

ORDINANCE COMMITTEE DISCUSSION DRAFT 4/17/07
SHOWING CHANGES FROM EXISTING CODE
(Except Chapter 22.68 for ease of reading)

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING SECTIONS 22.22.131, 22.22.132, 22.22.140, 22.75.050, 28.04.270, 28.15.055, 28.18.075, 28.42.010, 28.46.060, 28.87.030, 28.90.001, 28.90.100, 28.92.110, AND CHAPTER 22.68 OF THE SANTA BARBARA MUNICIPAL CODE; AND ADDING SECTIONS 28.04.030.5, 28.04.040.1, 28.04.040.12, 28.04.152.5, 28.04.160, 28.04.215, 28.04.227, 28.04.228, 28.04.229, 28.04.237, 28.04.238, 28.04.239, 28.04.272, 28.04.469.6, 28.15.066, 28.15.083, AND CHAPTER 22.69 TO THE SANTA BARBARA MUNICIPAL CODE RELATING TO DESIGN REVIEW AND MAXIMUM NET SQUARE FOOTAGE STANDARDS (FLOOR TO LOT AREA RATIOS) FOR SINGLE FAMILY HOMES.

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 22.10.030 of Chapter 22.10 of Title 22 of the Santa Barbara Municipal Code is hereby amended to read as follows:

22.10.030 Definitions.

For the purposes of this Chapter, the following words shall have the meanings set forth herein unless the context requires a different meaning:

A. "HILLSIDE DESIGN DISTRICT" means a parcel or a portion of a parcel which is within the Hillside Design District as defined in Section 22.68.060 of this Code.

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B. "PERSON" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number.

C. "SITE" means any lot or parcel of land or contiguous combination thereof under the same ownership, or portion of any lot or parcel, where vegetation removal is performed or permitted.

D. "VEGETATION" means introduced or native plants, shrubs, trees, grasses, and roots thereof.

SECTION 2. Sections 22.22.131 and 22.22.132 of Chapter 22.22 of Title 22 of the Santa Barbara Municipal Code are hereby amended to read as follows:

22.22.131 Neighborhood Preservation Ordinance Findings - Projects Reviewed by the Historic Landmarks Commission.

If an application for a building permit, grading permit, vegetation removal permit, or subdivision grading plan is referred to the Historic Landmarks Commission for review pursuant to Section 22.69.030 of this Code, the Historic Landmarks Commission shall, in addition to any review required pursuant to this Chapter 22.22, make the findings required for approval of a project that are specified in Section 22.69.050 of this Code prior to approving the permit or grading plan.

22.22.132 Historic Landmarks Commission Notice and Hearing.

A. PROJECTS THAT REQUIRE PUBLIC HEARING. Historic Landmarks Commission review of the following projects must be preceded by a noticed hearing:

1. New single residential units or one story duplex units,
2. Additions of over 500 square feet or a new story to a single residential unit or one story duplex unit,
3. New multi-unit residential buildings or two story duplex units,
4. Residential additions of over 500 square feet or changes resulting in an additional residential unit in a multi-unit residential building,
5. Small non-residential additions as defined in Chapter 28.87,
6. Projects involving grading in excess of 250 cubic yards outside the footprint of any main building (soil located within five feet (5') of an exterior wall of a main building that is excavated and recompact shall not be included in the calculation of the volume of grading outside the building footprint), or
7. Projects involving exterior lighting with the apparent potential to create glare on neighboring parcels.

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B. MAILED NOTICE. Not less than ten calendar days before the date of the hearing required by Subsection A of this Section, the City shall cause written notice of the hearing to be sent by first class mail to the following persons: (1) the applicant, (2) the current record owner (as shown on the latest equalized assessment roll) of each of the twenty (20) lots closest to the lot which is the subject of the action, and (3) the current record owner of any lot, or any portion of a lot, which is located not more than one hundred feet from the exterior boundaries of the lot which is the subject of the action. The written notice shall advise the recipient of the following: (1) the date, time and location of the hearing, (2) the right of the recipient to appear at the hearing and to be heard by the Historic Landmarks Commission, (3) the location of the subject property, and (4) the nature of the application subject to design review.

C. ADDITIONAL NOTICING METHODS. In addition to the required mailed notice specified in Subsection B, the City may also require notice of the hearing to be provided

by the applicant in any other manner that the City deems necessary or desirable, including, but not limited to, posted notice on the project site and notice delivered to non-owner residents. However, the failure of any person or entity to receive notice given pursuant to such additional noticing methods shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

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D. PROJECTS REQUIRING DECISIONS BY THE CITY COUNCIL, PLANNING COMMISSION, OR STAFF HEARING OFFICER. Whenever a project requires another land use decision or approval by the City Council, the Planning Commission, or the Staff Hearing Officer, the mailed notice for the first hearing before the Historic Landmarks Commission shall comply with the notice requirements of this Section or the notice requirements applicable to the other land use decision or approval, whichever are greater. However, nothing in this Section shall require either: 1. notice of any hearing before the Historic Landmarks Commission to be published in a newspaper, or 2. mailed notice of hearings before the Historic Landmarks Commission after the first hearing conducted by the Historic Landmarks Commission, except as otherwise provided in the Historic Landmarks Commission Guidelines adopted by resolution of the City Council.

SECTION 3. Section 22.22.140 of Chapter 22.22 of Title 22 of the Santa Barbara Municipal Code is hereby amended to read as follows:

22.22.140 Publicly Owned Property.

A. PUBLICLY OWNED BUILDINGS GENERALLY. Except as provided in Subsections (B) and (C) below, any structure, natural feature, site or area owned or leased by any public entity and designated as a Landmark or Structure of Merit, or located within any landmark district, shall not be subject to the provisions of Sections 22.22.070, 22.22.080, 22.22.104, 22.22.114, 22.22.130, and 22.22.170 of this Chapter.

B. EXCEPTION FOR CITY FACILITIES. The alteration, construction or relocation of any structure, natural feature, site or area owned or leased by the City and designated as a Landmark or Structure of Merit, or located within any landmark district, shall be reviewed by the Commission unless the City Council deems that said review would not be in the public interest.

C. EXCEPTION FOR IMPROVEMENTS WITHIN THE HIGHWAY 101 SANTA BARBARA COASTAL PARKWAY DESIGN DISTRICT. The alteration, construction or relocation of any structure, natural feature, site or area owned or leased by a public entity within the Highway 101 Santa Barbara Coastal Parkway Special Design District as defined by Municipal Code Section 22.68.060, which requires a Coastal Development Permit pursuant to Municipal Code Section 28.45.009 and which is designated as a Landmark or Structure of Merit, or which is located within any landmark district shall be reviewed by the Commission.

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SECTION 4. Chapter 22.68 of Title 22 of the Santa Barbara Municipal Code is amended to read as follows:

22.68.010 Architectural Board of Review.

A. **PURPOSE.** Section 814 of the Santa Barbara City Charter creates and establishes an Architectural Board of Review for the City to promote the general public welfare of the City and to protect and preserve the natural and historical charm and beauty of the City and its aesthetic appeal and beauty.

B. **MEMBERSHIP.** The Architectural Board of Review shall be composed of nine (9) members to be appointed as provided in the charter. At least two (2) members of such Board shall be licensed architects, at least two (2) members of such Board shall be licensed landscape architects, and at least three (3) other members shall possess professional qualifications in related fields, including, but not limited to, building design, structural engineering or industrial design. These members shall be electors of the City and shall hold office at the pleasure of the City Council.

C. **OFFICERS - QUORUM.** The members of the Architectural Board of Review shall elect from their own members a chair and vice-chair. The Community Development Director or his or her designee shall act as secretary and record Board action and render written reports thereof for the Board as required by this Chapter. The Board shall adopt its own rules of procedure. Four (4) members shall constitute a quorum, one (1) of which shall be an architect.

22.68.015 Definitions.

A. **DEFINED IN THIS CHAPTER.** If any word or phrase is defined in this Chapter 22.68, the definition given in this Chapter shall be operative for the purposes of this Chapter.

B. **DEFINED IN CHAPTER 28.04.** If a word or phrase used in this Chapter 22.68 is not defined in this Chapter, but is defined in Chapter 28.04 of this Code, the word or phrase shall have the same meaning in this Chapter as the meaning specified in Chapter 28.04.

C. **UNDEFINED WORDS AND PHRASES.** Any words or phrases used in this Chapter 22.68 that are not defined in this Chapter or Chapter 28.04 of this Code shall be construed according to the common meaning of the words and the context of their usage.

22.68.020 Design Review - Non-residential and Multi-Family Residential Buildings

A. **APPROVAL REQUIRED BEFORE ISSUANCE OF PERMIT.** No building permit or grading permit, the application for which is subject to design review by the Architectural Board of Review in accordance with the requirements of this Chapter 22.68, shall be issued without the approval of the Board or the City Council, on appeal.

B. **BUILDING PERMITS - NONRESIDENTIAL, MULTIPLE RESIDENTIAL, DUPLEX, TWO OR MORE DETACHED RESIDENTIAL UNITS AND MIXED USE.** Any

application for a building permit to construct, alter, or add to the exterior of a non-residential, multi-family residential, residential duplex or mixed use (residential and non-residential) building or a related accessory structure, or any application which will result in two or more detached residential units on one lot in any zone (other than the Single Family Zones listed in Chapter 28.15 of this Code), shall be referred to the Architectural Board of Review for design review in accordance with the requirements of this Chapter.

C. **SUBDIVISION GRADING PLANS.** All subdivision grading plans involving grading on a lot or lots located in any zone (other than the Single Family Zones listed in Chapter 28.15 of this Code) shall be referred to the Architectural Board of Review for a review of the proposed grading.

D. **GRADING PERMITS.** Any application for a grading permit that proposes grading on any lot (other than a lot located in the Single Family Zones listed in Chapter 28.15 of this Code or a lot that is developed exclusively with a single family residence in any zone) and which application is not submitted in connection with an application for a building permit for the construction or alteration of a building or structure on the same lot shall be referred to the Architectural Board of Review for a review of the proposed grading.

E. **EXTERIOR COLOR.**

1. **New Buildings.** The Architectural Board of Review shall review the exterior color of any new building or structure that is subject to design review by the Architectural Board of Review.

2. **Alterations.** If a change of the exterior color of a building or structure is proposed in connection with another alteration to a building or structure that is subject to design review by the Architectural Board of Review, the Architectural Board of Review shall review the proposed change of color in the course of the design review of the other alteration(s).

3. **Non-residential Buildings or Structures.** The Architectural Board of Review shall review any change to the exterior color of a non-residential building or related accessory structure whether or not the change of color is proposed in connection with another alteration of the building or structure that is subject to design review by the Architectural Board of Review.

F. **HIGHWAY 101 IMPROVEMENTS.** Improvements to U.S. Highway 101 or appurtenant highway structures which require a Coastal Development Permit pursuant to the City's Certified Local Coastal Program and which are located within the Highway 101 Santa Barbara Coastal Parkway Special Design District as defined by Municipal Code Section 22.68.060 shall be referred to the Architectural Board of Review for design review, except for improvements to those portions of U.S. Highway 101 and its appurtenant structures that are located within the El Pueblo Viejo Landmark District which are subject to review by the Historic Landmarks Commission pursuant to SBMC §22.22.140(B).

G. **ARCHITECTURAL BOARD OF REVIEW SUBMITTAL REQUIREMENTS.**

Applications for review by the Architectural Board of Review shall be made in writing in such form as is approved by the Community Development Director. No application required to be referred to the Architectural Board of Review shall be considered complete unless accompanied by the application fee in the amount established by resolution of the City Council.

H. **ADMINISTRATIVE REVIEW AND APPROVAL.** Minor design alterations, as specified in the Architectural Board of Review Design Guidelines approved by a resolution of the City Council, may be approved as a ministerial action by the Community Development Director (or the Director's designee) without review by the Architectural Board of Review. The Community Development Director or the Director's designee shall have the authority and discretion to refer any minor design alteration to the Architectural Board of Review if, in the opinion of the Community Development Director, the alteration has the potential to have an adverse effect on the architectural integrity of the building, structure or surrounding property.

22.68.030 Alternative Design Review by Historic Landmarks Commission.

A project that is otherwise subject to review by the Architectural Board of Review in accordance with the requirements of this Chapter shall be referred to the Historic Landmarks Commission for review in accordance with the requirements of Chapter 22.22 of this Code if the project is proposed in any of the following locations:

- A. A lot on which a City Landmark or City Structure of Merit is located,
- B. A property on the City's Potential Historic Resources List, or
- C. Any property located within El Pueblo Viejo Landmark District or another landmark district.

This referral to the Historic Landmarks Commission is supplemental to any other design review requirements required by Chapter 22.22 due to the status of any building or structure on the lot or the location of the lot within a landmark district. The fact that an application for a building permit or grading permit is not subject to design review pursuant to this Chapter 22.68 shall not excuse or exempt an application from review pursuant to Chapter 22.22 of this Code.

22.68.040 Architectural Board of Review Notice and Hearing.

A. **PROJECTS THAT REQUIRE A NOTICED HEARING.** Review of the following projects by the Architectural Board of Review must be preceded by a noticed hearing:

- 1. A new residential duplex unit, multi-family residential unit, or non-residential building,
- 2. The addition of over 500 square feet of net floor area or the addition of a new story to a residential duplex unit or multi-family residential unit,
- 3. An addition or alteration to a multi-family residential unit that will result in an additional residential unit,
- 4. Small non-residential additions as defined in Chapter 28.87 of this Code, or
- 5. Projects involving grading in excess of 250 cubic yards outside the footprint of any main building or exterior lighting with the apparent potential to create glare on neighboring parcels. Soil located within five feet (5') of an exterior wall of a main building that is excavated and recompacted shall not be included in the calculation of the volume of grading outside the building footprint.

B. **MAILED NOTICE.** Not less than ten calendar days before the date of the hearing required by Subsection A of this Section, the City shall cause written notice of the project hearing to be sent by first class mail to the following persons: (1) the

applicant, (2) the current record owner (as shown on the latest equalized assessment roll) of each of the twenty (20) lots closest to the lot which is the subject of the action, and (3) the current record owner of any lot, or any portion of a lot, which is located not more than one hundred feet from the exterior boundaries of the lot which is the subject of the action. The written notice shall advise the recipient of the following: (1) the date, time and location of the hearing, (2) the right of the recipient to appear at the hearing and to be heard by the Architectural Board of Review, (3) the location of the subject property, and (4) the nature of the application subject to design review.

C. ADDITIONAL NOTICING METHODS. In addition to the required mailed notice specified in Subsection B, the City may also require notice of the hearing to be provided by the applicant in any other manner that the City deems necessary or desirable, including, but not limited to, posted notice on the project site and notice delivered to non-owner residents. However, the failure of any person or entity to receive notice given pursuant to such additional noticing methods shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

D. PROJECTS REQUIRING DECISIONS BY THE CITY COUNCIL, PLANNING COMMISSION, OR STAFF HEARING OFFICER. Whenever a project requires another land use decision or approval by the City Council, the Planning Commission, or the Staff Hearing Officer, the mailed notice of the first hearing before the Architectural Board of Review shall comply with the notice requirements of this Section or the notice requirements applicable to the other land use decision or approval, whichever are greater. However, nothing in this Section shall require either: 1. notice of any hearing before the Architectural Board of Review to be published in a newspaper, or 2. mailed notice of hearings before the Architectural Board of Review after the first hearing conducted by the Architectural Board of Review, except as otherwise provided in the Architectural Board of Review Guidelines adopted by resolution of the City Council.

22.68.050 Architectural Board of Review Referral to Planning Commission.

A. PLANNING COMMISSION COMMENTS. When the Architectural Board of Review determines that a project is proposed for a site which is highly visible to the public, the Board may, prior to granting preliminary approval on the application, require presentation of the application to the Planning Commission solely for the purpose of obtaining comments from the Planning Commission regarding the application for use by the Architectural Board of Review in its deliberations.

B. PLANNING COMMISSION NOTICE AND HEARING. The Planning Commission shall hold a noticed hearing prior to taking any action on a project subject to its review and approval or comments under this Section. Notice of the Planning Commission hearing shall be provided in accordance with the requirements of Section 22.68.040.

22.68.060 Special Design Districts.

The following areas are identified as City Special Design Districts:

A. MISSION AREA SPECIAL DESIGN DISTRICT. All real property located within one thousand feet (1000') of Part II of El Pueblo Viejo Landmark District, as legally described in Section 22.22.100(b).

B. HILLSIDE DESIGN DISTRICT. All real property within the Hillside Design District as delineated on the maps labeled "Hillside Design District" which is part of this Code and is shown at the end of this Chapter. All notations, references, and other information shown on said map are incorporated herein and made a part hereof. The entirety of any annexation shall become a part of the Hillside Design District upon annexation.

C. HIGHWAY 101 SANTA BARBARA COASTAL PARKWAY SPECIAL DESIGN DISTRICT. All real property within the State owned or leased right-of-way of Highway 101 and all City owned or leased right-of-way which intersects Highway 101 within the S-D-3 Coastal Overlay Zone.

D. LOWER RIVIERA SURVEY AREA - BUNGALOW DISTRICT. All real property within "Lower Riviera Survey Area – Bungalow District" as shown on the map labeled as such and appended to the end of this Chapter – hereinafter referred to as the "Bungalow District."

22.68.070 Special Design District – Lower Riviera Survey Area (Bungalow District).

A. SPECIAL DESIGN DISTRICT AREA MAP – LOWER RIVIERA SURVEY AREA - BUNGALOW DISTRICT. Applications for building permits to construct, alter, or add to multi-family residential units or residential duplexes on lots located within the "Lower Riviera Survey Area - Bungalow District" established pursuant to SBMC Section 22.68.060 shall be subject to the design review in accordance with the requirements of this Section 22.68.070 as follows:

B. REVIEW OF BUILDING PERMIT APPLICATIONS. Applications for building permits to construct, alter, or add to multi-family residential units or residential duplexes on lots located within the Bungalow District shall be referred to the Community Development Director for review to determine if the application constitutes a project to demolish the structure. For the purposes of this Section, a "demolition" shall be as defined in subparagraph (K) of Santa Barbara Municipal Code Section 22.22.020. Such a determination shall be made by the Community Development Director or the Director's designee in writing within thirty (30) days of the date of the original application. If the Community Development Director or the Director's designee determines that the property is eligible for listing on the City's Potential Historic Resources list, the demolition application shall be referred to the Historic Landmarks Commission for review pursuant to Chapter 22.22. Otherwise, if the Community Development Director or the Director's designee determines that the application does constitute an application to demolish the structure, such application shall be referred to the City's Architectural Board of Review for review by the Board in accordance with the requirements of this Section. If the Community Development Director or the Director's designee determines that the application does not constitute a demolition under the terms of this Section, the building permit shall be issued upon compliance with the otherwise applicable requirements of this Code for appropriate and required design and development review.

C. REVIEW OF BUNGALOW DISTRICT DEMOLITION APPLICATIONS BY THE ARCHITECTURAL BOARD OF REVIEW. An application referred to the Architectural Board of Review pursuant to Subsection B above shall be reviewed by the Architectural Board of Review in accordance with the hearing, noticing, and appeal procedures established in SBMC Sections 22.68.040 and 22.68.100. An application referred to the Architectural Board of Review pursuant to Subsection B above shall not be approved unless the Architectural Board of Review makes all of the following findings with respect to that application:

1. That the demolition will not result in the loss of a structure containing a primary feature or features of Bungalow or Arts and Crafts style residential architecture, which features are worthy of or appropriate for historical preservation;
2. That the demolition will not result in the loss of a structure which, although not eligible as a City Historic Resource, is a prime example of the Bungalow or Arts and Crafts style residential building appropriate for historical preservation;
3. That the demolition will not result in the loss of a structure which is prominent or which is a prime example of the Bungalow or Arts and Crafts style residential architecture for which this neighborhood is characterized or known.

D. ABR CONDITIONAL APPROVAL OF DEMOLITION WITHIN THE BUNGALOW DISTRICT. Notwithstanding the above-stated requirement for appropriate demolition findings, the ABR may approve a demolition application within the Bungalow District if the ABR conditions the demolition permit such that any proposed future development of the real property upon which the structure or structures are located must comply with express conditions of approval designed to preserve certain existing architectural features or buildings, as determined appropriate by the ABR.

Such conditions may provide that any future development of the property involved must either incorporate the existing structures, in whole or in part, into the new development, or it must preserve certain features or aspects of the existing structures or of the site such that these features are incorporated into any future development of the real property, either through the preservation of the building or feature or its replication in the new development, as may be determined appropriate by the ABR.

Such conditions of approval shall be prepared in written form acceptable to the Community Development Director and the City Attorney and shall be recorded in the official records of Santa Barbara County with respect to the involved real property such that these conditions shall be binding on all future owners of the real property as conditions imposed on any new development for a period of twenty (20) years after the conditional approval of the original demolition application and the completion of the demolition.

E. REVIEW OF NEW DEVELOPMENT WITH BUNGALOW DISTRICT BY ARCHITECTURAL BOARD OF REVIEW. Applications for building permits to construct new multi-family residential buildings or residential duplexes on lots located within the Bungalow District shall be referred to the Architectural Board of Review for development plan review and approval in accordance with the public hearing, noticing and appeal requirements of SBMC Section 22.68.040 and 22.68.100, provided that the property owner/applicant may be required to submit those development plan materials deemed necessary for full and appropriate review by the ABR prior to the ABR hearing.

F. BUNGALOW DISTRICT FINDINGS. The ABR shall not approve a new development within the Bungalow District unless it makes both of the following findings:

1. Express conditions of approval have been imposed on the proposed development which appropriately incorporate the existing structures or architectural features or other aspects of these structures (or of the site involved) into the new development, or these structures, features or aspects will be appropriately replicated in the new development;

2. The proposed development will not substantially diminish the unique architectural style and character of the Bungalow District as a residential neighborhood of the City.

G. GUIDELINES FOR SPECIAL DESIGN DISTRICT. The Lower Riviera Special Design District Guidelines adopted by resolution of the City Council shall provide direction and appropriate guidance to the ABR, the Planning Commission and City staff in connection with the review of applications filed pursuant to this Section.

22.68.080 Signs.

Application for sign permits shall be considered by the Architectural Board of Review only upon an appeal filed pursuant to Section 22.70.050.9 of this Code.

22.68.090 Approval of Plans for Buildings or Structures on City Lands.

No building or structure shall be erected upon any land owned or leased by the City, or allowed to extend over or upon any street, or other public property, unless plans for the same and the location thereof shall first have been submitted to the Architectural Board of Review or the Historic Landmarks Commission, as applicable, for its approval.

22.68.100 Appeal to Council - Notice and Hearing.

A. PROCEDURE FOR APPEAL. Any action of the Architectural Board of Review on an application for preliminary or final approval taken pursuant to this Chapter 22.68 may be appealed to the City Council by the applicant or any interested person pursuant to Chapter 1.30 of this Code. In deciding such an appeal, the City Council shall make those findings required of the Board with respect to a determination made pursuant to this Chapter.

B. NOTICE OF APPEAL. In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Architectural Board of Review made pursuant to this Chapter 22.68 shall be provided in the same manner as notice was provided for the hearing before the Architectural Board of Review.

22.68.110 Expiration of Approval.

A. **TWO-YEAR EXPIRATION.** A final approval of the Architectural Board of Review, as defined in the Architectural Board of Review Guidelines, shall expire by limitation and become null and void if a building permit for the building or work authorized by the approval is not issued within twenty four (24) months of the granting of the final approval by the Architectural Board of Review or the City Council, on appeal.

B. **COMMUNITY DEVELOPMENT DIRECTOR EXTENSION.** Upon a written request from the applicant prior to the expiration of the approval, the Community Development Director may grant one (1) twelve-month extension of the final approval. Extensions of time may be granted by the Community Development Director upon findings that the applicant has demonstrated due diligence to implement and complete the proposed development as substantiated by competent evidence in the record and that there are no changed circumstances that may affect the consistency of the development with this Chapter 22.68 and applicable City ordinances, resolutions and other laws.

C. **EXTENSIONS BY THE BOARD.** In addition to the twelve-month extension by the Community Development Director, upon a written request from the applicant prior to the expiration of the approval, the Architectural Board of Review may grant up to two (2) twelve-month extensions of the final approval. Extensions of time may be granted by the Architectural Board of Review upon findings that the applicant has demonstrated due diligence to implement and complete the proposed development as substantiated by competent evidence in the record and that there are no changed circumstances that may affect the consistency of the development with this Chapter 22.68 and applicable City ordinances, resolutions and other laws.

SECTION 5. The Hillside Design District Index Maps appended to Chapter 22.68 of the Santa Barbara Municipal Code are hereby deleted in their entirety and replaced by the Hillside Design District Index Maps attached to this ordinance as Exhibit A.

SECTION 6. Title 22 of the Santa Barbara Municipal Code is hereby amended by adding Chapter 22.69 which reads as follows:

22.69.010 Neighborhood Preservation Board.

A. **PURPOSE.** A Neighborhood Preservation Board is hereby created and established by the City to promote the general public welfare, protect and preserve the City's natural and historical charm, and enhance the City's aesthetic appeal. The goal of the Neighborhood Preservation Board shall be to ensure that single family residential unit projects are compatible with the surrounding neighborhood in size and design. The Neighborhood Preservation Board is also charged with the task of protecting public visual resources and promoting the ecological sustainability of the City's built environment through the design review process.

B. **MEMBERSHIP.** The Neighborhood Preservation Board shall be composed of seven (7) members appointed by the City Council. Two (2) members shall be licensed architects, one (1) member shall be a licensed landscape architect, (3) members shall

possess professional qualifications in fields related to architecture, including, but not limited to, building design, structural engineering, industrial design, or landscape contracting, and one (1) member shall be appointed from the public at large. All members of the Committee shall reside within Santa Barbara County and shall hold office at the pleasure of the City Council. A person may serve on the Architectural Board of Review and the Neighborhood Preservation Board at the same time.

C. **CONDUCT OF MEETINGS.** The members of the Neighborhood Preservation Board shall elect from their own members a chair and vice-chair. The Community Development Director or his or her designee shall act as secretary and record Committee action and render written reports thereof for the Committee as required by this Chapter. The rules of procedure for the Committee shall be established and approved by resolution of the City Council. Four (4) members shall constitute a quorum, two (2) of whom shall be either a licensed architect or a licensed landscape architect.

22.69.015 Definitions.

A. **DEFINED IN THIS CHAPTER.** If any word or phrase is defined in this Chapter 22.69, the definition given in this Chapter shall be operative for the purposes of this Chapter.

B. **DEFINED IN CHAPTER 28.04.** If a word or phrase used in this Chapter 22.69 is not defined in this Chapter, but is defined in Chapter 28.04 of this Code, the word or phrase shall have the same meaning in this Chapter as the meaning specified in Chapter 28.04.

C. **UNDEFINED WORDS AND PHRASES.** Any words or phrases used in this Chapter 22.69 that are not defined in this Chapter or Chapter 28.04 of this Code shall be construed according to the common meaning of the words and the context of their usage.

22.69.020 Neighborhood Preservation - Single Family Residential Unit Design Review

A. **APPROVAL REQUIRED BEFORE ISSUANCE OF PERMIT.** No building permit, grading permit, vegetation removal permit, or subdivision grading plan, the application for which is subject to the review of the Neighborhood Preservation Board pursuant to this Chapter 22.69, shall be issued without the approval of the Board or the City Council, on appeal.

B. BUILDING PERMITS - SPECIAL DESIGN DISTRICTS.

1. **Mission Area Special Design District and Lower Riviera Survey Area - Bungalow District.** Applications for building permits to construct, alter, or add to the exterior of a single family residential unit or a related accessory structure on a lot or lots within the Mission Area Special Design District or the Lower Riviera Survey Area - Bungalow District identified in Section 22.68.060 shall be referred to the Neighborhood Preservation Board for design review in accordance with the requirements of this

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Chapter and the approved Neighborhood Preservation Board Guidelines.

2. **Hillside Design District.** Applications for building permits to construct, alter, or add to the exterior of a single family residential unit or a related accessory structure on a lot or lots within the Hillside Design District identified in Section 22.68.060 shall be referred to the Neighborhood Preservation Board for design review in accordance with the requirements of this Chapter and the approved Neighborhood Preservation Board Guidelines if either:

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a. The average slope of the lot or the building site is 20% or more as calculated pursuant to Section 28.15.080 of this Code; or

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b. The application involves a structural alteration to the roof form or the replacement of the roof covering of a building on the lot.

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C. **BUILDING PERMITS - SINGLE FAMILY RESIDENTIAL UNITS.** Applications for building permits to construct, alter, or add to the exterior of a single family residential unit or a related accessory structure on any lot shall be referred to the Neighborhood Preservation Board for design review in accordance with the requirements of this Chapter and the Neighborhood Preservation Board Guidelines if the project for which the building permit is sought involves any of the following:

1. The construction, alteration, or addition of any portion of a building that is taller than one story and a basement, or

2. The construction, alteration, or addition of any portion of a building or structure that is seventeen feet (17') or taller in building height, or

3. The net floor area of all floors of all existing and new buildings on the lot that will exceed four thousand (4,000) square feet as calculated pursuant to Section 28.15.083 of this Code, or

4. The construction, alteration, or addition of a deck on the second or higher floor (including roof decks) or a balcony on the second or higher floor of any building that will extend perpendicularly more than three feet (3') from the adjacent exterior wall or will be more than seven feet (7') in length in the dimension parallel to the adjacent exterior wall, or

5. The construction, alteration, or addition of a retaining wall in excess of six feet (6') in height, or

6. The construction, alteration, or addition of a wall, fence or gate in the front yard of the lot in excess of eight feet (8') in height, or

7. The installation of a manufactured home, mobile home or factory-built home (as those terms are defined in the California Health and Safety Code) subject to the limitations on review specified in Government Code section 65852.3 et seq., or

8. The installation of a single family residential unit that was, as a whole or in part, previously located on another lot.

D. **SUBDIVISION GRADING PLANS.** All subdivision grading plans involving grading on a lot or lots located in any of the single family zones listed in Chapter 28.15 of this Code shall be referred to the Neighborhood Preservation Board for a review of the proposed grading.

E. **GRADING PERMITS.** Applications for grading permits that propose grading on a vacant lot or lots located within a single family zone listed in Chapter 28.15 of this Code or on any lot that is developed exclusively with a single family residence and which are not submitted in connection with an application for a building permit for the construction

or alteration of a building or structure on the same lot or lots shall be referred to the Neighborhood Preservation Board for a review of the proposed grading. Prior to approving a grading permit, the Neighborhood Preservation Board shall find, in addition to the findings in Section 22.69.050, that the proposed grading will result in the following:

1. No significant increase in siltation or decrease in water quality of streams, drainages or water storage facilities to which the property drains; and
2. No substantial loss of southern oak woodland habitat.

F. VEGETATION REMOVAL PERMITS. Applications for vegetation removal permits pursuant to Chapter 22.10 of this Code shall be referred to the Neighborhood Preservation Board for review. Prior to approving a vegetation removal permit, the Neighborhood Preservation Board shall find, in addition to the findings in Section 22.69.050, that the proposed vegetation removal:

1. Will result in no significant increase in siltation or decrease in water quality of streams, drainages or water storage facilities to which the property drains; and
2. Will result in no substantial loss of southern oak woodland habitat; and
3. Will comply with all applicable provisions of Chapter 22.10, "Vegetation Removal," of this Code.

G. RETAINING WALLS. The following types of retaining wall improvements shall be referred to the Neighborhood Preservation Board for design review in accordance with the requirements of this Chapter and the approved Neighborhood Preservation Board Guidelines:

1. The construction of a retaining wall on a lot or a building site with an average slope of 15% or more (as calculated pursuant to Section 28.15.080 of this Code), or
2. The construction of a retaining wall on a lot that is adjacent to or contains a ocean bluff, or
3. The construction of multiple terracing retaining walls that are not separated by a building or a horizontal distance of more than ten feet (10') where the combined height of the walls exceeds six feet (6').

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H. SUBMITTAL REQUIREMENTS. Applications for review by the Neighborhood Preservation Board shall be made in writing in such form as is approved by the Director of Community Development. No application shall be considered complete unless accompanied by the application fee in the amount established by resolution of the City Council.

I. ADMINISTRATIVE APPROVAL. Minor design alterations, as specified in the Single Family Design Guidelines or the Neighborhood Preservation Board Guidelines approved by a resolution of the City Council, may be approved as a ministerial action by the Community Development Director or the Director's designee without review by the Neighborhood Preservation Board. The Community Development Director (or the Director's designee) shall have the authority and discretion to refer any minor design alteration to the Neighborhood Preservation Board if, in the opinion of the Community Development Director, the alteration has the potential to have an adverse effect on the architectural integrity of the building, structure or surrounding property.

J. PRESUMPTION REGARDING PRIOR GRADING, TREE REMOVAL, AND CONSTRUCTION. There shall be a presumption that any grading, removal of trees, or construction that occurred on the lot within two years prior to the submittal of an

application for a building permit to construct, alter, or add to a single family residential unit or a related accessory structure was done in anticipation of such application and said activities will be included in determining whether the project is subject to review by the Neighborhood Preservation Board pursuant to this Chapter. For purposes of this presumption, if the prior work required a permit from the City, the prior work shall not be considered complete unless a final inspection has occurred or a certificate of occupancy has been issued. An applicant has the burden to rebut this presumption with substantial evidence sufficient to convince the Neighborhood Preservation Board that such work was not done in an effort to avoid review of the entirety of the project by the Neighborhood Preservation Board.

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K. SINGLE FAMILY DESIGN GUIDELINES. The Single Family Design Guidelines adopted by resolution of the City Council shall provide direction and appropriate guidance to decision makers and City staff in connection with applications reviewed pursuant to this Chapter.

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22.69.030 Alternative Design Review by Historic Landmarks Commission.

A project that is otherwise subject to review by the Neighborhood Preservation Board in accordance with the requirements of this Chapter shall be referred to the Historic Landmarks Commission for review in accordance with the requirements of Chapter 22.22 of this Code if the project is proposed in any of the following locations:

- A. A lot on which a City Landmark or City Structure of Merit is located,
- B. A property on the City's Potential Historic Resources List, or
- C. Any property located within El Pueblo Viejo Landmark District or another landmark district.

This referral to the Historic Landmarks Commission is supplemental to any other design review requirements required by Chapter 22.22 due to the status of any building or structure on the lot or the location of the lot within a landmark district. The fact that an application for a building permit, grading permit, or vegetation removal permit is not subject to design review pursuant to this Chapter 22.69 shall not excuse or exempt an application from review pursuant to Chapter 22.22 of this Code.

22.69.040 Neighborhood Preservation Board Notice and Hearing.

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A. PROJECTS THAT REQUIRE PUBLIC HEARING. Neighborhood Preservation Board review of the following projects must be preceded by a noticed hearing:

1. New single family residential units,
2. Additions of over 500 square feet of net floor area or a new story to a single family residential unit,
3. Projects involving grading in excess of 250 cubic yards outside the footprint of any main building (soil located within five feet (5') of an exterior wall of a main building that is excavated and recompactd shall not be included in the calculation of the volume of grading outside the building footprint), or
4. Projects involving exterior lighting with the apparent potential to create glare on neighboring parcels.

B. **MAILED NOTICE.** Not less than ten calendar days before the date of the hearing required by Subsection A of this Section, the City shall cause written notice of the project hearing to be sent by first class mail to the following persons: (1) the applicant, (2) the current record owner (as shown on the latest equalized assessment roll) of each of the twenty (20) lots closest to the lot which is the subject of the action, and (3) the current record owner of any lot, or any portion of a lot, which is located not more than one hundred feet from the exterior boundaries of the lot which is the subject of the action. The written notice shall advise the recipient of the following: (1) the date, time and location of the hearing, (2) the right of the recipient to appear at the hearing and to be heard by the Neighborhood Preservation Board, (3) the location of the subject property, and (4) the nature of the application subject to design review.

C. **ADDITIONAL NOTICING METHODS.** In addition to the required mailed notice specified in Subsection B, the City may also require notice of the hearing to be provided by the applicant in any other manner that the City deems necessary or desirable, including, but not limited to, posted notice on the project site and notice delivered to non-owner residents. However, the failure of any person or entity to receive notice given pursuant to such additional noticing methods shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

D. **PROJECTS REQUIRING DECISIONS BY THE CITY COUNCIL, PLANNING COMMISSION, OR STAFF HEARING OFFICER.** Whenever a project requires another land use decision or approval by the City Council, the Planning Commission, or the Staff Hearing Officer, the mailed notice of the first hearing before the Neighborhood Preservation Board shall comply with the notice requirements of this Section or the notice requirements applicable to the other land use decision or approval, whichever are greater. However, nothing in this Section shall require either: 1. notice of any hearing before the Neighborhood Preservation Board to be published in a newspaper, or 2. mailed notice of hearings before the Neighborhood Preservation Board after the first hearing conducted by the Neighborhood Preservation Board, except as otherwise provided in the Neighborhood Preservation Board Guidelines adopted by resolution of the City Council.

22.69.050 Neighborhood Preservation Ordinance Findings.

If an application for a permit is referred to the Neighborhood Preservation Board for review pursuant to Section 22.69.020 and the Neighborhood Preservation Board Guidelines, the Neighborhood Preservation Board shall make the findings specified below prior to approving the permit.

A. **NEIGHBORHOOD PRESERVATION FINDINGS.** Prior to approval of any permit application, the Neighborhood Preservation Board shall make each of the following findings:

1. **Consistency and Appearance.** The proposed development will be consistent with the scenic character of the City and will enhance the appearance of the neighborhood.

2. **Compatibility.** The proposed development will be compatible with the neighborhood, and its size, bulk, and scale is appropriate to the site and neighborhood.

3. **Quality Architecture and Materials.** The proposed buildings and structures are designed with quality architectural details. Proposed materials and colors will maintain the natural appearance of the ridgeline or hillside.

4. **Trees.** The proposed project will not remove or significantly impact any designated Specimen Tree, Historic Tree or Landmark Tree. The proposed project, to the maximum extent feasible, preserves and protects healthy, non-invasive trees with a trunk diameter of four inches (4") or more measured four feet (4') above natural grade. If the project includes the removal of any healthy, non-invasive tree with a diameter of four inches (4") or more measured four feet (4') above natural grade, the project includes a plan to mitigate the impact of such removal by planting replacement trees in accordance with applicable tree replacement ratios.

5. **Health, Safety, and Welfare.** The public health, safety, and welfare will be appropriately protected and preserved.

6. **Good Neighbor Guidelines.** The project generally complies with the Good Neighbor Guidelines regarding privacy, landscaping, noise and lighting.

7. **Public Views.** The development, including proposed structures and grading, will preserve significant public scenic views of and from the hillside.

B. **HILLSIDE DESIGN DISTRICT AND SLOPED LOT FINDINGS.** In addition to the findings specified in Subsection A above, prior to approval of any permit application for development on a lot within the Hillside Design District described in Section 22.68.060 or on a lot or a building site that has an average slope of 15% or more (as calculated pursuant to Section 28.15.080 of this Code), the Neighborhood Preservation Board shall make each of the following findings:

1. **Natural Topography Protection.** The development, including the proposed structures and grading, is appropriate to the site, is designed to avoid visible scarring, and will not significantly modify the natural topography of the site or the natural appearance of any ridgeline or hillside.

2. **Building Scale.** The development will maintain a scale and form that blends with the hillside by minimizing the visual appearance of structure(s) and the overall height of structures.

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22.69.055 Green Building Standard for Large Residences.

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All new square footage (new construction or additions) proposed in an application referred to the Neighborhood Preservation Board for design review pursuant to this Chapter shall meet or exceed the standards for a two-star rating under the Santa Barbara Contractor Association's Built Green Program as adopted by the Neighborhood Preservation Board Guidelines if the net floor area of all existing and new buildings on the lot resulting from the application will exceed four thousand (4,000) square feet as calculated pursuant to Section 28.04.239.

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22.69.060 Neighborhood Preservation Board Referral to Planning Commission for Comments.

A. PLANNING COMMISSION COMMENTS. When the Neighborhood Preservation Board determines that a project is proposed for a site which is highly visible to the public, the Board may, prior to granting preliminary approval of the application, require presentation of the application to the Planning Commission solely for the purpose of obtaining comments from the Commission regarding the application for use by the Neighborhood Preservation Board in its deliberations.

B. NOTICE AND HEARING. Prior to taking any action or making any comments regarding an application pursuant to this Section, the Planning Commission shall hold a noticed hearing. Notice of the hearing shall be provided in accordance with the requirements of Section 22.69.040.

22.69.070 Special Design District – Lower Riviera Survey Area (Bungalow District).

A. SPECIAL DESIGN DISTRICT AREA MAP – LOWER RIVIERA SURVEY AREA - BUNGALOW DISTRICT. Applications for building permits to construct, alter, or add to single family residential units or related accessory buildings or structures on lots located within the “Lower Riviera Survey Area - Bungalow District” established pursuant to SBMC Section 22.68.060 shall be subject to design review in accordance with the requirements of this Section 22.69.070 as follows:

B. REVIEW OF BUILDING PERMIT APPLICATIONS. Applications for building permits to construct, alter, or add to single residential units on lots located within the Bungalow District shall be referred to the Community Development Director for review to determine if the application constitutes a project to demolish the structure. For the purposes of this Section, a “demolition” shall be as defined in subparagraph (K) of Santa Barbara Municipal Code Section 22.22.020. Such a determination shall be made by the Community Development Director or the Director’s designee in writing within thirty (30) days of the date of the original permit application. If the Community Development Director or the Director’s designee determines that the property is eligible for listing on the City’s Potential Historic Resources list, the application shall be referred to the Historic Landmarks Commission for review pursuant to Chapter 22.22. Otherwise, if the Community Development Director or the Director’s designee determines that the application does constitute an application to demolish the structure, such application shall be referred to the City’s Neighborhood Preservation Board for review by the Committee in accordance with the requirements of this Section. If the Community Development Director or the Director’s designee determines that the application does not constitute a demolition under the terms of this Section, the building permit shall be issued upon compliance with the otherwise applicable requirements of this Code for appropriate and required design and development review.

C. REVIEW OF BUNGALOW DISTRICT DEMOLITION APPLICATIONS BY THE NEIGHBORHOOD PRESERVATION BOARD. An application referred to the Neighborhood Preservation Board pursuant to Subsection B above shall be reviewed by

the Committee in accordance with the hearing, noticing, and appeal procedures established in SBMC Sections 22.69.040 and 22.69.080. An application referred to the Neighborhood Preservation Board pursuant to Subsection B above shall not be approved unless the Neighborhood Preservation Board makes all of the following findings with respect to that application:

1. That the demolition will not result in the loss of a structure containing a primary feature or features of Bungalow or Arts and Crafts style residential architecture, which features are worthy of or appropriate for historical preservation;
2. That the demolition will not result in the loss of a structure which, although not eligible as a City Historic Resource, is a prime example of the Bungalow or Arts and Crafts style residential building appropriate for historical preservation;
3. That the demolition will not result in the loss of a structure which is prominent or which is a prime example of the Bungalow or Arts and Crafts style residential architecture for which this neighborhood is characterized or known.

D. CONDITIONAL APPROVAL OF DEMOLITION WITHIN THE BUNGALOW DISTRICT. Notwithstanding the above-stated requirement for appropriate demolition findings, the Neighborhood Preservation Board may approve a demolition application within the Bungalow District if the Committee conditions the demolition permit such that any proposed future development of the real property upon which the structure or structures are located must comply with express conditions of approval designed to preserve certain existing architectural features or buildings, as determined appropriate by the Committee.

Such conditions may provide that any future development of the property involved must either incorporate the existing structures, in whole or in part, into the new development, or it must preserve certain features or aspects of the existing structures or of the site such that these features are incorporated into any future development of the real property, either through the preservation of the building or feature or its replication in the new development, as may be determined appropriate by the Committee.

Such conditions of approval shall be prepared in written format acceptable to the Community Development Director and the City Attorney and shall be recorded in the official records of Santa Barbara County with respect to the involved real property such that these conditions shall be binding on all future owners of the real property as conditions imposed on any new development for a period of twenty (20) years after the conditional approval of the original demolition application and the completion of the demolition.

E. REVIEW OF NEW DEVELOPMENT WITH BUNGALOW DISTRICT BY NEIGHBORHOOD PRESERVATION BOARD. Applications for building permits to construct new single family residential units on lots located within the Bungalow District shall be referred to the Neighborhood Preservation Board for development plan review and approval in accordance with the hearing, noticing and appeal requirements of SBMC Section 22.69.040 and 22.69.080.

F. BUNGALOW DISTRICT FINDINGS. The Neighborhood Preservation Board shall not approve a new single residential unit development within the Bungalow District unless it makes both of the following findings:

1. Express conditions of approval have been imposed on the proposed development which appropriately incorporate the existing structures or architectural

features or other aspects of these structures (or of the site involved) into the new development, or these structures, features or aspects will be appropriately replicated in the new development;

2. The proposed development will not substantially diminish the unique architectural style and character of the Bungalow District as a residential neighborhood of the City.

G. **GUIDELINES FOR SPECIAL DESIGN DISTRICT.** The Lower Riviera Special Design District Guidelines adopted by resolution of the City Council shall provide direction and appropriate guidance to the decision makers and City staff in connection with the review of applications filed pursuant to this Section.

22.69.080 Appeals.

A. **PROCEDURE FOR APPEAL.** Any action of the Neighborhood Preservation Board on an application for preliminary or final approval taken pursuant to this Chapter 22.69 may be appealed to the City Council by the applicant or any interested person pursuant to Chapter 1.30 of this Code. In deciding such an appeal, the City Council shall make those findings required of the Board with respect to a determination made pursuant to this Chapter.

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B. **NOTICE OF APPEAL.** In addition to the procedures specified in Chapter 1.30, notice of the public hearing before the City Council on an appeal from a decision of the Neighborhood Preservation Board made pursuant to this Chapter 22.69 shall be provided in the same manner as notice was provided for the hearing before the Neighborhood Preservation Board.

22.69.090 Expiration of Approval.

A. **TWO-YEAR EXPIRATION.** A final approval of the Neighborhood Preservation Board, as defined in the Neighborhood Preservation Board Guidelines, shall expire by limitation and become null and void if a building permit for the building or work authorized by the approval is not issued within twenty four (24) months of the granting of the final approval by the Neighborhood Preservation Board or the City Council, on appeal.

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B. **COMMUNITY DEVELOPMENT DIRECTOR EXTENSION.** Upon a written request from the applicant prior to the expiration of the approval, the Community Development Director may grant one (1) twelve-month extension of the final approval. Extensions of time may be granted by the Community Development Director upon findings that the applicant has demonstrated due diligence to implement and complete the proposed development as substantiated by competent evidence in the record and that there are no changed circumstances that may affect the consistency of the development with this Chapter 22.69, the Single Family Design Guidelines, and applicable City ordinances, resolutions and other laws.

C. **EXTENSIONS BY THE BOARD.** In addition to the twelve-month extension by the Community Development Director, upon a written request from the applicant prior to the expiration of the approval, the Neighborhood Preservation Board may grant up to

two (2) twelve-month extensions of the final approval. Extensions of time may be granted by the Neighborhood Preservation Board upon findings that the applicant has demonstrated due diligence to implement and complete the proposed development as substantiated by competent evidence in the record and that there are no changed circumstances that may affect the consistency of the development with this Chapter 22.69, the Single Family Design Guidelines, and applicable City ordinances, resolutions and other laws.

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SECTION 7. Section 22.75.050 of Chapter 22.75 of Title 22 of the Santa Barbara Municipal Code is hereby amended to read as follows:

22.75.050 Outdoor Lighting Review by the Architectural Board of Review, the Neighborhood Preservation Board, and the Historic Landmarks Commission.

Those projects for which design review is required by the Architectural Board of Review pursuant to Chapter 22.68, the Neighborhood Preservation Board pursuant to Chapter 22.29, or the Historic Landmarks Commission pursuant to Chapter 22.22 shall also be reviewed for consistency with the City Outdoor Lighting Design Guidelines approved by resolution of the City Council.

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SECTION 8. Chapter 28.04 of Title 28 of the Santa Barbara Municipal Code is hereby amended by amending Section 28.04.270 to read as follows:

28.04.270 Grade.

Grade is the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet (5') from the building, between the building and a line five feet (5') from the building. In case walls are parallel to and within five feet (5') of a public sidewalk, alley or public way, the grade shall be the elevation of the sidewalk, alley or public way. The term exterior wall shall include columns or other supporting members, whether free-standing or connected to a wall.

Deleted: Grade is the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five feet (5') distant from and outside of said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than five feet (5') distant from said wall.

SECTION 9. Chapter 28.04 of Title 28 of the Santa Barbara Municipal Code is hereby amended by adding Sections 28.04.030.5, 28.04.040.1, 28.04.040.12, 28.04.152.5, 28.04.160, 28.04.215, 28.04.227, 28.04.228, 28.04.229, 28.04.237, 28.04.238, 28.04.239, 28.04.272, and 28.04.469.6 which read as follows:

28.04.030.5 Addition.

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An extension or increase in the floor area of a building or structure.

28.04.040.1 Alteration.

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An exterior change or modification. For the purposes of this title, an alteration shall include, but not be limited to, exterior changes to or modification of a structure, including the architectural details or visual characteristics such as paint color and surface texture, grading, surface paving, new structures, a structural addition, cutting or removal of trees and other natural features, disturbance of archaeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property.

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28.04.040.12 As-graded.

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The extent of surface conditions on completion of grading.

28.04.152.5 Compaction.

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The act of increasing the density of a fill by mechanical means.

28.04.160 Court.

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An area open to the sky that is enclosed on at least three sides by walls.

28.04.215 Earth Material.

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Any rock, natural soil or fill or any combination thereof.

28.04.227 Erosion.

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The wearing away of the ground surface as a result of the movement of wind, water or ice.

28.04.228 Excavation.

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The mechanical removal of earth material.

28.04.229 Existing Grade.

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The grade prior to grading.

28.04.237 Fill.

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A deposit of earth material placed by artificial means.

28.04.238 Finished Grade.

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The final grade of the site that conforms to the approved plan.

28.04.239 Floor Area, Net.

A. **GENERAL RULE.** Net floor area shall be defined as the area in square feet of all floors confined within the exterior walls of a building, but not including the area of the following: exterior walls, vent shafts, courts, and any areas with a ceiling height of less than five (5) feet above the finished floor.

B. **SPECIAL RULES.**

1. The area occupied by stairs within the exterior walls of a building shall be counted only on one floor of the building.

2. Free standing accessory buildings that do not require a building permit for construction or installation are excluded from the net floor area calculation.

28.04.272 Grading.

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Any excavating or filling or combination thereof.

28.04.469.6 Rough Grade.

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The stage at which the grade approximately conforms to the approved plan.

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SECTION 10. Section 28.15.055 of Chapter 28.15 of Title 28 of the Santa Barbara Municipal Code is hereby amended to read as follows:

28.15.055 Design Review of Residential Buildings.

Residential buildings and structures shall be subject to design review and approval, disapproval or conditional approval as required in Chapter 22.69 of this Code.

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SECTION 11. Chapter 28.15 of Title 28 of the Santa Barbara Municipal Code is hereby amended by adding Sections 28.15.066 and 28.15.083 which read as follows:

28.15.066 Balcony Encroachments.

Notwithstanding the provisions of Section 28.87.062 of this Code, no balcony (covered or uncovered) may extend into a required front or interior yard on any lot within these zones without the approval of a modification in accordance with the provisions of Section 28.92.110 of this Code.

28.15.083 Maximum Net Floor Area (Floor to Lot Area Ratio.)

A. APPLICATION. The provisions of this Section shall only apply to lots within these zones that have less than 15,000 square feet of net lot area and which are, or are proposed to be, developed with a main or accessory building that is either: (1) taller than one story and a basement, or (2) has a building height of seventeen feet (17') or more.

B. DEFINITIONS. For purposes of this Section, the following definitions shall apply:

1. Net Floor Area of a Building. The net floor area of a building shall be calculated as follows:

a. General Rule: Net floor area is the area in square feet of all floors confined within the exterior walls of a building, but not including the area of the following: exterior walls, vent shafts, courts, and any areas with a ceiling height of less than five (5) feet above the finished floor.

b. Special Rules: (i) The area occupied by stairs within the exterior walls of a building shall be counted only on one floor of the building. (ii) Free standing accessory buildings that do not require a building permit for construction or installation are excluded from the net floor area calculation. (iii) The net floor area calculation for a basement or cellar shall be reduced by 50% if the vertical distance from grade to ceiling is four feet (4') or less for at least one-half of the circumference of the exterior walls of the basement or cellar. If the vertical distance from grade to the ceiling is four feet (4') or less for the entire circumference of the exterior walls of a basement or cellar, the area of the basement or cellar shall be excluded from the net floor area calculation. (iv) Net floor area within a portion of a building that is designed and permitted as a secondary dwelling unit pursuant to Section 28.94.030.Z of this Code shall be excluded from the net floor area calculation.

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2. **Net Floor Area of a Lot.** The net floor area of a lot shall be the sum of the net floor area of all existing and proposed buildings on the lot.

3. **Net Lot Area.** The total horizontal area within the lot lines of a lot subtracting the horizontal area within any public rights-of-way on the lot.

C. **MAXIMUM NET FLOOR AREA (Floor to Lot Area Ratio).** For purposes of this Section, the maximum net floor area of a lot shall be calculated according to the following formulae:

<u>Net Lot Area (Sq. Ft.)</u>	<u>Maximum Net Floor Area (Sq. Ft.)</u>
<u>Less than 4,000</u>	<u>2200</u>
<u>4,000 to 9,999</u>	<u>1200 + (.25 multiplied by the net lot area)</u>
<u>10,000 to 14,999</u>	<u>2500 + (.125 multiplied by the net lot area)</u>

D. **PRECLUDED DEVELOPMENT.** No application for a building permit may be approved for any project that will: (1) result in an increase of the net floor area of the lot, (2) change the location of any floor area on the second or higher story of any building on the lot, or (3) increase the height of any portion of a building on the lot to a building height of seventeen feet (17') or higher if either of the following is true regarding the project:

1. The net floor area of the lot will exceed the maximum net floor area for the lot as calculated pursuant to this Section, or

2. The net floor area of the lot will exceed eighty-five percent (85%) of the maximum net floor area for the lot as calculated pursuant to this Section and any of the following conditions apply to the lot:

a. The average slope of the lot or the building site (as calculated pursuant to Section 28.15.080 of this Code) is thirty percent (30%) or greater, or

b. The building height of any new or existing building or structure on the lot is twenty-five feet (25') or higher, or

c. The lot is located in the Hillside Design District established in Section 22.68.080 of this Code and the application proposes five hundred (500) or more cubic yards of grading outside the footprint of the main building (soil located within five feet (5') of an exterior wall of a main building that is excavated and recompacted shall not be included in the calculation of the volume of grading outside the building footprint).

SECTION 12. Section 28.18.075 of Chapter 28.18 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

28.18.075 Lot Area and Frontage Requirements.

A. **NEWLY-CREATED LOTS.** Every lot hereafter created in an R-2 Zone shall contain at least seven thousand (7,000) square feet and sixty feet (60') of frontage on a public street.

B. **LOTS BETWEEN 6,000 AND 7,000 SQUARE FEET.** For an existing lot having between six thousand (6,000) and seven thousand (7,000) square feet of lot area, such lot may be used as if it had seven thousand (7,000) square feet of lot area.

C. LOTS WITH LESS THAN 6,000 SQUARE FEET. For an existing lot of less than six thousand (6,000) square feet, such lot may be used as a building site for a one-family dwelling, provided that all other regulations of the zone prescribed by this ordinance are observed.

D. MINIMUM AREA PER DWELLING UNIT FOR STANDARD LOTS. For lots of seven thousand (7,000) square feet or more, there shall be provided a lot area of three thousand five hundred (3,500) square feet or more for each dwelling unit hereafter erected.

E. ACCESSORY DWELLING UNITS ON CERTAIN R-2 LOTS. Notwithstanding other requirements of this Chapter, for an R-2 lot with a total lot area of between 5,000 and 6,000 square feet, two dwelling units on such lot may be allowed subject to the following requirements:

1. **Unit Size.** One dwelling unit may have no more than three (3) bedrooms and no more than 1,200 square feet of Habitable Dwelling Space and the other dwelling unit may have no more than one (1) bedroom and no more than 600 square feet of Habitable Dwelling Space, provided that where appropriate in the determination of the Community Development Director, such maximum Habitable Dwelling Space square footage may be allocated differently between the two units provided the amount of Habitable Dwelling Space on one lot in no case exceeds a total of 1,800 square feet;

2. **Private Storage Space.** Each dwelling unit shall have at least 200 cubic feet of enclosed, weatherproof, lockable, and separate storage space in addition to the guest, linen, pantry, and clothes closets customarily provided exclusively for the use of the occupants of the dwelling unit. Such storage space shall be accessible from the exterior of the unit for which it is provided.

3. **Accessory Unit Parking Requirements.** Notwithstanding the parking requirements established for Two-Family Dwelling units on standard-sized lots in excess of 6,000 square feet as provided in subparagraph (2) of Subsection (G) of Section 28.90.100, a two dwelling unit development that meets the criteria delineated in this subsection shall provide not less than two (2) covered and one (1) uncovered parking spaces. Two of such parking spaces shall be allocated to the larger unit and the remaining space shall be allocated to the smaller unit through the use of appropriate signage on the site. Any such uncovered parking space may be provided in a tandem parking arrangement provided that both of the tandem parking spaces are allocated to the larger dwelling unit. Tandem parking spaces may be constructed within a non-conforming interior setback area under circumstances where the setback of the parking area remains consistent with the setback of a pre-existing non-conforming garage structure. The Community Development Director may require the recordation of a parking site plan in the official records of Santa Barbara County with respect to the lot involved for the purposes of memorializing the permanent use and availability of the required parking spaces as allocated to each permitted dwelling unit.

4. **Non-Conforming Garages.** Notwithstanding other provisions of this Chapter to the contrary, a lot containing a garage or parking structure which is non-conforming as to its interior yard setback may be maintained or reconstructed in its same location in accordance with the requirements of subsection (d) of SBMC Section 28.87.030 or, in connection with the construction of an accessory dwelling unit pursuant to this subsection, it may be expanded in size along the non-conforming setback line so long

as the expansion is to make the structure more in conformance with the City's Uniform Construction Code requirements or with City Parking Design Standards for Accessory Dwelling Units in R-2 Zone adopted pursuant to this subsection.

5. **Condominium Units Not Allowed; ABR Review.** Notwithstanding other provisions of this Code, including specifically but not limited to subsection (B) of Santa Barbara Municipal Code Section 28.88.120, the subdivision of a development of two family dwellings pursuant to this subsection, either as a new development or as a conversion of an existing two-family dwelling, shall be governed by the requirements of Santa Barbara Municipal Code Section 27.13.040. In addition, an application to develop a lot with an accessory dwelling unit pursuant to this subsection shall receive design review approval from the Architectural Board of Review in accordance with the requirements of subsection B of Santa Barbara Municipal Code Section 22.68.020 as noticed in accordance with the requirements of Santa Barbara Municipal Code Section 22.68.040.

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F. **R-2 LOT SLOPE DENSITY.** The minimum lot areas specified in this section shall be increased by the following factors where the average slope of the parcels falls within the percent of average slope ranges given:

Factor	Percent of Average Slope
1.5 times minimum lot area	10% to 20%
2.0 times minimum lot area	20% to 30%
3.0 times minimum lot area	over 30%

"Average slope" of a parcel of land or any portion thereof shall be computed by applying the formula ($S = .00229 \frac{IL}{A}$) to the natural slope of the land, before grading is commenced, as determined from a topographic map conforming to National Mapping Standards and having a scale of not less than 1 inch equals 200 feet and a contour interval of not less than five feet (5'). The letters in this formula shall have the following significance:

S = The average slope of the land in percent.

I = The contour interval in feet.

L = The combined length of all contours in feet, excluding the length of contours in drainage channels and in natural water courses below the 25 year flood level.

A = The net area of parcel or portion thereof, in acres, after deducting all areas in drainage channels below the 25 year flood level, for which the slope is to be determined.

G. **HABITABLE DWELLING SPACE - DEFINED.** For the purpose of this Section, the term "Habitable Dwelling Space" shall be calculated to include all building square footage as measured from the inside of the walls of the building, excluding the square footage of the garage.

SECTION 13. Section 28.42.010 of Chapter 28.42 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

28.42.010 Procedure.

1. Adoption of an amendment applying the provisions of this section to any property shall be accomplished only following application by the property owner in accord with the procedure established herein and, where effective, shall be indicated on the zoning map by the symbol S-H in combination with the symbol for the basic A, E, R-1 or R-2 Zone.

2. To apply for a S-H Zone, the applicant shall file with the Division of Land Use Controls a rezoning request and fee together with a development plan as hereinafter described. After review by the Division of Land Use Controls for compliance with applicable ordinances the application shall be considered by the Planning Commission which may approve, modify or deny the application. Action of the Planning Commission shall be subject to appeal to the City Council in the manner set forth in Chapter 28.92 of this title.

3. After approval of the development plan by the Planning Commission the City Council may adopt the development plan as an amendment to the Zoning Ordinance, incorporating such modifications and conditions as have been recommended by the Planning Commission. At the same time the zoning map shall be changed to show the S-H symbol on the subject property.

4. Subsequent to the effective date of the amendment and within any time limitations established in the amendment or any time extensions granted by the Planning Commission, the applicant shall file with the Planning Commission a precise plan incorporating all buildings and structures proposed to be constructed in the first stage of development. The precise plan shall not be considered unless it is in a form acceptable to the Division of Land Use Controls for processing building permits thereon and conforming to the City Building Division for processing building permits thereon and conforming to the conditions of the approved development plan or any approved modifications thereof. The Planning Commission shall review the precise plan for substantial conformance with the development plan and the requirements of the amendment incorporating the development plan; no grading or building permits for buildings or structures proposed for construction under this section shall be issued prior to approval of the precise plan by the Planning Commission.

5. The plans and elevations for all buildings and structures to be erected in a S-H Zone shall be reviewed in the manner and according to the procedure as set forth in Chapter 22.68 or 22.69 of the Santa Barbara Municipal Code, depending on whether the proposed buildings are single family residences or multi-family residences.

SECTION 14. Section 28.46.060 of Chapter 28.46 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

28.46.060 Architectural Review Requirements for Development.

Notwithstanding the applicability standards of Chapter 22.69 of this Title, all development within the SP-5 Zone shall be subject to the review and approval of the Neighborhood Preservation Board.

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SECTION 15. Section 28.87.030 of Chapter 28.87 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

28.87.030 Uses Permitted.

A. LESS RESTRICTIVE USES PROHIBITED. The express enumeration and authorization in this title of a particular class of building, structure, premises or use in a designated zone shall be deemed a prohibition of such building, structure, premises or use in all zones of more restrictive classification, except as otherwise specified.

B. ADDITIONAL PERMITTED USES. Uses other than those specifically mentioned in this title as uses permitted in each of the zones may be permitted therein provided such uses are similar to those mentioned and are in the opinion of the City Council no more obnoxious or detrimental to the welfare of the community than the permitted uses in the respective zones. The City Council may approve such uses by ordinance amendment after a recommendation has been received from the Planning Commission.

C. EXCLUSION OF PERMITTED USES. The City Council after a recommendation has been received from the Planning Commission may by ordinance amendment, exclude any permitted use from any zone if in the opinion of the City Council it is obnoxious or detrimental to the welfare of the community.

D. NONCONFORMING BUILDINGS. The following provisions shall apply to all nonconforming buildings and structures or parts thereof legally existing at the effective date of this title.

1. Any nonconforming building or structure may be maintained, improved, or altered only as follows:

a. Improvements that do not change the use or the basic, exterior characteristics or appearance of the building or structure are allowed. Such improvements include but are not limited to the following:

(1) Interior alterations or upgrades to any portion of the nonconforming building or structure, including portions that exceed the current height limitation, such as:

- (a) The replacement of wall coverings;
- (b) The replacement of existing utilities, or the installation of new utilities;
- (c) The replacement of existing interior walls, or the construction of interior walls;
- (d) The replacement of existing insulation, or the installation of new insulation; or

- (e) The replacement of existing floor coverings, or the installation of new floor coverings;
- (2) The replacement of structural members, such as studs, rafters, joists, beams, or other structural members, except where it will result in an increase in roof pitch;
- (3) The replacement or installation of new foundations and slabs under the existing building footprint;
- (4) Seismic safety retrofit improvements;
- (5) The demolition and replacement of the nonconforming building or structure, provided that the following conditions are met:
 - (a) The basic, exterior characteristics of the replacement building or structure is not changed, except as allowed in this Section;
 - (b) The new structure complies with all applicable height, building story, and net floor area limitations; and
 - (c) The demolition and replacement of the nonconforming building or structure does not continue or perpetuate a nonconforming use.
- (6) Additions that conform to the current Zoning standards for the zone.
- (7) Solar energy systems, as defined in subdivision (a) of Civil Code section 801.5, that are installed roughly parallel to, and protrude no higher than ten inches (10") above (measured from the top of the roof or other structure perpendicularly to the highest point of the solar energy system), a roof or other similar structure that is legally nonconforming as to the required yard, may extend into a required yard to the extent of the legal nonconforming roof or other similar structure.

b. Minor improvements that change the exterior characteristics are allowed. Such minor improvements are limited to the following:

- (1) The replacement of exterior wall coverings with the same or different materials;
- (2) The replacement of roofing materials with the same or different materials, except those that require an increase in roof pitch;
- (3) Reduction in the number or size of window or door openings;
- (4) Replacement of existing windows or doors where there is no increase in opening size, or changes in the location of the windows or doors.

c. Minor expansions of the net floor area on lots that are nonconforming as to the maximum net floor area specified in section 28.15.083 are allowed under the following conditions:

- (1) The expansion may not exceed 100 square feet of net floor area over the net floor area legally existing on the lot as of the effective date of section 28.15.083;
- (2) Only one nonconforming expansion is allowed following the original effective date of section 28.15.083 (even if the expansion is less than 100 square feet of net floor area); and
- (3) A minor expansion of net square footage pursuant to this subparagraph (c) is not permitted in connection with the demolition and replacement of a nonconforming building.

2. Nothing in the above provisions shall be construed to prohibit any additions or alterations to a nonconforming structure as may be reasonably necessary to comply

with any lawful order of any public authority, such as seismic safety requirements, the Americans with Disabilities Act, or a Notice and Order of the Building Official, made in the interest of the public health, welfare, or safety, provided that modification approvals pursuant to Chapter 28.92 of this Title may be required for such additions or alterations.

E. **NONCONFORMING USES.** Any nonconforming use of a conforming or nonconforming building may be maintained and continued, provided there is no increase or enlargement of the floor area of the buildings or structures on site which are occupied or devoted to such nonconforming use except as provided in this Subsection, and further provided there is no increase in the intensity of such nonconforming use except as otherwise provided in this title. When a building containing a nonconforming use is demolished, the nonconforming use shall be deemed discontinued, and such nonconforming use shall not be continued or perpetuated in any replacement building, except as provided in this Subsection. For the purposes of this section, an increase in intensity of use shall include but not be limited to the following: An increase in the number of required parking spaces for the use, or increase in the amount of traffic, noise, odors, vibration, air pollution including dust and other particulate matter, hazardous materials or other detrimental effects on the surrounding community that are generated by the use.

1. **Properties with Nonconforming Residential Density.** Improvements or alterations to a residential structure that do not increase residential density, do not increase floor area (including all accessory buildings except garages and carports), or do not increase the amount of habitable space shall be allowed on lots with nonconforming residential density. For the purpose of this paragraph, residential density shall be defined as the number of dwelling units on a property, except in the R-3, R-4, R-O, C-1, C-2, and C-M Zones, where residential density shall be defined as a combination of the number of dwelling units and the number of bedrooms per unit on a property. The following improvements are allowed, provided that any portion of a building or structure that is nonconforming as to physical standards of the zone shall only be improved consistent with the provisions in SBMC §28.87.030.D.:

- a. New fences;
- b. New windows;
- c. New doors;
- d. Replace windows with doors;
- e. New ground floor decks;
- f. New utilities;
- g. Re-roof, including changes in pitch up to 4 in 12;
- h. New interior or exterior wall coverings;
- i. New insulation;
- j. New foundations;
- k. Structural upgrades;
- l. Seismic Safety retrofit improvements;
- m. New exterior water heater enclosures;
- n. Interior floor plan changes that do not increase the residential density on site or do not increase the amount of habitable space on site, including converting existing habitable space to bathrooms;
- o. New covered or uncovered parking spaces, up to the minimum number

required by this Title for the existing dwelling units;

p. Demolition and replacement, pursuant to the conditions in Section 28.87.038.B of this Title; or

q. Other improvements which neither increase the residential density on site, add floor area, nor increase the amount of habitable space.

2. **Residential Uses in the M-1 Zone.** Buildings or structures containing residential uses in the M-1 Zone may be improved and upgraded as allowed in Paragraph 28.87.030.E.1., above, provided the following conditions are met:

a. There is no increase in floor area, including accessory buildings;

b. There is no increase in residential density;

c. If a proposal to upgrade or improve a residential property in the M-1 zone requires discretionary review by the City, notice of such discretionary review shall be given as required by SBMC Sections 22.22.132, 22.68.040, ~~22.69.040~~ or 28.92.060, depending on the reviewing body.

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3. **Neighborhood Markets in Residential Zones.** Nonconforming neighborhood markets in residential zones that are properly permitted as of September 1, 1998 may be improved and upgraded as allowed in Paragraph 28.87.030.E.1. above, subject to the following additional conditions:

a. There is no increase in floor area;

b. If a proposal to upgrade or improve a neighborhood market in a residential zone requires discretionary review by the City, notice of such discretionary review shall be given as required by SBMC Sections 22.22.132, 22.68.040, or 28.92.060, depending on the reviewing body.

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For the purpose of this Section, a neighborhood market shall be defined as a small-scale market that may sell a full range of food and convenience products, including meat, dairy, vegetables, fruits, dry goods, beverages, and prepared food for off-site consumption.

4. Any part of a building, structure or land occupied by such a nonconforming use which is changed to or replaced by a use conforming to the provisions of this title shall not thereafter be used or occupied by a nonconforming use.

5. Any part of a building, structure or land occupied by such a nonconforming use, which use is discontinued or ceases for a period of one (1) year or more, shall not again be used or occupied except by a use allowed by the applicable zoning. This time limit shall not apply to a nonconforming use in a building or structure or on land located in an area which the City Council has, by resolution, found to be impacted by governmental action provided (i) the nonconforming use is resumed within one year of the completion of the governmental action and (ii) the nonconforming use is not more intense than the use which existed prior to the governmental action.

6. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restrictive classification. In areas found by the City Council to be impacted by governmental action, any interim use not conforming to the zoning designation but found appropriate by the Planning Commission may be established upon issuance of a conditional use permit.

7. The foregoing provisions of this section shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any

reclassification of zones under this title or any subsequent change in the regulations of this title.

8. The provisions of this Chapter 28.87 concerning the physical change, abandonment, structural alteration, removal, discontinuance, reconstruction, repairing or rebuilding of nonconforming buildings, structures and uses shall not apply to public utility buildings, structures and uses. Nothing in this part shall be construed or applied so as to prevent the expansion, modernization or replacement of public utility buildings, structures, equipment and facilities where there is no change of use or increase in area of the property so used.

9. An existing educational institution may use, for all educational purposes, buildings existing on the date that this subsection is adopted.

SECTION 16. Sections 28.90.001 and 28.90.100 of Chapter 28.90 of Title 28 of the Santa Barbara Municipal Code are amended to read as follows:

28.90.001 In General.

1. MINIMUM REQUIREMENTS. This chapter provides the minimum requirements and standards for the provision of off-street parking for all buildings, structures and uses in the City of Santa Barbara.

2. EXISTING PARKING SPACE. Where automobile parking space provided and maintained on a lot in connection with a main building or structure at the time this title becomes effective is insufficient to meet the requirements for the use with which it is associated, or where no such parking has been provided, said building or structure may be altered or enlarged, provided additional automobile parking spaces are provided to meet the standards for use in conformity with the requirements set forth in this chapter for the enlargement, extension or addition proposed. However, if an enlargement is more than fifty percent (50%) of the existing floor area, then parking shall be brought up to the current standards for the entire lot.

3. COLLECTIVE USE OF SPACE. Nothing in this Title shall prohibit the collective use of space for off street parking. The collective space shall remain available to all occupants and users of structures for which said permit is issued.

4. PROGRAM FOR ALTERNATIVE TRANSPORTATION MODES. A method for reducing the number of parking spaces required by this chapter for any land use is by granting a modification in accordance with Municipal Code Section 28.92.110 if the property owner files and obtains approval of a program of alternative transportation modes or other approved measures for employees working on the parcel and pays the City for any periodic verification procedures and expenses associated therewith.

5. No building permit for any structure referred to in the preceding subsections (3) and (4) shall be issued without the written approval of the Zoning Administrator as to compliance with the provisions of this chapter. In connection with the issuance of any modification, building permit, variance or conditional use permit, the City of Santa Barbara shall have continuing jurisdiction over any such permit for the purpose of requiring, upon thirty (30) days written notice given, off-street parking of like kind and quantity, whenever it appears to the Zoning Administrator that any collective parking

rights or privileges of any permittee under any modification, variance, conditional use permit or building permit previously granted have expired or are about to do so. Any failure of any such permittee to provide such substitute off-street parking, effective as of the date of such expiration, together with the filing of documentary evidence of the right to the same with the Division of Land Use Controls, as herein provided, shall be deemed to be grounds for the revocation of any such permit, or in the alternative, the City of Santa Barbara may enforce such parking requirements by any legal remedy available to it.

6. **LOADING SPACE.** On the same premises with every building, structure or part thereof erected or occupied for any use, truck loading space shall be required if loading interferes with short-term or visitor parking. The requirements for such loading space shall be determined and approved in writing by the City's Transportation Engineer.

7. **DRIVEWAY ACCESS.** In any zone, for other than single- or two-family dwellings, driveway access from a public street to the required off-street parking area shall be as follows, provided that in no zone shall minimum access to the premises be by paved driveway of lesser width than is required by the Uniform Fire Code as amended and adopted by ordinance of this City.

a. Where such parking area contains less than twenty-five (25) parking spaces, driveway access shall be not less than ten feet (10') in width plus a minimum of three feet (3') in width of planting strip abutting any main building on the same lot or served by such driveway.

b. Where such parking area contains twenty-five (25) or more parking spaces, or a projected total of twenty-five (25) or more parking spaces, a two-way driveway shall be required with a minimum paving surface width of at least eighteen feet (18') plus a three foot (3') width of planting strip abutting any main building on the same lot or served by such driveway. Two (2) one-way driveways may be substituted for one (1) two-way driveway in which event the requirements of subparagraph a. herein shall be applicable to each such driveway.

The Architectural Board of Review, or Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district or if the structure is a designated City Landmark, may reduce or waive the requirement regarding the three (3) foot planting strip where alternative landscaping and designs are presented that result in landscaping and designs that are equally effective.

8. **PARKING IN REQUIRED YARD PROHIBITED.** In any zone, there shall be no parking space provided in any required yard, except that parking or turnaround areas may be allowed in the required interior yards in an R-3 or less restrictive zone for multiple-family dwellings, commercial buildings and office buildings if at least five percent (5%) of the total area used for parking, turnaround and driveway shall be landscaped.

9. **PARKING IN FRONT YARD PROHIBITED.** There shall be no parking space provided in any zone in the required front yard. Parking may be allowed in the remaining front yard, whether covered or uncovered, if screened by a decorative wall or fence and planting.

10. **HARD-SURFACED DRIVEWAYS REQUIRED.** All required off-street automobile parking areas and driveways shall be fully hard surfaced with asphaltic concrete of minimum thickness of two inches (2"), or other techniques or materials providing

equivalent service. In order to comply with this subsection, such alternative techniques and materials must be approved in writing by the Fire Department and Transportation Engineer.

11. ENTRANCES AND EXITS - PARKING LOTS. Each entrance and exit to a parking lot shall be constructed and maintained so that a pedestrian within ten feet (10 ') of the driveway is visible to the driver when the vehicle is stopped at the property line.

12. DESIGN REVIEW. All plans for improvement of parking areas shall be specifically reviewed and approved in accordance with the provisions of Chapter 22.22, 22.68, or 22.69 where applicable.

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13. MOTOR VEHICLES INCAPABLE OF MOVEMENT UNDER THEIR OWN POWER. All motor vehicles incapable of movement under their own power, other than in cases of emergency, shall be stored in an entirely enclosed space or carport. This provision shall not apply in the case of auto wrecking establishments.

14. CHANGE OF USE. Whenever the type of use of any existing building is changed to another type of use that requires more parking spaces under this Chapter than were required for the prior use, there shall be provided additional permanently maintained parking spaces as required by this chapter for said building and any other existing buildings located on the parcel or parcels. The number of required additional parking spaces under this subsection shall be computed by determining if the number of parking spaces required for the new use is greater than that required for the previous use under this Chapter. If there is an increased number of parking spaces required for the new use, that increased number of additional parking spaces shall be added to the number of parking spaces required for the prior legal conforming or non-conforming use and the total of these two numbers shall be the number of parking spaces required for the new use.

15. CONVERSION OF GARAGES. Where required off-street parking spaces for one-family and/or two-family dwellings are provided in a garage or carport, and where it is proposed by the owner to convert said garage or carport to other use and to provide the required parking spaces elsewhere, a building permit for such conversion shall not be issued until all necessary clearing and grading of the new parking area has been accomplished and access has been provided thereto from a public street and such work has been approved by the Chief Building Official.

16. BICYCLE PARKING. Bicycle parking spaces shall be provided for all commercial and industrial uses as indicated herein.

17. PARKING OF COMMERCIAL VEHICLES. The parking of commercial vehicles off-street in A, R, and E zones, that are developed with dwelling units, is not permitted except for those times it is necessary in the course of transacting business at the residence and then only for such time as is necessary to complete deliveries or provide services. For the purpose of this section, a commercial vehicle is defined as any truck, bus, truck-tractor, cargo trailer, or other motorized or towed vehicle which has a rated capacity of more than fifteen (15) passengers, a rated capacity of more than one (1) ton by the manufacturer, or which exceeds a length of 20 feet or a height of 10 feet.

18. OFF SITE PARKING. Required off street parking spaces shall be located on the same lot as the use served, or for office, commercial, industrial and mixed use developments only, on a lot within a walking distance of five hundred (500) feet. Walking distance of up to 1,250 feet may be approved by the Transportation and

Parking Manager. Walking distance shall mean the distance from an outside entrance of a structure or use or part thereof to each off street parking space which serves such structure or use or part thereof, along the shortest, most convenient public pedestrian walkway available for such purpose. Whenever any off street automobile parking spaces required by this Chapter are provided on a different lot from that on which the use they are to serve is located, as a prerequisite to the issuance of any required building permit or certificate of occupancy, the following shall occur:

a. An agreement, in a form satisfactory to the City Attorney, shall be executed and recorded by each owner of the lot on which the parking is to be provided and each owner of the lot on which the use the off site parking spaces are to serve is located. The agreement may be in the form of an easement, covenant running with the land, or other satisfactory agreement, and shall provide that the off site parking spaces shall be maintained so long as the use they are intended to serve is maintained. The agreement shall not be amended, modified or rescinded without the prior written consent of the City.

b. The certificate of occupancy for the use served by the off site parking spaces shall bear a notation that it is valid only while each such parking space is so maintained. The Community Development Director shall keep a record of each lot on which the required automobile parking spaces are provided for a use located on another lot, and whenever it is found that each required automobile parking space is no longer so maintained, the persons having ownership of the lot on which the use served by the off site parking shall be notified of that fact.

If at any time each automobile parking space required by this Code is not maintained, the certificate of occupancy shall automatically be cancelled and the building or use served by the off site parking spaces shall not there-after be occupied or used until each required automobile parking space is again provided and a new certificate of occupancy is issued.

28.90.100 Parking Requirements.

A. GENERAL. Parking shall be provided for any use in the City of Santa Barbara.

B. DEFINITIONS. As used in this section of the code, certain words and phrases have the following meanings:

1. FLOOR AREA. Floor area or gross floor area is the area included within the surrounding exterior walls of a building or portion thereof, exclusive of the area occupied by the surrounding walls, vent shafts and courts.

2. INDUSTRIAL USE. An industrial use is a use permitted in the C-M or M-1 zones, but not permitted in more restrictive zones.

3. SENIOR HOUSING. Senior Housing is housing that is restricted to residential uses by elderly and senior persons, sixty-two (62) years of age or older. In order to qualify, such restrictions must be made by recorded instrument, regulations of the United States Department of Housing and Urban Development or by similar enforceable methods.

4. LOW INCOME SENIOR HOUSING. Low income Senior Housing is housing that is restricted to residential uses by low income elderly and senior persons, sixty-two (62) years of age or older, at affordable low income rents or sale prices in conformance

with the City's adopted affordability criteria. In order to qualify, such restrictions must be for at least thirty (30) years, and be made by recorded instrument, regulations of the United States Department of Housing and Urban Development or by similar enforceable methods.

C. CUMULATIVE REQUIREMENTS. All standards set forth herein are cumulative in nature. For properties containing more than one use, the requirements for each use shall be met.

D. BUILDINGS IN EXCESS OF 10,000 SQUARE FEET. For industrial and office uses, a reduction of the required parking will be allowed for those buildings or building complexes containing in excess of 10,000 square feet of floor area at the following rate:

1. Buildings containing 10,000 to 30,000 square feet shall provide 90% of the required parking.
2. Buildings containing 30,000 to 50,000 square feet shall provide 80% of the required parking.
3. Buildings in excess of 50,000 square feet shall provide 70% of the required parking.

E. FRACTIONS. Fractions of one-half (½) or greater shall be considered to require one space.

F. SMALL CARS. Thirty percent (30%) of all required parking may be for small cars for parking lots containing more than 10 spaces with the layout to be approved by the City Transportation Engineer.

G. RESIDENTIAL PARKING REQUIREMENTS. In any zone, for every residential unit or units, and every residential building or structure occupied or intended to be occupied as sleeping quarters or dwellings, all of the required parking spaces shall be made available for all occupants to use as parking spaces on an assigned or unassigned basis. There shall be provided on the same lot or parcel of land a minimum ratio of parking space for each unit or occupant as follows:

1. Single Residential Unit or Group Home.

a. General Rule. Two (2) required. Both of the required spaces shall be provided within a garage or carport located on the lot. If two or more single-family dwellings legally exist, or are proposed on a single lot in any zone except the A, E, or R-1 zones, one covered space and one uncovered space may be provided for each single-family dwelling.

b. Exception. Any lot developed with less than 85% of the maximum net floor area for the lot (as calculated pursuant to Section 28.15.083), whether or not the maximum net floor area specified in Section 28.15.083 applies to the lot as a standard, may provide the required parking in one covered space and one uncovered space under the following conditions:

(1) The uncovered space shall not be located in any front yard on the lot.

(2) The uncovered space may encroach into a required interior yard as close as three feet from the interior lot line if a landscaped buffer is provided between the uncovered space and the adjacent interior lot line.

(3) All other provisions of this Title shall apply to the required parking.

2. Two-Residential Unit. Four (4) required. Two (2) of the required spaces shall be provided within a garage or carport located on the lot. A development in which 100% of the units are rental units which are affordable to very low or low income households

may reduce the number of parking spaces to one uncovered parking space per unit if the following conditions are met:

a. Each unit shall have at least 200 cubic feet of enclosed weatherproofed and lockable private storage space in addition to guest, linen, pantry, and clothes closets customarily provided. Such space shall be for the sole use of the unit tenant. Such space shall be accessible from the exterior of the unit it serves;

b. A covenant is recorded in the County Land Records against the title, which states that all of the dwelling units on the Real Property shall be rented to very low or low income households; the maximum rent and the maximum household income of tenants shall be determined as set forth in the Affordable Housing Policies and Procedures Manual of the City of Santa Barbara, which is adopted by City Council Resolution from time to time. The rents shall be controlled through recorded documents to assure continued affordability for at least thirty (30) years from the initial occupancy of the dwelling unit. The City shall be a party to the covenant; and

c. A covenant is recorded in the County Land Records against the title which states that the development has received a reduction in the amount of parking required because it is a 100% affordable project. In the event that the Real Property, or any portion thereof, is not or cannot be used solely for very low or low income rental housing, either (i) the structure(s) shall be redesigned and possibly reconstructed and the number of dwelling units shall be reduced so that the maximum number of dwelling units on the Real Property does not exceed the number of dwelling units that would be allowed if there is compliance with the City's parking requirements then in effect, or (ii) the owner shall provide the number of spaces required by the Zoning Ordinance for the new use pursuant to Chapter 28.90. The City shall be a party to the covenant.

3. Multiple Residential Unit.

a. Studio: one and one quarter (1-1/4) spaces per residential unit.

b. One bedroom: one and one-half (1-1/2) spaces per residential unit.

c. Two (2) or more bedrooms: two (2) spaces per residential unit.

d. When there are six (6) or more residential units on a lot or parcel, one (1) space for every four residential units shall be provided for guests.

e. When the parking referred to in Subsections 28.90.100.G.3.a-d. is provided for a condominium, community apartment or stock cooperative, at least one parking space that is in a garage or carport shall be allocated to each residential unit.

f. A development in which 100% of the units are rental units which are affordable to very low or low income households: one uncovered parking space per unit if the following conditions are met:

(1) A covenant is recorded in the County Land Records against the title, which states that all of the residential units on the Real Property shall be rented to very low or low income households; the maximum rent and the maximum household income of tenants shall be determined as set forth in the Affordable Housing Policies and Procedures Manual of the City of Santa Barbara, which is adopted by City Council Resolution from time to time. The rent shall be controlled through recorded documents to assure continued affordability for at least thirty (30) years from the initial occupancy of the residential unit. The City shall be a party to the covenant; and

(2) A covenant is recorded in the County Land Records against the title which states that the development has received a reduction in the amount of parking

required because it is a project with 100% affordable units. In the event that the Real Property, or any portion thereof, is not or cannot be used solely for very low or low income rental housing, either (i) the structure(s) shall be redesigned and possibly reconstructed and the number of residential units shall be reduced so that the maximum number of residential units on the Real Property does not exceed the number of residential units that would be allowed if there is compliance with the City's parking requirements then in effect, or (ii) the owner shall provide the number of spaces required by the Zoning Ordinance for the new use pursuant to Chapter 28.90. The City shall be a party to the covenant.

4. Planned Unit Developments for Residential Uses.

a. For each residential unit, not less than two (2) parking spaces, either in a garage or a carport and one-half (1/2) uncovered space.

5. Senior Housing: one (1) uncovered space per residential unit.

6. Low Income Senior Housing: one-half (1/2) uncovered space per residential unit.

7. Mobilehomes and Recreational Vehicles.

a. Mobilehome on a permanent foundation: two (2) covered spaces for each mobilehome.

b. Mobilehome or permanent recreational vehicle park: two (2) parking spaces on each mobilehome and recreational vehicle space. Tandem parking is acceptable. Guest parking shall be provided at the ratio of one (1) parking space per four (4) mobilehome and recreational vehicle spaces. Each mobilehome and recreational vehicle space shall be within one hundred (100) feet of at least one (1) guest parking space. On-street parking on internal roadways may be counted toward meeting the guest parking requirement.

8. Boarding House, club, fraternity house, sorority house, and dormitory: one (1) space for each bedroom.

9. Community care facility: one (1) space for each two (2) bedrooms.

H. MIXED USE DEVELOPMENTS.

1. Residential Uses. Parking spaces shall be provided in accordance with Subsection 28.90.100.G, subject to the following exceptions:

a. In any mixed use development, where residential uses occupy up to fifty percent (50%) of the development, residential parking requirements may be reduced by fifty percent (50%) and covered parking will not be required, although it will be encouraged. If the residential use is changed to a non-residential use, the full number of parking spaces as required in this Chapter shall be added.

b. In the delineated areas of the Central Business District (CBD) shown on the map (Figure A) which is part of this code, the residential parking requirement for mixed use developments is one uncovered parking space per dwelling unit, and guest parking is not required. If the residential use is changed to a non-residential use, the full number of parking spaces as required in this Chapter shall be added.

2. Nonresidential Uses. Parking spaces shall be provided in accordance with Subsections 28.90.100.I., 28.90.100.J. and 28.90.100.K.

I. OFFICE, COMMERCIAL AND INDUSTRIAL USES. In any zone, except as provided in Sections 28.90.100.J and 28.90.100.K of this Chapter, for all office and commercial buildings, one (1) parking space shall be provided for each two hundred fifty

(250) square feet of gross floor area or fraction thereof. For all general industrial uses, one (1) parking space shall be provided for each five hundred (500) square feet of floor area or fraction thereof.

J. PARKING REQUIREMENTS FOR SPECIFIC USES. In any zone, for the following uses parking spaces shall be in the following ratios for specific types of use:

1. CENTRAL BUSINESS DISTRICT. Any nonresidential use in the delineated areas of the Central Business District (CBD) shown on the map (Figure A) which is a part of this code: one space per 500 square feet of floor area. However, any property located in whole or in part in the Central Business District (CBD) and which has a designated "zone of benefit" as shown on Figure A shall also be exempt from the requirements of this chapter (as to the number of parking spaces required) to the extent of the percentage of the zone of benefit shown for such property on Figure A.

In other words, in applying this subsection, the parking space requirement for the property shall be computed on the basis of floor area ratios as initially required herein. The resulting number of required spaces shall then be reduced by the percentage applicable to the zone of benefit designated for that property, rounded to the nearest whole number. Bicycle parking shall also be required as necessary.

2. Automobile service stations: three (3) parking spaces for each grease rack. Grease racks, pump blocks and other service areas shall not be considered as parking spaces. Bicycle parking not required.

3. Auto repair: As much paved area for outside storage and parking of vehicles as there is area used for servicing of vehicles. Bicycle parking not required.

4. Car wash: Four (4) spaces per washer unit. Bicycle parking not required.

5. Churches, theaters, auditoriums, funeral parlors, stadiums, arenas and similar places of assembly:

One (1) parking space shall be provided for every four (4) seats provided in such building. A seat shall mean eighteen (18) lineal inches of seating space when seats are arranged in rows or pews. For auditoriums with no permanent seats, a seat shall mean seven (7) square feet of floor area. Bicycle parking required.

6. Amusements:

a. Dance halls and clubs: One (1) parking space shall be provided for each two hundred (200) square feet of floor area or fraction thereof. Bicycle parking required.

b. Bowling alleys, tennis courts and similar recreation facilities: Two (2) parking spaces shall be provided for each alley, tennis court or similar activity unit. For any restaurant, retail or assembly use within the building, the requirements for that use shall apply in addition to the requirements for each activity unit. Bicycle parking required.

c. Spas and skating rinks: Three (3) spaces per 1000 square feet. Bicycle parking required.

7. Fast food restaurant: one (1) space per 100 square feet. Bicycle parking required.

8. Furniture and antique stores: one (1) space per 1000 square feet. Bicycle parking not required.

9. Hospitals: At least one (1) parking space shall be provided for each bed in the total capacity of such institution. Bicycle parking required.

10. Hotels, motels, and resort hotels: one (1) space per sleeping unit. Bicycle

parking required.

11. Liquor store: three (3) spaces per 1000 square feet. Bicycle parking required.

12. Lumber yard: one (1) space per 250 square feet of retail and office space only. Bicycle parking not required.

13. Manufacturing: one (1) space per 500 square feet. Bicycle parking required.

14. Mini-warehouse: one (1) space per 5000 square feet, except that any office space associated therewith must meet the standard office requirement. Bicycle parking not required.

15. Landscape nursery: one (1) space per 2000 square feet of lot area. Bicycle parking not required.

16. Restaurant: the greater of four (4) spaces per 1000 square feet or one (1) space per three (3) seats. Bicycle parking required.

17. Skilled nursing facilities, hospices serving more than six individuals, and similar institutions: one-half (1/2) space per bed. Bicycle parking required.

18. Schools, both public and private:

a. Child Care Centers: one (1) space for each member of the faculty and employee, plus one additional space for every ten (10) children enrolled. In the case of part-time personnel, the requirement shall be equal to the maximum number of personnel present at the facility at any one time. Bicycle parking required, but at a rate determined by the school.

b. Elementary and junior high schools: one (1) space for each member of the faculty and employee, plus one (1) additional space for each one hundred (100) students regularly enrolled. Bicycle parking required, but at a rate determined by the school.

c. High schools: One (1) space for each member of the faculty and employee, plus one (1) additional space for each ten (10) students regularly enrolled. Bicycle parking required, but at a rate determined by the school.

d. Colleges, universities and similar institutions: one (1) space for every two (2) employees, plus one (1) space for every two (2) full-time or equivalent regularly enrolled students in graduate or undergraduate courses. For places of assembly, the requirements of Subsection 28.90.100.J.5 shall apply. Where a university or college presents a development plan which conforms in general with the general parking requirements for employees, students and places of assembly, said plan may be approved by the Zoning Administrator as satisfying the requirements of this chapter. Consideration shall be given to parking spaces that can be utilized by the users of two (2) or more buildings. Bicycle parking required, but at a rate determined by the governing body of the educational institution.

19. Warehousing: one (1) space per 5000 square feet. Any office or retail space associated therewith must meet the standard office or retail requirements. Bicycle parking required.

20. Overnight Recreational Vehicle Parks. There shall be at least one (1) parking space on each recreational vehicle space. Guest parking shall be provided at the ratio of one (1) parking space per ten (10) recreational vehicle spaces. Each recreational vehicle space shall be within one hundred fifty (150) feet of at least one (1) guest parking space. On-street parking on internal roadways may be counted toward meeting

the guest parking requirement.

K. **PARKING REQUIREMENTS FOR SPECIFIC ZONES.** For the following zones, parking spaces shall be on the same lot with the main building or on lots contiguous thereto, and shall be provided in the following ratios unless otherwise provided in Section 28.90.100.J.

1. C-P Zone: One (1) parking space for each two hundred (200) square feet of gross floor area.

2. C-X Zone: One (1) parking space for each two hundred fifty (250) square feet of gross floor area. No parking area shall be constructed or used within twenty-five feet (25') of any street adjacent to the premises and there shall be no loading or delivery facilities in a front yard on such premises.

3. S-H Zone: For units restricted to Low Income Senior Housing, one (1) parking space for each two (2) residential units. For other units, one (1) space per unit.

4. S-D-2 Zone: One (1) parking space for each two hundred fifty (250) square feet of gross floor area. In the event the property is located in a zone or has a use with a requirement for more parking, the greater requirement shall apply.

5. HWMF Overlay Zone: Parking space requirements for Offsite Hazardous Waste Management Facilities shall be determined by the City Transportation and Parking Manager.

6. PR Zone: Except as otherwise provided in Section 28.90.100.J, parking space requirements for park and recreation facilities shall be determined by the City Transportation and Parking Manager in consultation with the Community Development Director.

L. **BICYCLE PARKING.** In addition to the vehicle parking spaces required under Sections 28.90.100.I, 28.90.100.J and 28.90.100.K, one (1) bicycle parking space shall be required for each seven (7) vehicle parking spaces required therein.

SECTION 17. Section 28.92.110 of Chapter 28.92 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

28.92.110 Modifications.

Modifications may be granted by the Planning Commission or Staff Hearing Officer as follows:

A. **BY THE PLANNING COMMISSION.** The Planning Commission may permit the following:

1. **Parking.** A modification or waiver of the parking or loading requirements where, in the particular instance, the modification will not be inconsistent with the purposes and intent of this Title and will not cause an increase in the demand for parking space or loading space in the immediate area.

2. **Yards, Lot Area, and Floor Area.** A modification of yard, lot and floor area regulations where the modification is consistent with the purposes and intent of this Title, and is necessary to (i) secure an appropriate improvement on a lot, (ii) prevent unreasonable hardship, (iii) promote uniformity of improvement, or (iv) the modification is necessary to construct a housing development which is affordable to very low-, low-,

moderate- or middle-income households.

3. **Fences, Screens, Walls, and Hedges.** A modification of fence, screen, wall and hedge regulations where the modification is necessary to secure an appropriate improvement on a lot and is consistent with the purposes and intent of this Title.

4. **Solar Access.** A modification of height limitations imposed by Section 28.11.020 to protect and enhance solar access where the modification is necessary to prevent an unreasonable restriction. The Rules and Regulations approved pursuant to Section 28.11.040 shall contain criteria for use in making a finding of unreasonable restriction.

5. **Building Height.** A modification of building height limitations for existing buildings or structures that exceed the current building height limit, to allow the exterior of the portion of the building or structure that exceeds the building height limit to be improved or upgraded, provided that the improvements increase neither the height nor the floor area of any portion of the building or structure that exceeds the building height limit, except as otherwise allowed in the Code.

6. Net Floor Area (Floor to Lot Area Ratio). A modification of the net floor area standard imposed by Section 28.15.083 to allow a development that would otherwise be precluded by operation of Subsection 28.15.083.D where the Planning Commission makes all of the following findings:

a. Not less than five (5) members of the Neighborhood Preservation Board or six (6) members of the Historic Landmarks Commission (on projects referred to the Commission pursuant to Section 22.69.030) have voted in support of the modification following a concept review of the project;

b. The subject lot has a physical condition (such as the location, surroundings, topography, or the size of the lot relative to other lots in the neighborhood) that does not generally exist on other lots in the neighborhood;

c. The physical condition of the lot allows the project to be compatible with existing development within the neighborhood that complies with the net floor area standard.

B. BY THE STAFF HEARING OFFICER. The Staff Hearing Officer may permit modifications in accordance with subsections 1., 2., 3., 4., and 5. above, if the Staff Hearing Officer finds that:

1. The requested modification is not part of the approval of a tentative subdivision map, conditional use permit, development plan, site plan, plot plan, or any other matter which requires approval of the Planning Commission; and

2. If granted, the modification would not significantly affect persons or property owners other than those entitled to notice.

SECTION 18. Implementation. The following provisions shall govern the processing of project applications during the transition period between the Architectural Board of Review and the Neighborhood Preservation Board:

1. Any project that, prior to May 1, 2007, has either: (1) received two or more reviews at either the concept or preliminary level by the Architectural Board of Review or the Historic Landmarks Commission and proposes less than 85% of the maximum net floor area for the lot as calculated according to Section 28.15.083 of this ordinance,

or (2) received preliminary approval from the Architectural Board of Review or the Historic Landmarks Commission, shall continue through design review with the Architectural Board of Review or the Historic Landmarks Commission and may proceed to building permit application under the provisions of the Municipal Code as they existed prior to the effective date of this ordinance.

2. Any project that did not require design review prior to the effective date of this ordinance, but would require design review under the provisions of this ordinance or would be subject to the development preclusions specified in Section 28.15.083 of this ordinance, shall be exempt from the provisions of this ordinance if the applicant submitted a complete application for Building Permit Plan Check prior to May 1, 2007. If any building permit application subject to this provision expires without the issuance of a building permit, a resubmital of the project shall be subject to the provisions of this ordinance.

3. Any project that received an approval for a modification, a coastal development permit, or any other approval from the Planning Commission or Staff Hearing Officer (as applicable) that established an allowed net square footage prior to May 1, 2007, may proceed through design review to building permit and construction in accordance with the net square footage specified in the Planning Commission or Staff Hearing Officer approval.

4. Any project that required design review by the Architectural Board of Review or the Historic Landmarks Commission prior to the effective date of this ordinance and does not qualify for the exemption specified in paragraph 1 of this Section 18 shall be subject to the provisions of this ordinance.

5. Any new project application filed after May 1, 2007 shall be subject to the provisions of this ordinance.