</i> could benefit from added language recognizing feasibility constraints, including obtaining adequate access agreements or otherwise achieving support from property owners. With respect to possible trail inclusion in the <i>Master Walkways Plan</i>, City policy distinguishes walkways from trails. The trails in question tend to also be oriented toward recreation rather than transportation network or mobility enhancement. In this context, proposed trail improvements would be more appropriately identified for inclusion in the <i>Trails Master Plan</i>. In that context, the PTR Commission should be consulted regarding design details such as surface material. Pedestrian connections in the <i>Plan</i> not associated with a parallel street or roadway would be trails, not walkways.</p>	<p>See Comment #37 regarding the roles of City commissions and committees. The PTR Commission has been consulted and is open to the idea of considering other trails proposed in the <i>Downtown Creeks Plan</i> for inclusion in the <i>Trails Master Plan</i>. See Comment #5 regarding consultation with the PTR Commission.</p>	<p>See Comment #5 on the role of the PTR Commission, and the list of trails appropriate for inclusion in the <i>Trails Master Plan</i>.</p>
40	<p>The <i>Plan</i>, as proposed, includes a mid-block crossing at the Moraga Rd/Moraga Blvd intersection, approximately 50 feet north of the existing signalized intersection. Such an uncontrolled crossing would adversely impact traffic operations at the proximate intersection. We also question the viability of such a crosswalk on several levels, including safety. It is noted the proposed bulb-out to accommodate the mid-block crossing would entail removal of on-street parking and appears to impinge on space reserved for the existing, southbound Class II bicycle lane. The alternative is to omit the mid-block crossing in favor of a new crosswalk on the north leg of the Moraga Rd/Moraga Blvd intersection. While this alternative may be more feasible in some ways, remaining constraints include the fact that the western terminus of a new north leg crosswalk would terminate adjacent to two active driveways to off-street parking lots. This alternative crosswalk would require restricting access to one or both of those driveways, in order to meet current design standards and preserve the safety of crossing pedestrians. This could effectively render the parking lot unserviceable.</p>	<p>Design of improvements adjacent to public roadways will be consistent with City design standards and policies, and subject to review by the Circulation Commission.</p> <p>Note: there is no Class II bicycle lane at this location. This segment is proposed in the <i>Bikeway Master Plan</i> as a Class III bicycle route. There is an existing bulb-out in front of the Fed-Ex store on Moraga Rd between the proposed bulb-out location and Mt. Diablo Blvd.</p>	<p>Remove mid-block crossing from public property improvements shown on pp. 22-23. Suggest that if the private parking lot adjacent to the creek is redeveloped as a creek overlook patio, a new crosswalk on northern leg of Moraga Rd be considered. Include requirement for further study of traffic/parking/safety implications at the time this improvement is proposed.</p> <p>Recommend that if the proposed bulb-out is infeasible due to traffic considerations, this creek crossing be highlighted with decorative sidewalk paving. See Comment #37 regarding Circulation Commission oversight of transportation-related projects.</p>

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41	Preserve children’s safety, particularly Moraga Rd/Moraga Blvd intersection. Replacing the south leg crossing at that intersection with a north leg crossing would require an additional crossing, in order to access the west side of Moraga Rd.	See Comment #40 regarding Circulation Commission oversight.	See Comment #40 regarding review of new crosswalks.
42	Where changes to physical infrastructure within the public right-of-way are concerned, such as bulb-outs and walkway improvements featuring rain gardens, detailed design layouts for such projects should return to the Circulation Commission for review and feedback. The current concepts have not been adequately developed and engineered to allow understanding of their impacts on existing conditions and planned projects.	See Comment #40 regarding Circulation Commission oversight.	See Comment #37 regarding Circulation Commission oversight of <i>the Master Walkways Plan</i> , and Circulation Commission oversight of transportation-related projects.
43	Ensure bicycle facilities are not adversely impacted by bulb-outs and rain gardens. The bulb-out proposed north of Moraga Rd/Moraga Blvd intersection was cited as particular concern with respect to existing bike access. Ensure ADA accessibility on trails. Bulb-outs create problems for the visually impaired.	See Comment #40 regarding Circulation Commission oversight.	See Comment #37 regarding Circulation Commission oversight of transportation-related projects, and #40 regarding feasibility of proposed bulbouts.
44	Identify the potential amount of net on-street parking lost to proposed improvements. Where parking is proposed to be removed, or otherwise altered, on private lots, the matter should be forwarded to the Parking Ordinance Committee for review.	See Comment #12 regarding proposed policy to mitigate for loss of parking.	See Comment #12 regarding modification of proposed policy to mitigate for loss of parking. P. 69: Add text describing the Parking Ordinance Committee’s oversight of improvements described in the Plan.
45	Several commissioners prefer not to lose any parking as a result of creekside improvements, particularly across from the Veterans’ Building, in the Shield Block, the Methodist Church and on Moraga Rd near Moraga Blvd.	See Comment #12 regarding proposed policy to mitigate for loss of parking.	See Comment #12 regarding modification of proposed policy to mitigate for loss of parking, and #37 regarding Circulation Commission oversight of transportation-related projects.
46	The recommended new trails will make it easier for pedestrians to get to businesses and parking.	This is an intended benefit.	No revision needed.

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47	A commissioner was concerned about adding public art to the creek projects and its potential to compete with an otherwise beautiful natural setting.	The <i>DSP</i> contains considerable guidance for including public art in spaces adjacent to downtown creeks. Table 8-2, P. 74, Implementation Actions 3.D calls for the Public Art Committee to be involved in placement and selection of public art. See Comment #29 regarding the role of the Public Art Committee.	See Comment #29 regarding new text describing the potential role for the Public Art Committee in creek enhancement projects.
48	Recognize potential long-term maintenance costs and the need for consistency of maintenance.	Table 8-2, P. 72, Implementation Action 1.F; P. 73: Implementation Actions 2.A and 2.C; and P. 74: Implementation Action 3.A. all recognize the need to seek strategies for funding and to address maintenance needs.	See Comment #25 on adding maintenance costs for improvements on public property.
49	Remove mounted viewfinders at creek overlooks, as they could invade home privacy.	See proposed revision.	P. 19, remove viewfinder.
50	Moraga Rd is a critical corridor in the on-going <i>Downtown Congestion Study</i> . The rain gardens and bulb-outs on Moraga Rd use right-of-way that may be needed to relieve vehicular congestion.	This intersection will require thorough study by Circulation Commission, DRC and DSIMPIC. Public safety is paramount.	See Comment #37 regarding Circulation Commission oversight of transportation-related projects.
51	Personal safety may be an issue in creek bed access areas, especially if waters rise. Signage and protective measures such as gates could address this concern.	See Comment #3 regarding creek access safety issues.	See Comment #3 regarding creek access safety issues.
52	Other bicycle comments: (1) East Reach 3 new bridge should be designed to accommodate bicycles; (2) West Reach removal of on-street parking spaces is adjacent to bike lane, which receives a lot of weekend bicycle traffic.	At the West Reach, the proposed project would eliminate conflicts between car doors and bicycles.	P. 25, add text recommending that if the bridge is replaced, it should accommodate bicycles.
53	Public-private property improvements should have clear guidelines for incentives to allow for consistent application to creekside projects throughout the Planning Area.	P. 17 of the <i>Plan</i> addresses projects involving both public and private property. Elements of the project may be undertaken in phases, or a partnership agreement between the City and the private property owners may be crafted that accomplishes the project as a whole.	P. 17, add text indicating the <i>DSP</i> supports public-private partnerships to implement improvements.

ATTACHMENT B

	COMMENTS	RESPONSE TO COMMENTS	PROPOSED REVISION
54	This <i>Plan</i> should address storm surge protection and how overtopping of banks might be prevented, particularly as it may concern flooding in streets and roads.	P. 3 acknowledges <i>DSP</i> Program 15.1.1 which requires evaluation of projects within and adjacent to the creek corridors according to the <i>DSP</i> priorities, and the highest priority is flood protection. The <i>Plan</i> includes flood hazard maps and calls on projects that alter creek channels to prepare a hydraulic study of the project to determine flow velocity, potential for flooding, and any upstream and downstream impacts.	No revision needed.
Parking Ordinance Committee (POC)			
55	The <i>Plan</i> is too specific. The <i>Plan</i> needs to include the ability to adjust proposed projects to account for other factors that may develop in the future. For example, if we want to proceed with a road diet on Mt. Diablo Blvd in the vicinity of the West Reach creek enhancements, that may require revising the design currently shown in the <i>Plan</i> and as a result, we could potentially retain the existing on-street parking spaces.	The <i>Plan</i> has a long-term planning horizon, and it is anticipated that adjustments will occur. The project plans shown are conceptual, and meant to convey a vision. Design refinement will be appropriate when project opportunities arise. The concepts shown for the West Reach can be implemented in the context of a road diet.	See Comment #30 on indicating the conceptual nature of photo simulations.
56	Implementation of the Town Green project (includes part of the improvements to the North Reach) will require addressing the employee parking that currently occupies the site.	The <i>Plan</i> acknowledges the Town Green, a proposal of the <i>DSP</i> . Parking trade-offs will need to be considered. See Table 8-2, P. 75 Implementation Action 3.F: “Seek ways to minimize parking losses during the design phase of creek enhancements.”	See Comment #12 regarding modification of proposed policy to mitigate for loss of parking.

ATTACHMENT B

	COMMENTS	RESPONSE TO COMMENTS	PROPOSED REVISION
57	Rather than propose specific projects, the <i>Plan</i> should illustrate principles that should be followed with redevelopment of parcels adjacent to downtown creeks. What are the key features we want for creekside parcels?	A key feature of creek enhancements in Chapters 3 and 4 is creek access and creek viewsheds. General principles for creek protection, preservation and restoration are articulated in Chapter 5 (creek revegetation and LID measures). Common design features for all projects are described in Chapter 6, Materials & Furnishings. Chapter 8, Implementation, discusses goals and principles in the context of project prioritization, desired outcomes and implementation actions. Proposed projects are conceptual in nature.	Add an executive summary for the Downtown Creeks Plan to emphasize key features of the plan. See Comment #13 regarding existing City policies and guidance and revisions to that guidance in Appendix D, #17 on revisions to Chapter 6 (Materials & Furnishings), #22 on <i>Riparian Vegetation Restoration Manual</i> , and #30 on new text regarding the conceptual nature of the images and project descriptions.
58	An alternative to recommending specific projects would be to incentivize creekside enhancements that any property owner could use. The POC is considering using incentives to encourage consolidation of downtown parking lots. How do we incentivize the South Reach creek daylighting project, allow for additional building height, density, reduced parking requirements? Look at historic preservation programs to see how they use incentives to encourage restoration of historic structures.	Table 8-2, P. 75, Implementation Actions 3.E addresses incentives for construction of public access, amenities and gathering areas along creek corridors. See Comment #14 regarding implementation of downtown amenities in <i>DSP</i> .	See Comment #13 regarding new creek setback provisions of the flood damage prevention ordinance in Appendix D.
59	Consider implementing creek enhancements incrementally, maybe focusing on public improvements, and see if property owners follow these examples.	See Comment #1 regarding project prioritization.	See Comment #1 regarding revisions to project prioritization.
60	The Chamber of Commerce may not be willing to support removal of parking for creek enhancements.	An objective of the creek enhancements is to create a better pedestrian environment which encourages people to linger and patronize local businesses. See Comment #12 regarding proposed policy to mitigate for loss of parking.	See Comment #12 regarding modification of proposed policy to mitigate for loss of parking.

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	COMMENTS	RESPONSE TO COMMENTS	PROPOSED REVISION
61	Unlike parking which benefits private businesses, creek improvements are primarily for the benefit of the public and the City. As such, the City should take the lead in paying for these improvements and should also offer incentives to private property owners to make these improvements.	Table 8-2, P. 72: Implementation Action 1.F lists actions the City can take to expedite projects and seek grant funds; P.74: Implementation Action 3.A. lists actions the City can take to advance creek projects. See Comment #14 regarding existing City policies and guidance and #58 regarding incentives.	See Comment #13 regarding new creek setback provisions for the flood damage prevention ordinance in Appendix D.
62	With nearly 5,000 downtown parking spaces, losing 90-100 parking spaces from creek enhancements is very minor. Pedestrian bridges over creeks can improve access to existing parking.	Improving pedestrian connectivity along and across downtown creeks is one of the <i>Plan's</i> objectives.	No revision needed.
63	The POC has not identified locations for more parking lots or structures. Instead, POC is looking at the overall supply of downtown parking and how it can be used more efficiently through comprehensive and cost-effective strategies that address parking needs for shoppers and employees. However, parking lost to creek improvements should be compensated in a way that benefits the downtown parking situation.	The plan illustrates projects that would remove 2% of the downtown parking. This loss would be offset by increasing parking efficiency and overall public accessibility of the downtown. Consolidation of parking lots in the Shield Block may result in more efficient parking. See Comment #12 regarding proposed policy to mitigate for loss of parking.	See Comment #12 regarding modification of proposed policy to mitigate for loss of parking, and #37 regarding Circulation Commission oversight of transportation-related projects.
City Council / Planning Commission Study Session			
64	Add property lines to the Plan Views in Chapters 3 and 4, especially on the Shield Block.	Chapter 3 & 4 plan views are intended to convey vision. Property lines are shown on maps in Appendix A.	Chapters 3 & 4 will reference Appendix A for additional information on each reach, including property lines.
65	Integrate the Project List with the Plan, include a "Key" to the project numbers so they can be tracked more easily in the Plan (e.g. add Project #'s to Figures 3-1 and 4-1).	The Staff Report, not the <i>Plan</i> , uses project numbers.	Add numbers to City sponsored projects and add a map to Appendix C that shows locations of referenced projects. Projects on private property are more conceptual and some can potentially occur on other properties. See Comment #11 where property owners requested the Plan avoid tying specific improvements to privately-owned parcels.

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	COMMENTS	RESPONSE TO COMMENTS	PROPOSED REVISION
66	Could we establish a “mini Habitat Conservation Plan” with the regulatory agencies to create a streamlined process for their permitting? Would this provide certainty to property owners on what is required and give regulatory agencies opportunity for a periodic reality check? Could City be the property owner’s (permittee’s) agent to the regulatory agencies? Could permits be provided by the City if the agencies approve this Plan?	Several strategies to streamline permits have been investigated. Proceeding with the Lafayette Creek West Reach Catalyst Project will familiarize the regulatory agencies with the downtown riparian environment, and help identify streamlining opportunities. Review of creek revegetation projects can be streamlined by preparing a <i>Riparian Vegetation Restoration Manual</i> to guide the activities of property owners.	See Comment #1 regarding project priorities and #22 regarding <i>Riparian Vegetation Restoration Manual</i> .
67	Check with City Attorney to ensure that there is no language regarding private property that would give rise to inverse condemnation issues	City Attorney has reviewed the draft Plan	Revisions necessitated by comments from the City Attorney will be incorporated into the Final Draft.
68	Whether creek projects need to mitigate their parking impacts will depend on the circumstances of each project. For example, what impact will the West Reach project have on parking? It depends - the parking along Mt. Diablo Blvd. at the West Reach is currently used for overflow parking for events at the Veterans Memorial Center.	See Comment #12 regarding proposed policy to mitigate for loss of parking,	See Comment #12 regarding modification of proposed policy to mitigate for loss of parking and #37 regarding Circulation Commission oversight of transportation-related projects.
69	Consider Lafayette’s Complete Streets ordinance. Do the Plan’s trails need to comply? Are pedestrian-only trails an issue? Is the treatment of bicyclists in the Plan consistent with the Complete Streets ordinance?	“Complete Streets” policies have been amended into the General Plan Circulation Element through Resolution 2012-46. Complete Streets are defined as streets that serve everyone—pedestrians, bicyclists, transit riders, and drivers—and they take into account the needs of people with disabilities, older people, and children. This plan proposes new trails along or across creeks and are not part of a street right-of-way, so the Complete Streets ordinance does not apply. Several trails are proposed to access the creekbed. These trails are similar to other soft-surface trails in the City where ADA accessibility is not appropriate. See Comment #38 on details of trail design.	See Comment 38 regarding Circulation Commission oversight of transportation-related projects.

ATTACHMENT B

	COMMENTS	RESPONSE TO COMMENTS	PROPOSED REVISION
70	There are already incentives for private property owners contained in <i>the Downtown Specific Plan</i> – should work with those.	Aside from the existing incentives created by the <i>Downtown Specific Plan</i> (i.e. exception from the 35’ height limit), the <i>Downtown Creeks Plan</i> proposes to allow exceptions to the creek setback requirements if a structure in the setback area includes creek enhancements. See Comment #14 regarding existing policy to not use eminent domain for downtown amenities.	Table 8-2, P. 75, Implementation Actions 3.E: delete greater floor area ratio and reduced parking requirements as incentives. See Comment #13 regarding new creek setback provisions of the flood damage prevention ordinance in Appendix D.
71	Make more clear that the drawings/photosims are conceptual, we don’t want to bind future review bodies to a particular design shown in the Plan.	See Comment #11 regarding conceptual graphics, #15 regarding conceptual improvements to private property and #30 regarding the conceptual nature of the photo simulations.	See Comments #11 on revised conceptual graphics, and #30 on revised conceptual graphics.
72	What funding sources are available for creek enhancements on private property?	P. 68 describes potential funding sources. Creek enhancement on private property are eligible for most of these sources, but such funding requires the property owner to dedicate such property to the purposes of the grant program for a set amount of time (e.g. 20 – 35 years)	P. 68, add text describing the availability of funding for private property owners.
73	Costs listed for creek enhancements on private property are high – are there lower cost projects that private owners could implement?	The creek enhancements described for private property are conceptual. Actual costs depend on the specifics of a development application. Two types of projects required by the plan, Riparian Vegetation Restoration and LID measures, are typically low cost. If the total cost estimate for Riparian Habitat Restoration (\$850k) were divided among all 51 creekside properties, the average cost would be under \$17K (this does not include maintenance costs).	Appendix C: Add cost of Riparian Vegetation Restoration to the Project Cost list.
74	What are the next steps? How will we implement the Plan?	Table 8-2 in Chapter 8 describes proposed policies, program and other measures as the next steps.	Modify Table 8-2 to indicate which steps are to be implemented near term. See Comment #1 regarding revised project priority process.

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	COMMENTS	RESPONSE TO COMMENTS	PROPOSED REVISION
75	What about the regulatory agencies – have they been consulted? Would the regulatory agencies be cooperative, or an impediment?	Two meetings have been held with regulatory agencies to discuss the <i>Plan</i> . See Comment #1 regarding West Reach Catalyst Project and #66 regarding opportunities for permit streamlining.	See Comment #1 regarding revised project priorities and #22 regarding the <i>Riparian Vegetation Restoration Manual</i> .
76	Don't create an urban design for the creeks. They should be natural.	See Comment #30 regarding conceptual nature of projects.	See Comment #17 regarding DRC oversight and #30 regarding revisions to photo simulations.
77	Can Public Art funds be used for any of the elements?	A developer subject to the Public Art fee can use those fees to incorporate public art into a creek enhancement project on their property.	P. 68, add Public Art fee to this list of potential funding sources.
78	Coordinate with the Chamber of Commerce – they should support the Plan, they will benefit.	The Chamber of Commerce participated in the public outreach meetings organized for property owners within the planning area	P. 61: reference participation of the Chamber of Commerce in the Stakeholder meetings.
79	Remove references to a parking structure, which may not be easy to implement. Refer to possible off-site parking.	P. 62 lists the opportunity for a parking garage as part of the South Reach creek enhancements. It would not be appropriate to remove a public comment received at a community workshop. P. 90 lists the potential for a parking garage as a strategy for freeing up creekside parking lots for creek enhancements.	See Comment #12 regarding modifications to parking mitigations.
80	The channelized portion of Lafayette Creek is UGLY. We need to do something about it.	The plan describes several potential creek enhancements to the channelized portion of Lafayette Creek (i.e. East Reaches 1 and 2). See Comment #2 regarding the <i>50-Year Plan</i> and #26 regarding fencing along the flood control channel.	See Comment #2 that adds text on the conceptual flood control alternatives and #26 regarding modifications to Chapter 6 (Materials & Furnishings).
81	Provide better link between the <i>Plan</i> and the information in the Appendices.	The order of the chapters was changed from early drafts which resulted in inaccurate cross references.	A number of editorial changes will be considered in preparing the Final Draft to improve the linkage between the <i>Plan</i> and its appendices.
82	Identify which photo is associated with the red arrow in the View Maps.	Concur with comment.	Photos associated with the red arrows in the View Maps will be identified.

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	COMMENTS	RESPONSE TO COMMENTS	PROPOSED REVISION
83	Move the Community Outreach chapter to the Appendices.	Since most funding sources seek projects that are a result of community outreach, it appears most appropriate to keep the Community Outreach chapter in the main body of the Plan.	No revision needed.
84	Clarify any relationship between the project ranking summary in Table 7-2 (p. 63) with the prioritization process on page 67.	Table 7-2 describes priorities of participants at a workshop, not the project priority process on page 67.	No revision needed.
85	Provide better link between opportunity maps in Appendix A and the proposed projects in the Plan (e.g. p. 90 and the proposed project for the North Reach).	See Comment #81 regarding editorial errors.	See Comment #81 regarding editorial revisions.
86	Why isn't the section of Happy Valley Creek through the Town Center one of the "identified creek reaches" in the Plan?	This section of Happy Valley Creek was addressed as part of a legal settlement to a lawsuit over a development project. This Plan cannot supersede a legal settlement agreement.	No revision needed.
87	The Plan says English ivy is the invasive species found in the creeks; is it not Algerian ivy (<i>Hedera algeriensis</i>)?	Several invasive ivy species exist in downtown creeks.	P. 47, Table 5-1 will be revised to include <i>Hedera algeriensis</i> .
88	What is the status of the City's Green Infrastructure Plan mentioned on page 13?	The NPDES permit administered by the Regional Water Quality Control Board requires the City to approve its framework or workplan for development of its <i>Green Infrastructure Plan</i> by June 30, 2017. The completed <i>Green Infrastructure Plan</i> shall be submitted with the NPDES permit <i>2019 Annual Report</i> .	P. 49, add text describing opportunities for expanding LID measures for downtown projects as a way to initiate the city's <i>Green Infrastructure Plan</i> activities. In Appendix D, add amendments to the stormwater management and discharge control ordinance to expand the use of LID for downtown development to improve water quality.
89	For the West Reach project: retain the on-street parking; the binocular stations impact privacy of adjacent properties; and the fence needs to be more transparent so it doesn't obstruct the view of the creek.	See Comment #17 regarding Chapter 6 (Materials & Furnishings), #30 regarding the preliminary nature of photo simulations,, #45 regarding proposed policies to mitigate for loss of parking and #55 the project design process.	See Comment #17 regarding revised Chapter 6 (Materials & Furnishings), #45 regarding modification of parking mitigation measure, #49 regarding removal of view finders and #55 new text regarding conceptual nature of photo simulations.

ATTACHMENT B

	COMMENTS	RESPONSE TO COMMENTS	PROPOSED REVISION
90	P. 21: Do rain gardens need to be irrigated? Include project numbers in the description of the improvements.	Rain gardens would receive limited irrigation during the dry season. See Comment #65 regarding limitations of the project numbering system.	See Comment #65 regarding project map.
91	P. 32: Shield Block Trail should be 8' wide.	The space available for a trail is limited. The trail width is consistent with the Trails Master Plan. See Comment #4 regarding the project description.	See Comment #4 regarding role of the PTR Commission.
92	P. 50: First paragraph, bioretention basins clean water, they don't clean the soil.	Concur with comment.	P. 50 will address this edit.

ATTACHMENT C
PROJECT LIST FOR CITY-SPONSORED CREEK IMPROVEMENTS
03/08/17 version

Priority	Project Description	Project Purpose	Next Steps
Near Term	1. Creek Icon Project <ul style="list-style-type: none"> • Select a design for the creek icon and identity marker for use in creek enhancement projects. • Fabricate an initial supply of icons • Cost: \$50,000 	<ul style="list-style-type: none"> • Enhance public awareness of downtown creeks. • Establish a brand for downtown creeks • Promote public art. 	<ul style="list-style-type: none"> • Authorize the Public Art Committee or the Public Works Director to issue a Request for Proposal for design of the creek icon.
Near Term	2. Riparian Vegetation Restoration Manual <ul style="list-style-type: none"> • Map jurisdictional boundaries for riparian vegetation and the ordinary high water mark. • Planting plan for each reach • Protocols for removing invasive plants, and installing and maintaining the vegetation • Reporting and outreach requirements. • Cost: \$50,000 	<ul style="list-style-type: none"> • Emphasize continuity of the downtown creek environment. • Streamline permits from regulatory agencies. • Encourage voluntary creek revegetation projects by downtown property owners. 	<ul style="list-style-type: none"> • Authorize the Public Works Director to prepare the manual.
Near Term	3. West Reach: Catalyst Project. <p>Phase I</p> <ul style="list-style-type: none"> • Creek bank stabilization • Creek overlook with icon • Revegetate creek banks • Cost: \$50,000 <p>Phase II</p> <ul style="list-style-type: none"> • Repair creek bank erosion • Two creek overlooks with interpretive panels and decorative railing • Public Art • Permeable trail along and into the creek bed • Rain gardens • Cost¹: \$700,000 + erosion repair 	<p>Phase I</p> <ul style="list-style-type: none"> • Stabilize the buckeye tree on Lafayette Creek which threatens to undermine the eastbound lanes of Mt. Diablo Blvd. • Improve public access to Lafayette Creek with an overlook. • Provide a highly visible project that demonstrates to property owners the benefits of creek revegetation. • Brand this reach with the creek icon. <p>Phase II</p> <ul style="list-style-type: none"> • Establish a process with regulatory agencies for review of future creek enhancement projects. • Correct erosion problems along Lafayette Creek. • Provide an opportunity for creek education using interpretive panel. • Improve water quality by using rain gardens and permeable trail to intercept stormwater runoff from Mt. Diablo Blvd, which currently drains directly into the creek. <p>Enhance the western entry into the downtown by providing a location for public art.</p>	<ul style="list-style-type: none"> • Authorize Public Works Director to prepare plans and construct improvements.

¹ Does not include the cost of Public Art.

ATTACHMENT C
PROJECT LIST FOR CITY-SPONSORED CREEK IMPROVEMENTS
03/08/17 version

Priority	Project Description	Project Purpose	Next Steps
Near Term	4. North Reach: Lafayette Circle Overlook <ul style="list-style-type: none"> • Sidewalk gap closure • Creek overlook with icon, interpretive panel and decorative railing² • Rain garden and bulb out • Cost: \$60,000 	<ul style="list-style-type: none"> • Improve public access with overlook to Happy Valley Creek. • Provide an opportunity for creek education using interpretive panel. • Improve water quality by using a rain garden to intercept stormwater runoff from Lafayette Circle, which currently drains directly into the creek. • Implement a high priority project from the Master Walkways Plan. • Brand this reach with the creek icon. 	<ul style="list-style-type: none"> • Consult with Circulation Commission on programming Walkway Fees and securing additional funds for the project.
Mid Term	5. South Reach: East Street/Lafayette Circle/Moraga Rd Trail <ul style="list-style-type: none"> • Obtain easement from property owner • Construct pedestrian trail connecting Lafayette Circle with Moraga Road and the end of East Street. • Cost: TBD 	<ul style="list-style-type: none"> • Improve pedestrian circulation with trails between Lafayette Circle and Moraga Road and between East Street and the BART station. • Connect creek trails. 	<ul style="list-style-type: none"> • Obtain a trail easement from the property owner, United Methodist Church.
Mid Term	6. South Reach: Moraga Road Overlook <ul style="list-style-type: none"> • Creek overlook with icon, interpretive panel and decorative railing • Rain garden and bulbout • Cost³ : \$120,000 	<ul style="list-style-type: none"> • Improve public access with an overlook to Lafayette Creek. • Provide an opportunity for creek education using interpretive panel. • Improve water quality by using a rain garden to intercept stormwater runoff from Moraga Road, which currently drains directly into the creek. • Brand this reach with the creek icon. 	<ul style="list-style-type: none"> • Authorize Public Works Director on seek funds for the project and Consult with the Circulation Commission on its design.
Mid Term	7. East Reaches 1 & 2: Channel Enhancements <ul style="list-style-type: none"> • Hydraulic Study⁴ • Channel wall and bed enhancements • New fencing. • Cost: TBD 	<ul style="list-style-type: none"> • Improve habitat through channel bed enhancements for up to 1,650' of creek bed. • Improve aesthetics of the flood control channel. 	<ul style="list-style-type: none"> • Prepare a Cooperative Agreement with the Flood Control District to replace the security fencing and evaluate potential enhancements to the channel for habitat and aesthetic values.

² Sidewalk gap closure included in Walkway Fee Program.

³ Cost assumes striped crosswalk, not decorative pavers.

⁴ Hydraulic study is needed to evaluate feasibility of enhancements that would not increase flood risk.

ATTACHMENT C
PROJECT LIST FOR CITY-SPONSORED CREEK IMPROVEMENTS
03/08/17 version

Priority	Project Description	Project Purpose	Next Steps
Mid Term	8. East Reach 1: Creek Connections Phase I <ul style="list-style-type: none"> • Expand existing plaza • Cost: \$TBD Phase II <ul style="list-style-type: none"> • Creekside Terrace Garden • Ornamental Fencing and icon • Cost: \$100,000 	<ul style="list-style-type: none"> • Improve water quality by using the Creekside Terrace Garden to intercept stormwater runoff from Golden Gate Way, which currently drains directly into the creek. • Improve public access by creating the Creekside Terrace Garden. • Brand this reach with the creek icon. 	<ul style="list-style-type: none"> • Authorize Public Works Director to prepare plans and construct improvements.
Near Term	9. East Reach 1: First Street Overlooks <ul style="list-style-type: none"> • Sidewalk gap closure (west side) • Creek overlook with icon and decorative railing (both sides of street)⁵ • Rain garden (both sides of street) • Cost: \$135,000 	<ul style="list-style-type: none"> • Improve public access with overlook to Lafayette Creek. • Improve water quality by using a rain garden to intercept stormwater runoff from First Street, which currently drains directly into the creek. • Implement a high priority project from the Master Walkways Plan. • Brand this reach with the creek icon. 	<ul style="list-style-type: none"> • Consult with Circulation Commission on programming Walkway Fees and securing additional funds for the project.
Near Term	10. East Reach 2: Second Street Overlook <ul style="list-style-type: none"> • Sidewalk gap closure (both sides of street) • Creek overlook with icon and decorative railing⁶ • Rain garden (both sides of street) • Cost: \$135,000 	<ul style="list-style-type: none"> • Improve public access with overlook to Lafayette Creek. • Improve water quality in creek by using the rain garden to intercept stormwater runoff from Second Street, which currently drains directly into the creek. • Brand this reach with the creek icon. 	<ul style="list-style-type: none"> • Consult with Circulation Commission on programming Walkway Fees and securing additional funds for the project.
Long Term	11. East Reach 3: Gazebo Park - Creek Terrace <ul style="list-style-type: none"> • Revegetate creek banks. • Stairs to lower terrace & creek bed • New railings on existing pedestrian bridge • Icon, interpretive panel, Public Art • Construct Gazebo Park and east end of creek trail to connect with EBRPD trail. • Project can be phased. • Cost⁷: \$200,000 	<ul style="list-style-type: none"> • Improve public access with improved multi-use bridge, connection of creekside pedestrian trail with the EBRPD trail, and trail to creek bed and lower terrace. • Provide an opportunity for creek education using interpretive panels. • Improve habitat by restoring riparian vegetation. • Brand this reach with the creek icon. 	<ul style="list-style-type: none"> • Authorize the Public Works Director to prepare a Cooperative Agreement with the East Bay Regional Park District and the Flood Control District for development of the project.
Total Cost: \$ TBD			

⁵ Sidewalk gap closure on west side included in the Walkway Fee Program.

⁶ Sidewalk gap closure on both sides included in the Walkway Fee Program.

⁷ Cost does not include cost of Public Art or Gazebo Park.

ATTACHMENT D

APPENDIX D:

RECOMMENDED AMENDMENTS TO CITY CODES, PLANS AND GUIDELINES (03/08/2017 version)

The creek enhancement concepts in the Downtown Creeks Plan draw heavily from existing City policies (e.g. codes, plans, and guidelines). There are some gaps in these policies when planning for the protection, enhancement and enjoyment of our downtown creeks. Most of these gaps can be addressed with minor amendments. This appendix describes the recommended amendments to the following policy documents, and lists the City boards, in addition to the Planning Commission and City Council, that should consider them for adoption.

- Downtown Design Guidelines
- Zoning Ordinance (Design Review findings)
- Trails Master Plan/Trails Implementation Plan
- Tree Protection Ordinance
- Flood Damage Prevention Ordinance (Not included in this draft)
- Stormwater Management and Discharge Control Ordinance

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ATTACHMENT D

DOWNTOWN DESIGN GUIDELINES adopted September 8, 2014, oversight by Design Review Commission.

The Downtown Design Guidelines contain substantial guidance on the development of creek side parcels. The guidance most relevant to creeks can be found in the sections dealing with outdoor space, creeks and landscape, parking and circulation, and building design. The amendment to the Downtown Design Guidelines of greatest importance is to incorporate the riparian vegetation restoration measures described in the Downtown Creeks Plan. Through these measures new development will help improve habitat for local wildlife, visually tie the downtown creek reaches together as a continuous creek system, and reduce creek bank erosion. Other recommended amendments the Downtown Design Guidelines address wayfinding/signage, fencing, railings, and bicycle parking.

Page 11 – revise guideline #5 as follows:

Transition landscaping toward and along the creek corridor for a consistent native riparian plant palette as described in the Downtown Creeks Plan.

Page 11 – New guidelines to follow guideline #6:

To enhance awareness of creeks, use creek icons, interpretive signage, or decorative fencing element as described in the Downtown Creeks Plan

To enhance the natural function of creeks, pursue opportunities to remove culverts adjoining and impervious surfaces bordering open creek channels.

Page 14 – revise guideline #11 as follows:

Provide bicycle parking in well illuminated, secured, covered, and convenient areas. Short-term bicycle parking should be visible from building entrances and located near entrances to pedestrian zones.

Page 29 – Revise Plaza District Vision as follows:

The Plaza district is the civic and cultural hub of the downtown with community activities revolving around Lafayette Plaza. A critical component of this district is uses that take advantage of these activities. Outdoor space should reinforce this district as the central community gathering space and take advantage of the proximity to the creek. Development should draw on the Lafayette Library and Learning Center as a cultural and educational asset and create a synergy of complementary uses. The Downtown Specific Plan (DSP) expanded on this concept by envisioning an active park southwest of the Library to complement the surrounding uses. This district, along with the Downtown Retail district, make up the core of the downtown.

The Plaza district, which is bordered by the Lafayette Creek, is defined by four distinct streets: Mt. Diablo Boulevard, Moraga Road, Plaza Way, and Golden Gate Way. Development along the south side of Mt. Diablo Boulevard should serve as the transition between the retail-based Downtown Retail district and the commercial-based East End district. Development along Moraga Road should be less concentrated with greater setbacks and a residential character to transition between the core of the downtown and the neighborhoods to the south. Development along Plaza Way and Golden Gate Way should be sited close to the sidewalk and close together, with parking behind buildings or underground to create a pedestrian-friendly environment and maximize an active retail frontage. Traffic on Golden Gate Way is slower paced, creating a more relaxed setting than the other streets. While much of Lafayette Creek is

ATTACHMENT D

channelized, it is considered riparian habitat by state agencies. Landscaping should build on the existing riparian vegetation, and restore riparian habitat as opportunities are available.

Page 31 – Revise the Plaza Way Character Area Vision as follows:

Plaza Way, as further described in the Downtown Specific Plan (DSP), is the community’s historic center. The design intent is to preserve and enhance the historic village character of the area which begins on Plaza Way and extends down Golden Gate Way. These narrow, slow-paced streets promote walking, bicycling and a relaxed pedestrian-friendly environment. Development should complement the historical buildings and take advantage of its relationship to the plaza and the creek. Buildings should be sited close to the sidewalk with variations in building height to create a vibrant pedestrian environment.

Fencing along the flood control channel should meet public safety requirements while reflecting a rustic naturalness and pedestrian-friendly character. In addition to the guidelines below, development in this character area must also comply with the Plaza Way Overlay Design Guidelines.

Page 31 – New guideline to follow guideline #3:

Use landscaping to reinforce the riparian character of the flood control channel.

ATTACHMENT D

ZONING ORDINANCE (Design Review findings), Lafayette Municipal Code Chapter 6-2 – APPLICATIONS AND PERMITS, *oversight bodies, Design Review Commission and Planning Commission.*

The amendment to the Design Review Findings in the Zoning Code is intended to reflect the new language in the Downtown Design Guidelines that addresses fencing and railings. The full text of Article 5 is show in italic font below, with amendments shown using redline/strikeout text.

Article 5. –Design Review, 6-275 - Design review findings

(a) Residential Design Review Findings.

In granting approval for projects which occur in single-family and multiple-family residential zoning districts as outlined in [Section 6-271\(a\)\(1\) and \(3\)–\(6\)](#), the hearing authority shall make all the following findings:

- (1) The approval of the plan is in the best interest of the public health, safety and general welfare;*
- (2) General site considerations, including site layout, open space and topography, orientation and location of buildings, vehicular access, circulation and parking, setbacks, height, walls, fences, public safety and similar elements have been designed to provide a desirable environment for the development;*
- (3) General architectural considerations, including the character, scale and quality of the design, the architectural relationship with the site and other buildings, building materials, colors, screening of exterior appurtenances, exterior lighting and signing and similar elements have been incorporated in order to ensure the compatibility of this development with its design concept and the character of adjacent buildings; and*
- (4) General landscape considerations, including the location, type, size, color, texture and coverage of plant materials, provisions for irrigation, maintenance and protection of landscaped areas and similar elements have been considered to ensure visual relief, to complement buildings and structures and to provide an attractive environment for the enjoyment of the public.*

(b) Single-Family Residential Findings—Exceeding 6,000 Square Feet.

In addition to the findings required in [Section 6-275\(a\)](#), the hearing authority shall make the following findings for projects which occur in single-family residential zoning districts and exceeds 6,000 square feet in gross floor area as outlined in [Section 6-272\(a\)\(3\)](#):

- (1) The house substantially complies with the residential design guidelines;*
- (2) The house is so designed that its mass will not appear significantly out of scale with the existing neighborhood;*
- (3) The house does not, because of its size, unduly impact, restrict or block significant views; and*
- (4) The house does not, because of its size, require removal of natural features, require excessive grading or cause the unnecessary removal of a healthy tree(s).*

(c) Single-Family Residential Findings—Exceeding 17 Feet in Height.

In addition to the findings required in [Section 6-275\(a\)](#), the hearing authority shall make the following findings for projects which occur in single-family residential zoning districts and exceeds 17 feet in height as outlined in [Section 6-272\(a\)\(4\)](#):

- (1) The structure substantially complies with the residential design guidelines;*
- (2) The structure is so designed that it will appear compatible with the scale and style of the existing neighborhood and will not significantly detract from the established character of the neighborhood;*

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(3) The structure is so designed that it does not appear too tall or massive in relation to surrounding structures or topography when viewed from off-site; and

(4) The structure is so designed that it does not unreasonably reduce the privacy or views of adjacent properties.

(d) Downtown Design Review Findings.

The hearing authority shall make the following findings for projects which occurs within the four downtown commercial zoning districts as outlined in [Section 6-272\(a\)\(2\)](#):

- (1) The project substantially complies with the downtown design guidelines.
- (2) The site design, including building placement, parking and circulation, landscape, **fencing/railings** and outdoor space, enhances the pedestrian experience, embraces and preserves creeks and natural features, promotes connections, creates visual interest, and relates to the character of the surrounding development.
- (3) The building design, including height and scale, architectural details, and amenities, provides diversity in building form, preserves views of surrounding hillsides and ridges as seen from Mt. Diablo Boulevard, creates an inviting environment for pedestrians, and relates to the character of the surrounding development.
- (4) The project promotes a character relating to Lafayette that is informal with variations in architectural styles, massing, setbacks, and upper story step-backs.
- (5) The project, when adjacent to existing residential dwelling units, is designed to minimize impacts, including noise, privacy, light and glare.

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TRAILS MASTER PLAN/TRAILS IMPLEMENTATION PLAN, adopted November 27, 2006, oversight by Park Trails & Recreation Commission.

City trail policies are contained in the Trails Master Plan and the Trails Implementation Plan. The Parks Trail and Recreation Commission is currently updating the Trails Master Plan. In addition to the Shield Block Creek Trails, the Downtown Creeks Plan proposes two new trails. The Commission should consider adding these new trails in the Trails Master Plan as described below.

TRAIL NAME	LENGTH (MILES)	DESCRIPTION	DEVELOPMENT PHASE
<u>East Street Trail</u>	<u>.12</u>	<u>From the north end of East Street, through the Methodist Church parking lot to Lafayette Circle.</u>	<u>No easement acquired</u>
<u>Lafayette Creek Trail</u>	<u>.45</u>	<u>From the east side of Moraga Road at the Happy Valley Creek culvert, - along the culvert to the north side of Lafayette Creek to the EBRPD Briones-Las Trampas Regional Trail.</u>	<u>No easement acquired</u>

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TREE PROTECTION ORDINANCE, Lafayette Municipal Code Chapter 6-17, oversight by Planning Commission.

The Downtown Creeks Plan contains a new City requirement for creekside development projects to revegetate their creek with native riparian plant species. Revegetation involves removing invasive non-native plant species from the riparian zone. These invasive non-native plants include tree species identified in the Plan on *Table 5-1: Target Invasive Plant Species Treatment Details*. An amendment to the Tree Protection Ordinance is proposed to allow persons to seek an exception from the provisions of the Tree Protection Ordinance if the tree removal involves trees listed on Table 5-1 of the Plan. The full text of the Tree Protection Ordinance is shown below in italic font with recommended amendments shown in redline/strikeout text.

Chapter 6-17 - TREE PROTECTION

Sections:

6-1701 - Purpose and findings.

- (a) *Purpose. The City of Lafayette consists of oak woodland and savannah covered hills, and valleys that originally contained many large and majestic trees, orchards and creeks lined with giant valley oak, madrone, buckeye and black walnut trees. Historically, in the course of development, especially for residential purposes, many of these original trees were destroyed. It is now recognized that the preservation of trees enhances the natural scenic beauty, increases property values, encourages quality development, aids in tempering the effect of extreme temperatures, helps to reduce air and noise pollution, furnishes habitat for wildlife and gives Lafayette an identity and quality that enhances the environment for all residents and the business community. As seen in the master and specific plans adopted by the city, trees are vital to the community. The downtown street improvement master plan has a number of objectives to improve the appearance of the downtown and reinforce the visual character of the community which includes the widespread planting of trees in the downtown. The downtown specific plan has goals and policies aimed to preserve the downtown's trees so that they continue to contribute to the character of the community's quality of life. The general plan has goals and policies for the preservation of the community's biological resources, including its trees, and it is the purpose of this ordinance to implement these goals and policies.*
- (b) *Findings. The city council finds that:*
- (1) *The policies of the city are to protect existing woodlands and their associated vegetation, protect native trees, preserve riparian habitat, encourage the planting of native species, and avoid the cutting of mature trees.*
 - (2) *In order to implement these policies and to promote the public health, safety and welfare, it is necessary to protect existing trees and require the replacement of trees that have been destroyed or removed.*
 - (3) *Protected trees are valuable assets to the city and the community, and the public shall be compensated when a protected tree is destroyed or removed in a manner that is not in compliance with this chapter.*

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1702 - Definitions.

In this chapter, unless the context otherwise requires:

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- (a) "Arborist" is a person having one of the following qualifications:
 - (1) Current listing as a certified arborist by the International Society of Arboriculture; or
 - (2) Current American Society of Consulting Arborists registered consulting arborist.
- (b) "Arborist report" means a report of an arborist developed in a manner consistent with the guidelines for report writing by the American Society of Consulting Arborists on the following:
 - (1) Description of the tree's location, genus, species, diameter and dripline;
 - (2) Health and condition of the tree, including existing hazards to the tree;
 - (3) Potential impact of development on the tree or existing tree condition;
 - (4) Evaluation of preservation potential based on the tree's existing condition and in relation to any potential development; and
 - (5) Recommendations for protection and preservation techniques and requirements, including restorative or other remedial actions that might be feasible to maintain and improve tree health or to assure survival.
- (c) "Commercial zoning district" means business and commercial districts as further defined in Chapter 6-9 of the Lafayette Municipal Code.
- (d) "Construction" means the act of placing, erecting, modifying or relocating a structure or the act of preparing property for such work, including clearing, stockpiling, trenching, grading, compaction, paving or change in ground elevation.
- (e) "Defensible space" means the area within the perimeter of a parcel providing a key point of defense from an approaching wildland or escaping structure fire, as defined by Section 316.2 of the California Fire Code. Defensible space rarely requires the complete removal of a tree. Trees may be maintained provided they are well spaced, well pruned, and do not create a 'fire ladder' that would promote the spread of fire to a structure. When defensible space warrants complete removal of a tree, the tree is typically of a non-native species, is completely dead, or contains substantial amounts of dead branches or leaves/needles that would readily burn.
- (f) "Destroy" means an action that kills or endangers the health or vigor of a tree, and includes removal, relocation, excessive or improper pruning, topping, grading, irrigation, application of chemicals, trenching within the drip line or protected perimeter, soil compaction within the protected perimeter, or damage caused to the trunk or primary limbs during construction.
- (g) "Developed property" means an existing lot of record that has an existing legal dwelling unit as defined in Section 6-320.
- (h) "Development application" means an application to subdivide, alter, develop or use a property that, if approved, will require the issuance of a development permit, including a building or grading permit that may potentially result in the removal or destruction of a protected tree.
- (i) "Diameter" means the distance across the tree from outside bark to outside bark with the distance being determined by the circumference of the tree measured at 4.5 feet above the natural grade of the tree (also known as diameter at standard height) and divided by π (3.1416). The diameter of a multi-trunk tree is the sum of the diameters of its component trunks multiplied by two-thirds (.66).
- (j) "Director" means the planning and building department director or the director's designee.
- (k) "Dripline area" means the area surrounding tree trunk whose outer perimeter is defined by the length of the outermost branch tips.
- (l) "Major tree removal project" means a request for a tree permit by a public or private entity, utility company, or individual that may potentially result in the removal or destruction of more than 25 protected trees on public and/or private property from one or more associated projects either in one occurrence or multiple occurrences over the span of five years.

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- (m) "Native riparian species" means a tree or plant indigenous to a riparian habitat along a perennial or intermittent creek, stream or other watercourse and that is within 30 feet of the top of a creek bank or that is beyond 30 feet but in such proximity to a creek bank that it requires or tolerates soil moisture levels in excess of that available in adjacent uplands.
- (n) "Native species" means a tree or plant indigenous to a Lafayette oak woodland, chaparral, grassland or riparian habitat.
- (o) "Planting program" means the planting of native species on public or private property, including but not limited to trails, parks, and creeks, for the purposes of restoration, re-vegetation, and/or landscaping for the benefit of the public.
- (p) "Protected area" means the delineated area encompassing the rooting zone of a tree to be protected from encroachment by construction activities. The area is determined by projecting from the base of the trunk two feet for every one inch of trunk diameter.
- (q) "Protected tree" means a tree on public or private property meeting one or more of the following standards:
- (1) *Developed Property.* Located on a developed property, that has a trunk diameter of 12 inches or more, and that is one of the following species:
 - coast live oak (*Quercus agrifolia*);
 - Canyon oak (*Quercus chrysolepis*);
 - Blue oak (*Quercus douglasii*);
 - White oak (*Quercus garryana*);
 - Black oak (*Quercus kelloggii*);
 - Valley oak (*Quercus lobata*);
 - Interior live oak (*Quercus wislizenii*);
 - California bay (*Umbellularia californica*);
 - California buckeye (*Aesculus californica*);
 - Madrone (*Arbutus menziesii*).
 - (2) *Approved Development Application.* Of any size or species and designated to be protected and preserved as part of an approved development application;
 - (3) *Riparian Tree.* Is a native riparian tree with a trunk diameter of six-inches or more or one component trunk of a multi-trunked tree with a diameter of four-inches or more and that is one of the following species:
 - Bigleaf maple (*Acer macrophyllum*);
 - Boxelder (*Acer negundo*);
 - White alder (*Alnus rhombifolia*);
 - Black walnut (*Juglans hindsii*);
 - Cottonwood (*Populus fremontii*);
 - Red willow (*Salix laevigata*);
 - Arroyo willow (*Salix lasiolepis*);
 - Coast live oak (*Quercus agrifolia*);
 - Valley oak (*Quercus lobata*);
 - California bay (*Umbellularia californica*);

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- *California buckeye (Aesculus californica);*
 - *Blue Elderberry (Sambucus Mexicana, aerulea, or glauca).*
- (4) *Undeveloped Property. Of any species with a diameter of six inches or more and located on an undeveloped property;*
- (5) *Replacement Tree. Is a replacement tree planted as restitution for a violation of this chapter;*
- (6) *Restricted Ridgeline Area. Is a native tree of any size or species within a restricted ridgeline area;*
- (7) *Street tree. Is a tree of any size or species and is located within a public right-of-way or a private access easement; or*
- (8) *Downtown tree. Is a tree of any size or species within a commercial zoning district.*
- (r) *"Pruning" means the removal of tree parts. Proper pruning is performed in a manner intended to achieve a specific goal while minimizing the negative effects on the tree. Excessive or improper pruning is that which employs techniques that result in negative physiological or structural impacts on the tree. Improper pruning includes topping. Excessive or improper pruning includes removing one-fourth (25 percent) or more, of the functioning leaf, stem or root area.*
- (s) *"Relocate" means to move a tree from one location to another, either on-site or off-site.*
- (t) *"Remove" means to cut down completely or extract a tree.*
- (u) *"Restricted ridgeline area" means a class III ridgeline or an area within 400-feet of a class I ridge or 250-feet of a class II ridge, as designated on the Lafayette Area Ridge Map pursuant to subsection 6-2004(A.1.)*
- (v) *"Topping" means a pruning cut that removes the main stem or stems between nodes, buds or laterals or a to a lateral branch or limb not large enough to assume the terminal role that would result in serious decay and/or permanent alteration of the tree's structure.*
- (w) *"Tree" means a large woody perennial plant with one or more trunks that generally reaches a minimum height of ten-feet at maturity. It does not include shrubs shaped to tree forms.*
- (x) *"Tree education program" means the preparation of materials, holding of workshops, and other methods to disperse information to provide public knowledge and outreach about the maintenance, preservation, and benefits of native species.*
- (y) *"Undeveloped property" means a vacant parcel without an existing legal dwelling unit as defined in Section 6-320.*

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1703 - Destruction of a protected tree.

It is a violation of this chapter for any person to remove or destroy a protected tree without a category I or category II permit under Section 6-1706 or 6-1707, or without the approval of an exception under Section 6-1705.

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1704 - Permit required to remove a protected tree.

A category I or category II permit under Section 6-1706 or 6-1707 is required to remove or destroy a protected tree.

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(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1705 - Exceptions.

- (a) A person seeking an exception to the requirements of this chapter shall file a written request with the director, together with the necessary information that sets forth the basis upon which the applicant believes an exception warranted. The director shall review the information submitted and may request additional documentation. The director will evaluate the request as it relates to the five circumstances outlined Part B of this section and shall either approve, conditionally approve, or deny the exception. The applicant shall be required to pay all costs of the city's processing of the request including verification of the information submitted.
- (b) An exception to the requirements of this chapter may be granted:
 - (1) When a hazardous or dangerous condition requires immediate action to protect life or property as determined by the director or when the imminent threat is certified by an arborist and an emergency tree removal permit is granted by the director. The director may impose reasonable conditions, such as planting trees pursuant to subsection 6-1707(G);
 - (2) Under emergency conditions when ordered by the director, an official of the Contra Costa County Fire Protection District, or an official of the Contra Costa County Building Department;
 - (3) To maintain defensible space on land covered by flammable material, as required by Public Resources Code § 4291 and evaluated and approved by the director with consultation with the Contra Costa County Fire Protection District;
 - (4) To maintain an unobstructed flow of water for flood control safety in a creek or other waterway as determined by the city engineer or the public works director;~~or~~
 - (5) To control and eradicate an invasive tree species listed in the Downtown Creeks Plan, provided that the exception is located within one of the four downtown commercial zoning districts as outlined in Chapter 6-2, Section 6-272; or
 - (56) When the city must remove a protected tree to protect the health, safety and general welfare of the community.

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1706 - Permit category I: Protected tree on property not associated with development application.

- (a) Permit required. A category I permit is required to remove or destroy a protected tree on property not currently associated with a development application or that will not be associated with a development application for a minimum of one-year from the date of the issuance of the permit.
- (b) Application. An application for a category I permit shall be filed with the director on a form approved by the city together with a fee fixed by resolution of the city council. The application shall include the following information:
 - (1) Identification of the location, species and diameter of each protected tree to be removed;
 - (2) Statement justifying the permit request; and
 - (3) Supplemental information as may be necessary for the director to properly review the application, such as photographs or an arborist report concerning the health and quality of the tree and possible alternative actions.
- (c) Application Review. The director shall review the application and inspect the subject tree. The director may refer the application to the downtown street improvement master plan implementation committee (DSIMPIC), design review commission, planning commission, or city council. The director

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may refer the application to an arborist or landscape consultant with arborist certification for additional review and report. The applicant shall pay the costs of this additional review and report.

- (d) *Determination.* Within 30 days of deeming an application complete, the director shall approve, conditionally approve, or deny the application. If the application is referred to the DSIMPIC, design review commission, planning commission, or city council, then the application shall be approved, conditionally approved, or denied within 60 days of the date the application is deemed complete. In acting on the application, the director, design review commission, planning commission, or city council shall consider the following:
- (1) *Health, condition and form of the tree;*
 - (2) *Number, size and location of other trees to remain in the area;*
 - (3) *Relationship of the property to riparian corridors, a scenic or biological resource area or a restricted ridgeline area;*
 - (4) *Role of the tree in a tree grove or woodland habitat;*
 - (5) *Value of the tree to the neighborhood in terms of visual effect, wind screening and privacy;*
 - (6) *Damage caused by the tree to utilities, streets, sidewalks or existing private structures or improvements;*
 - (7) *Role of the tree in mitigating drainage, erosion or geologic stability impacts; and*
 - (8) *Health and condition of the area within the protected perimeter.*
- (e) *Permit Conditions.* The permit may include reasonable conditions, such as planting replacement trees pursuant to subsection 6-1707(G).
- (f) *Expiration of Permit.* The permit is valid for 60 days from the date of issuance unless a longer period is stated in the permit. If the applicant does not begin the work authorized by the permit by the expiration date, the permit shall expire.

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1707 - Permit category II: Protected tree on developed or undeveloped property associated with development application.

- (a) *Permit Required.* A category II permit is required if the proposed construction may result in the destruction or removal of a protected tree.
- (b) *Application.* An application for a category II permit shall be filed with the director concurrently with the development application. The category II application shall be on a form approved by the city together with a fee fixed by resolution by the city council. The application shall include the following information:
- (1) *Depending on the type of development application, one of the following is required:*
 - (A) *Site plan showing the trunk location, diameter, species and dripline of each protected tree within 50 feet of any proposed construction on the subject property and adjacent properties and indicating which protected tree is proposed to be pruned or removed; or*
 - (B) *For those development applications that require a survey by a licensed surveyor or engineer, a field-verified topographical survey showing the trunk location, elevation at the base, diameter, species and accurate dripline of each protected tree within 100 feet of any proposed construction on the subject property and adjacent properties, and a table that identifies each protected tree, its diameter and species, and whether the tree is proposed to be pruned or removed; and*
 - (2) *Arborist report; and*

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- (3) *Statement justifying the removal of each protected tree; and*
 - (4) *Evidence of compliance with the requirements of responsible agencies for the removal of a protected tree if applicable; and*
 - (5) *Supplemental information required by the director.*
- (c) *Application Review. The category II permit application shall be reviewed concurrently with the development application by the director, DSIMPIC, design review commission, planning commission or city council as required by type of development application. The director may refer the applicant's arborist report to an arborist for peer review. The applicant shall pay the cost of a peer review.*
- (d) *Determination. Within 30 days of deeming an application complete or within the time limit associated with the review of the discretionary development application, the director, design review commission, planning commission, or city council shall approve, conditionally approve, or deny the application based on the factors in subsection 6-1706(D) and the following additional factors:*
- (1) *Necessity for the pruning or removal in order to construct a required improvement on public property or within a public right-of-way or to construct an improvement that allows reasonable economic enjoyment of private property;*
 - (2) *Extent to which a proposed improvement may be modified to preserve and maintain a protected tree; and*
 - (3) *Extent to which a proposed change in the existing grade within the protected perimeter may be modified to preserve and maintain a protected tree.*
- The city shall not issue a building permit or a grading permit until after the director, design review commission, planning commission, or city council makes a determination on the category II permit.*
- (e) *Permit Condition. An approved category II permit shall include a condition where the applicant shall guarantee the health and vigor of each protected tree to be preserved during construction as provided in subsection (f) of this section and shall enter into a landscape maintenance agreement with the city assuring the long-term maintenance of the protected trees. The applicant shall replace a protected tree that is removed or destroyed without approval as provided in section 6-1710.*
- (f) *Tree Protection During Construction. The applicant shall comply with the following requirements:*
- (1) *Before the start of construction, the applicant shall install fencing per city specifications at the perimeter of the protected area, or other area identified in an arborist report, of each protected tree to be preserved as shown on the approved construction plans. The director shall inspect and approve the fencing and its location before the issuance of a development permit.*
 - (2) *No construction may occur within the perimeter of the protected area unless approved as a condition of the application. The director may require an arborist to be present to observe the construction and prepare a report identifying further requirements for tree protection upon completion of construction.*
 - (3) *No construction may occur within the perimeter of the protected area until pruning of the tree required for access of construction equipment is completed under the supervision of an arborist.*
 - (4) *Under each circumstance where an arborist is required to supervise or observe construction, the arborist may require additional mitigation measures or halt construction if necessary to protect the subject trees. The applicant shall pay the costs of an arborist's supervision or observation.*
 - (5) *The parking or storing of a vehicle, construction trailer, equipment and material shall not be allowed within the perimeter of the protected area of a tree to be preserved.*
- (g) *Protected Tree Replacement. When the removal or destruction of a protected tree is permitted, the applicant shall comply with the following requirements:*

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- (1) For each six-inches or its fraction of the diameter of the tree to be removed, two 15-gallon trees shall be planted. If the tree that is removed is listed in subsections 6-1702(Q)(1) and 6-1702(Q)(3), each replacement tree shall be:
 - (A) The same genus and species as the removed or destroyed tree; or
 - (B) An alternative species approved by the director.
 - (2) The director may require larger trees for the benefit of the project. In addition, the director, design review commission, planning commission or city council may substitute a lesser number of larger trees or another species based on the finding from an arborist that such a substitution will be more beneficial to the health and vigor of other protected trees on the property. The following qualify as substitution ratios.
 - (A) One 24-inch box sized tree equals two 15-gallon replacement trees;
 - (B) One 36-inch box sized tree equals four 15-gallon replacement trees;
 - (C) One 48-inch box sized tree equals eight 15-gallon replacement trees;
 - (D) One 60-inch box sized tree equals 16 15-gallon replacement trees; or
 - (E) One 72-inch box sized tree equals 32 15-gallon replacement trees.
 - (3) If the property associated with the development application cannot accommodate a replacement tree, as a condition of the permit, the applicant shall make an in-lieu payment of an amount set by resolution by the city council for each 15-gallon replacement tree. The in-lieu payment shall be used by the city for a tree education and planting program. The director may waive the in-lieu payment when the protected tree is not a native species.
 - (4) The director, design review commission, planning commission or city council may reduce the amount of required replacement trees at its discretion due to the project's site conditions and if it finds that the reduction will be beneficial to the health and vigor of other protected trees on the property.
 - (5) If the city approves a tree removal request as part of a major tree removal project, the mitigation shall be the payment or planting, or combination thereof, equal to the full appraised value of the trees removed. The value of replacement trees shall be as set forth on the city's adopted fee schedule. The appraised value shall be determined by the city based on the council of tree and landscape appraisers guide for plant appraisal.
- (h) *Permit Expiration.* A permit is valid for the same period of time as the approved development permit. If the work authorized by the permit is not started before the expiration date, the permit expires.

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1708 - Tree maintenance by private parties.

Except for trees planted by the City, it shall be the property owner's responsibility to maintain trees within the public right-of-way directly adjacent to private property.

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1709 - Restriction on the issuance of a development permit.

A development permit may not be issued for construction on a property upon which a protected tree was destroyed or removed without a permit for a period of five years from the date of violation as determined by the director. The director may waive this time limit if the tree is replaced as provided in Section 6-1710. The restriction on the issuance of a development permit applies to a successor-in-interest in the subject property. Upon transfer of the property, the owner shall notify the successor-in-

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interest of the violation of this chapter. The Director may record a notice of violation on the property with the Contra Costa County Recorder.

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1710 - Restitution and replacement of protected trees.

A person who destroys or removes a protected tree in violation of this chapter shall pay restitution to the city by replacing each six inches or its fraction of the diameter of the protected tree with four replacement 24-inch box trees of the same species. The replacement trees shall be planted on the property on which the protected tree was destroyed or removed. Based on a report by an arborist that includes an appraisal of the damage, where feasible, and recommendations for replacement, the Director may impose additional requirements to ensure the health of the replacement trees for a minimum of two years and/or may authorize the substitution of a greater number of smaller trees, lesser number of larger trees or on another property if it is found that a substitution is more beneficial to health and vigor of other protected trees on the property. The person responsible for the destruction or removal of a protected tree shall pay the cost of the arborist report.

If the director determines the property cannot accommodate replacement trees, an in-lieu payment of an amount set by resolution by the city council shall be required for each replacement tree. All in-lieu payments shall be used by the city for tree education programs or planting programs.

A person who destroys or removes more than 25 protected trees, a major tree removal project, in violation of this chapter shall pay restitution to the city by replacing each six inches or its fraction of the diameter of the protected tree with four replacement 24-inch box trees of the same species and pay the appraised values of the trees removed. The appraised value shall be determined by the city based on the council of tree and landscape appraisers guide for plant appraisal.

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1711 - Enforcement.

A person who violates this chapter is liable in a civil action in an amount set by resolution by the city council for each violation.

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1712 - Appeal.

An appeal of a decision made pursuant to this chapter is governed by Sections 6-217 through 6-238 or Section 8-2110.

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

6-1713 - Nonliability of the city.

Nothing in this chapter imposes liability upon the city or its officers or employees, or relieves the owner or occupant of private property from the duty to keep in safe condition a tree or other vegetation upon private property or upon or within a public right-of-way or easement adjacent to the private property.

(Ord. No. 593, § 1(Exh. A), 3-22-2010; Ord. No. 633, § 4(exh. A), 10-14-2014)

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STORMWATER MANAGEMENT AND DISCHARGE CONTROL ORDINANCE, Lafayette Municipal Code Chapter 5-4, oversight by Planning Commission.

The Downtown Creeks Plan recommends that any application for downtown development include one or more of the following measures to improve water quality in the creeks:

- direct roof runoff into cisterns or rain barrels for reuse;
- direct roof runoff into vegetated areas;
- direct runoff from sidewalks, walkways and/or patios onto vegetated areas;
- direct runoff from driveways and/or uncovered parking lots onto vegetated areas;
- construct sidewalks, walkways, and/or patios with permeable surfaces; and
- construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces.

The City's National Pollutant Discharge Elimination System permit has a similar requirement for all development projects, which create and/or replace > 2,500 ft² to < 10,000 ft² of impervious surface, and detached single-family home projects. The Downtown Creeks Plan recommends expanding this requirement to development projects with < 2,500 ft² of impervious surface for potential water quality benefits since runoff from all downtown commercial development drains into downtown creeks. Projects that comply with this expanded requirement qualify as projects under the NPDES Green Infrastructure Plan requirement. The recommended amendments that apply this requirement to any development project on a downtown parcel are described below:

Chapter 5-4 - STORMWATER MANAGEMENT AND DISCHARGE CONTROL

Sections:

5-401 - Intent and purpose.

- (a) The intent of this chapter is to protect and enhance the water quality in the city of Lafayette's watercourses pursuant to, and consistent with the Porter-Cologne Water Quality Control Act (Water Code Section 13000 et seq.) and the Federal Clean Water Act (33 U.S.C. Section 1251 et seq.).*
- (b) This chapter also carries out the conditions in the city's National Pollutant Discharge Elimination System (NPDES) permit that require implementation of appropriate source control and site design measures and stormwater treatment measures for development projects.*
- (c) It is the purpose of the city council in enacting this chapter to protect the health, safety and general welfare of Lafayette's citizens by:*
 - (1) Minimizing non-stormwater discharges, whose pollutants would otherwise degrade the water quality of local streams, to the stormwater system.*
 - (2) Minimizing increases in nonpoint source pollution caused by stormwater runoff from development that would otherwise degrade local water quality.*
 - (3) Controlling the discharge to the city's stormwater system from spills, dumping or disposal of materials other than stormwater.*
 - (4) Reducing stormwater run-off rates and volumes and nonpoint source pollution whenever possible, through stormwater management controls and ensuring that these management controls are properly maintained and pose no threat to public safety.*
 - (5) Taking initial steps to incorporate green infrastructure and low impact development measures in all downtown development projects to improve local water quality.*

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(Ord. No. 628, § 1, 3-24-2014)

5-402 - Definitions.

The following words and phrases when used in this chapter shall be as defined herein. Words and phrases in this chapter and not otherwise defined shall be interpreted as defined in the regulations issued by the U.S. Environmental Protection Agency to implement the provisions of the Federal Clean Water Act, and as defined by the State Water Resources Control Board to implement the Porter-Cologne Act:

- (a) *Best management practices or "BMP" are structural devices, measures, stormwater management facilities, activities, prohibitions, or practices; general good housekeeping, pollution prevention practices, maintenance procedures, and other management practices, to prevent or reduce the discharge of pollutants directly or indirectly to watercourses, water bodies, and wetlands.*
- (b) *City's NPDES permit shall mean the NPDES permit issued to the city of Lafayette, Permit No. CAS612008 and any subsequent amendment, reissuance or successor to this NPDES permit.*
- (c) *Development runoff requirements shall mean the provisions in the city's NPDES permit that contain performance standards to address both the construction and post-construction phase impacts of new projects and redeveloped projects on stormwater quality.*
- (d) *Director shall mean the public works director of the city of Lafayette or his or her designee.*
- (e) *Enforcement officer or officer shall mean those individuals designated by the Director to act as authorized enforcement officers.*
- (f) *Guidebook shall mean the most recent version of the Contra Costa Clean Water Program Stormwater C.3. Guidebook.*
- (g) *Non-stormwater discharge is any addition of any pollutant to the city's stormwater system, except discharges pursuant to a NPDES permit, or discharges further exempted in Section 5-406(c) and (d) of this chapter.*
- (h) *Pollutant shall mean any material other than stormwater including, but not limited to, petroleum products or by-products, solid waste, incinerator residue, sewage, sewage sludge, heat, chemical waste, biological materials, radioactive materials, wrecked or discarded equipment, rock, sand, soil and industrial, municipal or agricultural waste discharged into the water or stormwater system.*
- (i) *Premises shall mean any land, building, structure, facility, or installation, (including a building's grounds or other appurtenances), and adjacent sidewalks and parking strips.*
- (j) *Responsible person shall mean the owner or occupant of any premises or who engages in or permits any activity from which there is or may be a non-stormwater discharge or any person who releases pollutants to the city's stormwater system.*
- (k) *Site Design Measures for Small Projects and Detached Single-Family Home Projects means one or more of the following site design measures: direct roof runoff into cisterns or rain barrels for reuse; direct roof runoff into vegetated areas; direct runoff from sidewalks, walkways and/or patios onto vegetated areas; direct runoff from driveways and/or uncovered parking lots onto vegetated areas; construct sidewalks, walkways, and/or patios with permeable surfaces; construct bike lanes, driveways, and/or uncovered parking lots with permeable surfaces. Permeable surfaces include pervious concrete, pervious asphalt, pervious pavers, and granular materials.*
- (l) *Stormwater shall mean flow on the surface of the ground resulting from precipitation.*
- (lm) *Stormwater control plan shall mean a plan that meets those criteria contained in the most recent version of the Contra Costa Clean Water Program Stormwater C.3. Guidebook.*

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~~(#n)~~ Stormwater management facility shall mean any device that utilizes detention, retention, filtration, harvest for reuse, evapotranspiration or infiltration to provide treatment (and/or control volume, flows, and durations) of stormwater for purposes of compliance with development runoff requirements.

~~(#o)~~ Stormwater system is that system of facilities by which stormwater may be conveyed to any stream, watercourse, other body of water or wetlands, including flood control channels, any roads with drainage systems, city streets, catch basins, curbs, gutters, ditches, improved channels, storm drains or storm drain system, which are not part of a Publicly Owned Treatment Works ("POTW") as that term is defined in 40 CFR section 122.2.

(Ord. No. 628, § 1, 3-24-2014)

5-403 - Responsibility for administration.

The Director or his designee shall administer this chapter for the city.

(Ord. No. 628, § 1, 3-24-2014)

5-404 - Construction and application.

This chapter shall be construed consistent with the requirements of the Federal Clean Water Act and amendments thereto or applicable implementing regulations and the city's NPDES permit.

(Ord. No. 628, § 1, 3-24-2014)

5-405 - Stormwater control plan required.

- (a) In accordance with thresholds and effective dates in the city's NPDES Permit, every application for a development project, including but not limited to a rezoning, tentative map, parcel map, conditional use permit, variance, site development permit, design review, or building permit that is subject to the development runoff requirements in the city's NPDES permit shall be accompanied by a stormwater control plan that meets the criteria in the most recent version of the Contra Costa Clean Water Program Stormwater C.3. Guidebook. An application for a development project that is not covered by the city's NPDES permit and is located within one of the four downtown commercial zoning districts as defined in Chapter 6, Section 6-272(a) (2), shall include one or more of the Site Design Measures for Small Projects and Detached Single-Family Homes.
- (b) Implementation of an approved stormwater control plan and submittal of an approved stormwater control operation and maintenance plan by the applicant shall be a condition precedent to the issuance of a certificate of occupancy for a project subject to this section.
- (c) All stormwater management facilities shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure. Design guidelines are outlined in the Guidebook.
- (d) All stormwater management facilities shall be maintained according to the Guidebook and the approved stormwater control operation and maintenance plan. The person(s) or organization(s) responsible for maintenance shall be designated in the stormwater control operation and maintenance plan. Unless a different time period is provided for in the plan, those responsible for maintenance shall inspect the stormwater management facility at least annually. The stormwater control operation and maintenance plan shall also describe how the maintenance costs will be funded. Upon the failure of a responsible person to maintain a stormwater management facility in accordance with this chapter or the plan, the city may perform the maintenance and recover its costs from the responsible person as provided in Sections 5-417 and 5-418.

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- (e) *For access to stormwater management facilities for inspections and maintenance, recorded covenants or easements shall be provided by the property owner for access by the city, the Contra Costa Mosquito and Vector Control District, and the Regional Water Quality Control Board.*

(Ord. No. 628, § 1, 3-24-2014)

5-406 - Prohibited Discharges.

- (a) *The release of non-stormwater discharges to the city stormwater system is prohibited.*
- (b) *The discharge of stormwater from premises or an activity that causes or contributes to a violation of receiving water limitations in the city's NPDES permit is prohibited.*
- (c) *The following discharges are exempt from the prohibition set forth in subsection (a) above, unless determined by the director to be a source of pollutants to or from the stormwater system or to receiving waters:*
- (1) *Any discharge in compliance with a NPDES permit issued to the discharger.*
 - (2) *Flows from riparian habitats and wetlands, diverted stream flows, flows from natural springs, rising ground waters, uncontaminated and unpolluted groundwater infiltration, single-family homes' pumped groundwater, foundation drains, and water from crawl space pumps and footing drains, and pumped groundwater from drinking water aquifers.*
- (d) *The following discharges are exempt from the prohibition set forth in subsection (a) above if and only if the director identifies such discharge as not being a source of any pollutant to the stormwater system or to a receiving water or if control measures required by the director are implemented and discharges are in accordance with conditions, including but not limited to specific conditions, for each type of discharge set forth in Section C.15 of the city's NPDES permit: pumped groundwater from non-drinking-water aquifers; pumped groundwater from other sources, foundation drains, and water from crawl space pumps and footing drains; air conditioning condensate; planned discharges from routine operation and maintenance activities in the potable water distribution system; unplanned discharges from breaks, leaks, overflows, fire hydrant shearing, or emergency flushing of the potable water distribution system; emergency discharges of the potable water distribution system as a result of firefighting, unauthorized hydrant openings, or natural or man-made disasters; individual residential car washing; swimming pool, hot tub, spa, and fountain water discharges, and discharges from irrigation water, landscape irrigation, and lawn or garden watering.*

(Ord. No. 628, § 1, 3-24-2014)

5-407 - Discharge in violation of NPDES permit.

Any discharge that would result in or contribute to a violation of the city's NPDES permit either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person causing or responsible for the discharge, and such person shall defend, indemnify and hold harmless the city in any administrative or judicial enforcement action relating to such discharge.

(Ord. No. 628, § 1, 3-24-2014)

5-408 - Unlawful discharge and unlawful connections.

- (a) *It is unlawful to establish, use, maintain or continue unauthorized drainage connections to the city's stormwater system, and to commence or continue any unauthorized discharges to the city's stormwater system.*

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- (b) *No discharge shall cause the following conditions, create a nuisance, or adversely affect beneficial uses of waters of the state:*
- (1) *Floating, suspended or deposited macroscopic matter or foam;*
 - (2) *Bottom deposits or aquatic growth;*
 - (3) *Alterations of temperature, sediment load, nutrient load, or dissolved oxygen, which cause significant adverse impacts to native aquatic biota;*
 - (4) *Visible, floating, suspended or deposited oil or products of petroleum origin; or*
 - (5) *Substances present in concentrations or quantities which cause deleterious effects on aquatic biota, wildlife or waterfowl, or which render any of these unfit for human consumption.*

(Ord. No. 628, § 1, 3-24-2014)

5-409 - Best management practices and standards.

- (a) *Generally. Any person owning or operating premises that may contribute pollutants to the city's stormwater system shall undertake best management practices to reduce the potential for pollutants entering the system to the maximum extent practicable. Examples of such premises include, but are not limited to, parking lots, gasoline stations, industrial facilities, and other commercial enterprises. Examples of best management practices include, but are not limited to, those described in publications by the United States Environmental Protection Agency, the California Water Boards, the California Stormwater Quality Association, the Bay Area Stormwater Management Agencies Association, the Contra Costa Clean Water Program, and, the city of Lafayette.*
- (b) *Litter. No person shall throw, deposit, leave, keep or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage or other discarded or abandoned objects, articles or other litter in or upon any street, alley, sidewalk, business place, creek, stormwater system, fountain, pool, lake, stream, river or any other body of water, or upon any public or private parcel of land so that the same might become a pollutant, except in containers or in lawfully established waste disposal facilities.*
- (c) *Sidewalks. The occupant or tenant, or in the absence of occupant or tenant, the owner or proprietor of any real property in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt or litter to the maximum extent practicable. Sweepings from the sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained as required for the disposal of solid waste. This section constitutes an alternative procedure and shall not limit or restrict the city from the civil, criminal or administrative enforcement of this or other city ordinances in any other matter provided by law.*
- (d) *Maintenance of Facilities and Landscaped Areas. Best management practices shall be implemented to minimize the release of pesticides, fertilizers, herbicides, and other related materials used to maintain landscaping and facilities.*
- (e) *Parking Lots, Paved Areas and Related Stormwater Systems. Persons owning, operating or maintaining a paved parking lot, the paved areas of a gasoline station, a paved private street or road, or similar structure, and related stormwater systems shall clean those premises as frequently and thoroughly as practicable in a manner that does not result in the discharge of pollutants to the city's stormwater system. The Director may require installation and maintenance of BMPs, devices, or facilities to prevent the discharge of trash or other pollutants from private parking lots, streets, roads, and drainage facilities into the stormwater system. Failure or refusal to comply with such requirement is prohibited and shall constitute a violation of this chapter.*
- (f) *Construction Activities. All construction projects shall incorporate site-specific BMPs, which can be a combination of BMPs from the California BMP Handbook, Construction, January 2003, the Caltrans Stormwater Quality Handbooks, Construction Site Best Management Practices Manual, March 2003, the San Francisco Bay Regional Water Quality Control Board Erosion and Sediment Control Field*

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Manual, 2002, the city's grading and erosion control ordinance and other generally accepted engineering practices for erosion control as required by the director. The director may establish controls on the rate, volume, and duration of stormwater runoff from new developments as may be appropriate to minimize the discharge and transport of pollutants.

- (g) Notification of Intent and Compliance with General Permits. Each discharger associated with construction activity or other discharger described in any general stormwater permit addressing discharges, as may be adopted by the United States Environmental Protection Agency, the State Water Resources Control Board, or the California Regional Water Quality Control Board, San Francisco Bay Region, shall provide the director with the notice of intent, comply with and undertake all other activities required by any general stormwater permit applicable to such dischargers. Each discharger identified in an individual NPDES permit relating to stormwater discharges shall comply with and undertake all activities required by the permit.*
- (h) Development Runoff Requirements. For each new development project subject to the development runoff requirements, every applicant will submit a stormwater control plan and implement conditions of approval that reduce stormwater pollutant discharges through the construction, operation and maintenance of treatment measures and other appropriate source control and site design measures. Similarly, increases in runoff volume, flows, and durations shall be managed in accordance with the development runoff requirements.*
- (i) Stormwater Pollution Prevention Plan. The director may require any business or utility in the city that is engaged in activities that may result in non-stormwater discharges or runoff pollutants to develop and implement a stormwater pollution prevention plan, which must include an employee training program. Business activities which may require a stormwater pollution prevention plan include maintenance, storage, manufacturing, assembly, equipment operations, vehicle loading, fueling, vehicle maintenance, food handling or processing, or cleanup procedures, carried out partially or wholly out of doors.*
- (j) Coordination with Hazardous Material Release Response and Inventory Plans. Any business subject to the Hazardous Material Release Response and Inventory Plan, Division 20, Chapter 6.95 of the California Health and Safety Code (commencing with Section 25500), shall include, in that plan, provision for compliance with this chapter, including the prohibitions of non-stormwater discharges and the requirement to reduce release of pollutants to the maximum extent practicable.*

(Ord. No. 628, § 1, 3-24-2014)

5-410 - Authority to inspect.

- (a) Generally. The director shall have the authority to enter property and make an inspection to enforce and carry out the provisions of the chapter. Routine or scheduled inspections shall be based upon as reasonable a selection process as may be deemed necessary to carry out the intent of this chapter, including, but not limited to, random sampling or sampling in areas with evidence of stormwater contamination, evidence of the discharge of non-stormwater to the stormwater system, inspection of stormwater treatment and flow-control facilities for proper operation and evidence of routine and corrective maintenance, or similar activities. Inspections may also be conducted in conjunction with routine or scheduled inspections conducted by other public agencies or special districts, including but not limited to the Central Contra Costa Sanitary District, the Contra Costa County Fire Protection District, County Environmental Health Department, the Contra Costa Mosquito and Vector Control District, or the Regional Water Quality Control Board. The city council may by resolution establish a schedule of fees for inspections.*
- (b) Authority to Sample and Establish Sampling Devices. With the consent of the owner or occupant, or pursuant to a search or inspection warrant, any officer may establish on any property such devices as are reasonably necessary to conduct sampling or metering operations. During all authorized inspections, the officer may take any sample deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities on site.*

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- (c) *Notification of Spills. All persons in charge of the premises or responsible for emergency response for the premises have a responsibility to train premises' personnel and maintain notification procedures to ensure that immediate notification is provided to the city of any suspected, confirmed or unconfirmed release of pollutants creating a risk of non-stormwater discharge into the city stormwater system.*

As soon as any person in charge of the premises or responsible for emergency response for the premises has knowledge of any suspected, confirmed or unconfirmed release of non-stormwater discharge entering the city stormwater system, such person shall take all necessary steps to ensure the detection and containment and clean up of such release and shall notify the city of the occurrence by telephoning the director. This notification requirement is in addition to and not in lieu of other required notifications.

- (d) *Requirement to Test or Monitor. Any officer may require that any person engaged in any activity or owning or operating any premises that may cause or contribute to non-stormwater discharges, undertake such monitoring activities or analysis and furnish such reports as the officer may specify. The burden, including costs of these activities, analysis and reports shall bear a reasonable relationship to the need for the monitoring, analysis and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analysis and reports required.*

(Ord. No. 628, § 1, 3-24-2014)

5-411 - Violations.

- (a) *The violation of any provision of this chapter, or failure to comply with any of the mandatory requirements of this article shall constitute a misdemeanor, except that notwithstanding any other provisions of this article, any violation constituting a misdemeanor under this chapter may, at the discretion of the officer or city attorney, be charged and prosecuted as an infraction.*
- (b) *Any person required to perform monitoring, analysis, reporting or corrective activity pursuant to this chapter by any officer may be informed of such decision, in writing, by a notice of violation. Any person aggrieved by the decision of the officer, may file a written appeal of the notice of violation to the director or his or her designee within ten days following the date of the notice of violation. Upon receipt of such request, the director shall request a report and recommendation from the officer and shall set the matter for hearing at the earliest practical date. At said hearing, all evidence and testimony deemed relevant and admissible by the director shall be considered, and the director may reject, affirm, or modify the officer's decision. Formal rules of evidence shall not apply. The decisions of the director shall be final. Failure to request a hearing or appear at the hearing shall constitute a waiver and failure to exhaust administrative remedies.*
- (c) *In addition to the penalties and procedures provided herein, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to the public health, safety and welfare. Such condition is hereby declared and deemed to be a nuisance, which may be abated as provided in Chapter 8-21 Code Enforcement of this code including the assessment of the costs of abatement which may be collected at the same time and in the same manner as ordinary municipal taxes as provided by Government Code Section 38773.5, and by civil action to abate, enjoin or otherwise compel the cessation of such nuisance by the city attorney.*

(Ord. No. 628, § 1, 3-24-2014)

5-412 - Penalties for violation.

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- (a) *Upon conviction of a misdemeanor, a person shall be subject to payment of a fine, or imprisonment, or both, not to exceed the limits set forth in California Government Code Section 36901.*
- (b) *Upon conviction of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in California Government Code Section 36900.*

(Ord. No. 628, § 1, 3-24-2014)

5-413 - Continuing violation.

Every day that any violation of this chapter shall continue shall constitute a separate offense.

(Ord. No. 628, § 1, 3-24-2014)

5-414 - Concealment.

Concealing, aiding or abetting a violation of any provision of this chapter shall constitute a violation of such provision.

(Ord. No. 628, § 1, 3-24-2014)

5-415 - Acts potentially resulting in violation of the Federal Clean Water Act or Porter-Cologne Act.

Any person who violates any provision of this chapter, or the provisions of any permit issued pursuant to this chapter, or who releases a non-stormwater discharge, or who violates any cease and desist order, prohibition or effluent limitation, may also be in violation of the Federal Clean Water Act or the Porter-Cologne Act and may be subject to the enforcement provisions of those acts, including civil and criminal penalties. Any enforcement actions authorized pursuant to this chapter may also include notice to the violator of such potential liability pursuant to federal or state law.

(Ord. No. 628, § 1, 3-24-2014)

5-416 - Civil actions.

- (a) *In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the city. In any such action, the city may seek, as appropriate, any and all of the following remedies:*
 - (1) *A temporary restraining order, preliminary injunction and permanent injunction;*
 - (2) *An action for an unlawful business practice pursuant to Business and Professions Code Section 17206;*
- (b) *In addition any person violating this chapter shall be liable for:*
 - (1) *Reimbursement for the costs of any investigation, inspection or monitoring which led to the discovery of the violation;*
 - (2) *Costs incurred in removing, correcting, or terminating the adverse effect(s) resulting from the violation;*
 - (3) *Compensatory damages for the loss of, or destruction to, water quality, wildlife, fish or aquatic life. Costs and damages under this subsection shall be paid to the city and shall be used exclusively for costs associated with monitoring and establishing a stormwater discharge pollution control system and implementing or enforcing the provisions of this chapter;*

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- (4) *The cost of maintenance and repair of any BMP or stormwater management facility that is not maintained in accordance with the guidebook or the stormwater control plan;*
- (5) *The reasonable costs of preparing and bringing administrative action under this chapter.*

5-417 - Administrative remedies.

In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced through administrative remedies, including any of the following:

- (a) *Stop Work Order. The director may issue a stop work order to the owner and contractors on a construction site, by posting the order at the construction site and distributing the order to all city departments whose decisions may affect any activity at the site. Unless express written exception is made, the stop work order shall prohibit any further construction activity at the site and shall bar any further inspection or approval necessary to commence or continue construction or to assume occupancy at the site until written authorization to continue is received from the director. A cease and desist order shall accompany the stop work order, and shall define the compliance requirements.*

In addition to other enforcement powers and remedies established by this chapter, an authorized enforcement officer may issue a cease and desist order:

- (b) *Cease and Desist Order. When an authorized enforcement officer finds that an illicit discharge has taken place or is likely to take place, the officer may issue a written order to cease and desist the illicit discharge, practice or operation likely to cause the illicit discharge and direct that a person, business, corporation or other entity subject to the cease and desist order shall comply with one or more of the following:*
 - (1) *Take appropriate immediate remedial action to stop and prevent further contamination of the city's stormwater system;*
 - (2) *Take immediate action to remove any and all contaminants from the city's stormwater system;*
 - (3) *Develop and implement an plan or controls required by the city;*
 - (4) *Comply with a time schedule for compliance.*

The cease and desist order shall identify:

- (1) *The name of the responsible person;*
 - (2) *The date and location of the violation;*
 - (3) *A description of the violation;*
 - (4) *Actions that must be taken by the responsible person to remedy the violation;*
 - (5) *The deadline within which the required actions must be completed;*
 - (6) *Enforcement actions that may be taken by the city.*
- (c) *Administrative Citation. Designated enforcement personnel may issue an administrative citation for any violation of this chapter as allowed by Chapter 1-9 of this code.*
 - (d) *Abatement of a Violation on Private Property. The city's authorized representatives are authorized to enter upon private property and to take any and all measures required to remediate any violation of this code. Any expense related to such remediation undertaken by the city shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the city from seeking other and further relief authorized by this code.*
 - (e) *Requirement to Test and/or Monitor. Director or designated enforcement personnel may require that a person, business, corporation or other entity engaged in an activity or owning or operating a facility that may cause or contribute to an illicit discharge, shall monitor activity and/or*

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undertake an analysis, and furnish a report as required. The property owner's burden including the cost of this activity, analysis and report shall bear a reasonable relationship to the need for monitoring, analysis and report and the benefit to be obtained as defined by the director.

- (f) *Termination of Utility Services. After lawful notice to the customer and property owner concerning the proposed disconnection, the director shall have the authority to order the disconnection of water, sanitary sewer and/or sanitation services, upon a finding by the director that the disconnection of utility services will remove a violation of this chapter that poses a public health hazard or environmental hazard.*

(Ord. No. 628, § 1, 3-24-2014)

5-418 - Fees, charges, fines, penalties, recovery of cost to city to abate, special assessment.

- (a) *Fees and charges for administration and enforcement of the provisions of this chapter shall be as specified by Chapter 1-6 of this code and as further specified herein.*
- (b) *Any expense related to administration, enforcement and abatement pursuant to the provisions of this chapter by the city shall be fully reimbursed by the owner, business, contractor, utility company or entity.*
- (c) *Within 90 days after abatement by city representatives, the director shall notify the property owner of the costs of abatement, including administrative costs, legal fees, and the deadline for payment. The property owner may protest the amount of the abatement cost before the city council. The written protest must be received by the city manager's office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the city council. The decision of the city council shall be final.*
- (d) *If the amount due is not paid within the protest period or within ten days following of the decision of the city council, a special assessment shall be filed against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the county clerk so that the clerk may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the treasurer shall include the amount of the assessment on the bill for taxes levied against the parcel of land.*

(Ord. No. 628, § 1, 3-24-2014)

5-419 - Remedies Not Exclusive.

The remedies identified in this chapter are in addition to, and do not supersede or limit, any and all other remedies, administrative, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

(Ord. No. 628, § 1, 3-24-2014)

5-420 - Judicial Review.

The provisions of Code of Civil Procedure Section 1094.5 are applicable to judicial review of determinations made by the director pursuant to this chapter.

(Ord. No. 628, § 1, 3-24-2014)

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CHAPTER 6 - MATERIALS AND FURNISHINGS 02/08/2017

Introduction

Awareness of creeks can be enhanced by providing a coordinated family of material treatments. Materials and site furnishings become identified with the downtown creeks, bringing viewers' attention to the presence of the creeks. Uniform creek icons and consistent fencing, railings and riparian vegetation can increase the sense of the creeks as an interconnected system. The icons/identity markers can create an identifiable "brand" that connects people to the creeks.

This chapter provides guidance for the creek icon, interpretive panels, fencing/railing, and riparian vegetation. This guidance will be applied to public and private projects to help emphasize awareness of downtown creeks. Illustrations or photographs are provided where needed to demonstrate the noted guidance.

Creek Icon

A creek icon is proposed for marking public viewing and access points for the downtown creeks. The icon would provide a symbolic representation of the presence of downtown creeks for installation on public rights-of-way or easements. Design elements of the icon should be scalable for use as an identity marker in other media such as signs, maps, or paving, similar to a logo. Criteria for the icon design would include the following:

- Visible/recognizable from a vehicle;
- Pedestrian-friendly when installed adjacent to a walkway;
- A design that engages the public and piques interest, while not distracting to drivers;
- Consistent with the informal, small-town character of downtown;
- Weather proof and theft/vandal resistant;
- Durable and low maintenance materials;
- Can be seen day or night; and
- Reproducible for installation at all creek access points.

A creek icon could have greater impact if it also served as public art. Creek viewing and access points and public spaces can be ideal settings for public art. The City's Public Art Master Plan promotes public art for these downtown locations. It is unclear whether the creek icon may meet the definition of public art in the City's ordinance. That determination is ultimately up to the City Council.

Development of a creek icon needs to occur in conjunction with implementation of the first creek enhancement project that includes a creek access point. The West Reach – Lafayette Creek Catalyst Project will be the first city-sponsored creek enhancement to implement pursuant to this Plan. This

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project proposes to include several creek overlooks and a path to the creek bed. At that time, the City Council should consider the following options on development of a creek icon:

- Options 1: Authorize the Public Art Committee to develop the creek icon by organizing a Request for Proposals by Invitation. This process would create a creek icon as public art, the icon design would be developed by a recognized artist, who in addition to fabricating the icon, would develop specifications for reproducing and installing the icon at public access points for the downtown creeks.
- Option 2: Authorize City staff to commission development of the icon as part of the West Reach Catalyst Project. This process would create a creek icon by obtaining the services of a graphic art company to develop a design that could then be fabricated and installed at creek access points using material recommended by that company.

Interpretive Panels

Two creekside interpretive panels were installed adjacent to Lafayette Creek on the path along Mt Diablo Boulevard to the Lafayette Reservoir. Future interpretive panels installed in the Planning Area should be consistent with this panel in terms of pedestal design, materials (high pressure laminate panel and coated aluminum), and type font.

Fencing/Railings

Fencing along downtown creeks detracts from their open character and should only be used for public safety and security purposes. Any fencing or railing proposed in a creekside development project should follow the Downtown Design Guidelines with the following provisions:

- Railing and fencing should be as transparent as possible to maintain view of the creek corridor.
- Railings should be considered in lieu of fencing where possible to minimize visual impacts.
- Their design should be uniform along an individual creek reach to emphasize continuity of the creek.
- Fencing and railings may incorporate a public artfeature within it.
- Replace the existing fencing and railing along the Lafayette Creek flood control channel with a uniform material and design that supports the vision of the Plaza District as described in the Downtown Design Guidelines and meets the requirements of the Contra Costa County Flood Control District.

See Appendix D for recommended amendments to the Downtown Design Guidelines to incorporate the above criteria for fencing/railings.

Riparian Vegetation

Creek planting is one of the most important elements of the Downtown Creek Plan because it occurs in the riparian zone, a legally defined area under the jurisdiction of the Regional Water Quality Control Board and the California Department of Fish and Wildlife. Creeks and Landscaping are treated as a separate section of the Downtown Design Guidelines. It can improve habitat for local wildlife, visually

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tie the downtown reaches together as a continuous creek system, and reduce creek bank erosion. However, the presence of invasive plant species requires the revegetation of most all the creeks in the Planning Area.

Revegetation in the “riparian zone” must be reviewed by the Regional Water Quality Control Board and the California Department of Fish and Wildlife. To streamline their review process, these agencies support the City’s development of a Riparian Vegetation Restoration Manual that a property owner would use to revegetate their creek banks. The Manual would expand on the invasive plant eradication techniques and the list of native riparian plant species described in Chapter 5. The Manual would also include the following:

- Map of boundaries for riparian vegetation along each reach to define the jurisdictional limits of the California Department of Fish and Wildlife;
- Map of the ordinary high water mark for each reach to define the jurisdictional limits of the Army Corp of Engineers;
- Planting plan for each reach;
- Protocols for removing invasive plants, and installing and maintaining the native riparian vegetation;
- Reporting and monitoring requirements; and
- Educational outreach to property owners.

Preparation of the Riparian Vegetation Restoration Manual will be a high priority for the city to provide appropriate guidance to property owners. See Appendix D for recommended amendments to the Downtown Design Guidelines to incorporate the above guidance for riparian vegetation.

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CREEK ICONS



INTERPRETIVE PANEL



FENCING/RAILING