

# HMA Ordinance Comparison Summary

## Purpose

- **Current Ordinance:** A Conditional Use Permit (CUP) is required in order to protect resources contained in significant ecological areas and in hillside management areas as specified in the county General Plan from incompatible development, which may result in or have the potential for environmental degradation and/or destruction of life and property. In extending protection to these environmentally sensitive areas, it is intended further to provide a process whereby the reconciliation of potential conflict within these areas may equitably occur. It is not the purpose to preclude development within these areas but to ensure, to the extent possible, that such development maintains and where possible enhances the remaining biotic resources of the significant ecological areas, and the natural topography, resources and amenities of the hillside management areas, while allowing for limited controlled development therein.
- **December 2012 Draft:** The purpose is to regulate development in HMAs with the following two objectives: 1) Protect scenic hillside views, consisting of slopes, hilltop summits, and ridgelines, and conserve natural hillside character and significant geological features through sensitive hillside site design and open space dedication; and 2) Avoid excessive grading and landform alteration to protect hillside resources from incompatible development and land uses. The purpose is not to preclude development within these areas but to ensure, to the extent possible, that such development activities maintain and enhance scenic and environmental resources in HMAs.

## Definition

- **Current Ordinance:** Nonurban HMA means those areas having a natural slope of 25 percent or more included within the nonurban classification of the general development policy map of the General Plan. Urban HMA means those areas having a natural slope of 25 percent or more included within the urban classification of the general development policy map of the General Plan.
- **December 2012 Draft:** HMA means any portion of a lot or parcel of land which contains terrain with a natural slope of 25 percent or greater.

## Applicability

- **Current Ordinance:** A CUP is required if a property contains any area with a natural slope of 25 percent or more in an urban hillside management area proposed to be developed with residential uses at a density exceeding the midpoint of the range of densities established by an adopted areawide, community or specific plan covering the areas in which the proposed development is located. A CUP is also required if a property contains any area with a natural slope of 25 percent or more in a nonurban hillside management area proposed to be developed, with residential uses at a density exceeding the low-density threshold established for such property pursuant to a slope density calculation.
- **December 2012 Draft:** A CUP will be required for the following projects, including related on-site and off-site improvements such as grading, roads, sewer lines, water lines, and drainage facilities, if the project is wholly or partially located within an HMA: 1) Land division projects; 2) Development of two or more lots or parcels of land in a coordinated effort; 3) Relocation of property lines so as to create three or more contiguous lots or parcels of land in a coordinated effort; and 4) Private infrastructure projects unrelated to a development project, including but not limited to construction of roads, sewer lines, water lines, and drainage facilities. Note: these projects will only be subject to the HMA CUP process if they touch a slope of 25% or greater. If they stay off these slopes, they will not need a HMA CUP. If they touch a slope of 25% or greater, the entire project will be subject to the HMA CUP.

## Open Space Requirement

- **Current Ordinance:** Open space shall comprise not less than 25 percent of the net area of a residential development in an urban hillside management area, and not less than 70 percent of the net area of a residential development in a nonurban hillside management area. Open space may include one or more of the following: 1) Undisturbed natural areas, 2) Open space for passive recreation, 3) Private yards, provided that certain construction rights are dedicated, 4) Parks and open recreational areas, 5) Riding, hiking and bicycle trails, 6) Landscaped areas adjacent to streets and highways, 7) Greenbelts, 8) Areas graded for rounding of slopes to contour appearance, 9) Such other areas as the hearing officer deems appropriate.
- **December 2012 Draft:** At least 70 percent of the gross area of the project site within a Non-Urban, Rural, or Open Space land use designation shall be open space. At least 25 percent of the net area of the project site within any other land use designation shall be open space. Required open space shall remain undisturbed in a natural condition, no residential, commercial, or industrial activities are permitted. Only the following types of improvements are allowed: 1) Parks, playgrounds and other recreational facilities, 2) Community gardens as defined in Section 22.08.030, 3) Riding, hiking, and cycling trails, 4) Manufactured slopes and vegetated swales, subject to Department of Public Works guidelines and approval, 5) Brush clearance, where required by the Fire Department, except in the 50-foot buffer for natural watercourses. These improvements shall not exceed one-third of the required open space within a Non-Urban, Rural, or Open Space land use designation. Priority open space, which includes hazard and resource areas such as significant ridgelines and earthquake induced landslide and liquefaction areas, shall be mapped on the site plan and prioritized for inclusion into required open space. For land division projects greater than 40 acres, open space shall be configured into a separate lot and owned/managed by 1) A government entity, 2) A non-profit, or 3) an HOA. Land division projects less than 40 acres and all other projects subject to the HMA CUP may designate required open space on the same lot as the project.

## Design Standards (This section does not appear in the current HMA ordinance)

- **December 2012 Draft:** This section contains provisions for site design, grading, street and access design, stormwater runoff, and retaining walls.

## Findings

- **Current Ordinance:** The burden of proof has been met and the approval of proposed dwelling units exceeding the number permitted by the low-density threshold for the proposed development in nonurban hillsides or the midpoint of the permitted density range in urban hillsides is based on the ability to mitigate problems of public safety, design and/or environmental considerations, as provided in this section and the General Plan. The burden of proof states: 1) That the proposed project is located and designed so as to protect the safety of current and future community residents, and will not create significant threats to life and/or property due to the presence of geologic, seismic, slope instability, fire, flood, mud flow, or erosion hazard; 2) That the proposed project is compatible with the natural, biotic, cultural, scenic and open space resources of the area; 3) That the proposed project is conveniently served by (or provides) neighborhood shopping and commercial facilities, can be provided with essential public services without imposing undue costs on the total community, and is consistent with the objectives and policies of the General Plan; and 4) That the proposed development demonstrates creative and imaginative design, resulting in a visual quality that will complement community character and benefit current and future community residents.
- **December 2012 Draft:** The applicant must prove that the project is consistent with the purpose of the HMA Ordinance.