TITLE 28
The Zoning Ordinance

This title was most recently updated by the following ordinances:

Ordinance No.	Subject	Effective Date	Code Site
5713	Solar Energy System Review Process	September 3, 2015	Section 28.93.030
5730	Minor Zoning Exceptions for Errors in Zoning Information Reports	February 11, 2016	Section 28.92.130
5733	Regulation of Cannabis Cultivation	February 25, 2016	Section 28.87.300
5750	Waterfront Hotel Development Agreement	June 16, 2016	Section 28.95.115

TITLE 28
THE ZONING ORDINANCE

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Chapter 28.01

TITLE

Section:

28.01.001 Title.

28.01.001 Title.

A Zoning Ordinance establishing classifications and districts or zones and regulating therein the use of property within the City of Santa Barbara, California, defining terms used in said ordinance, adopting a zoning map, providing for the adjustment, enforcement, and amendment thereof, and prescribing penalties for its violation.

The Council of the City of Santa Barbara, California, does ordain as follows:

An Official Land Use Zoning Ordinance for the City of Santa Barbara is hereby adopted and established to serve the public health, safety, comfort, convenience and general welfare and to provide the economic and social advantages resulting from an orderly planned use of land resources, and to encourage, guide and provide a definite plan for the future growth and development of said City. This ordinance shall be known as "The Zoning Ordinance". (Ord. 3710 §1, 1974.)

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Chapter 28.04

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28.04.005 Definitions Generally.

Words used in the present tense include the future, except where the natural construction of this title otherwise indicates; words in the singular number include the plural and words in the plural include the singular; the word "building" includes the word "structure" and the word "shall" is mandatory and not directory. The word "Council" when used herein shall mean the Council of the City of Santa Barbara and "Planning Commission" shall mean the City Planning Commission of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.010 Accessory Building.

A subordinate building or portion of the main building, the use of which is incidental to that of the main building on the same lot. Where an accessory building is attached to and made a part of the main building, not less than eight feet (8') in length of one (1) of the walls or roof of such accessory building, or not less than one hundred percent (100%) of any wall of such accessory building less than eight feet (8') in length, shall be an integral part of the main building and such accessory building shall comply in all respects with the requirements of this ordinance applicable to a main building. An accessory building, unless attached to and made a part of the main building, as above provided for, shall be not closer than five feet (5') to the main building. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.015 Accessory Use.

A use customarily incidental and accessory to the principal use of a lot or of a main building or structure located upon the same lot as the accessory use. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.020 Addition.

An extension of or increase in the floor area of a building or structure. (Ord. 5416, 2007.)

28.04.025 Agent.

Any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities who represent or act for or on behalf of a applicant in selling or offering to sell any dwelling unit. (Ord. 4000 §1, 1979.)

28.04.030 Agriculture.

The tilling of the soil, the raising of crops, horticulture and the harvesting, sorting, cleaning, packing and shipping of agricultural products produced on the premises preparatory to sale or shipment in their natural form including all activities or uses customarily incidental thereto, but not including a slaughter house, fertilizer works, commercial dairying, pasturage agriculture, commercial viticulture, commercial animal and poultry husbandry, retail sales, the commercial packing or processing of products not grown on the premises or operations for the reduction of animal matter or any other use which is similarly objectionable because of odor, smoke, dust, fumes, vibration or danger to life or property. (Ord. 4878, 1994.)

28.04.035 Alley.

A public or private way 25 feet or less in width that is primarily used for vehicular access to the back or side of properties. Alleys typically do not meet standard requirements for City streets, which include curbs, gutters, sidewalks, or similar improvements. Typically, alleys are separated from adjacent parcels by a lot line. An alley may have an official name and may be shown on the official street map of the City of Santa Barbara. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.040 Alteration.

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 or paleontological 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. (Ord. 5416, 2007.)

28.04.045 Antenna.

Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves, including devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and arranged from a generally horizontal boom. It may be mounted upon and rotatable through a vertical mast interconnecting the boom and a support for the antenna. (Ord. 4147, 1982.)

28.04.050 Antenna, Cellular Telephone, and Two-Way and One-Way Paging Systems.

Any radio or microwave repeating structure, and associated equipment and structures including microcells, used for transmitting or receiving radio signals for cellular telephones and pagers. (Ord. 4891, 1994.)

28.04.055 Antenna, Height Above Grade.

The vertical distance from the ground to the point to be measured through the axis of the antenna, antenna support, or antenna tower. (Ord. 4147, 1982.)

28.04.060 Antenna, Radio or Television.

Any antenna, and associated equipment and structures, used for transmission of commercial television and broadcast radio. (Ord. 4891, 1994.)

28.04.065 Antenna Support.

Any devices for supporting an antenna which is other than a tower. (Ord. 4147, 1982.)

28.04.070 Antenna Tower.

Any substantial wood or metal structure used to support one or more antennas and which is affixed to the ground or an existing structure. A tower may be self-supporting or supported by an existing structure or by guy wires. (Ord. 4147, 1982.)

28.04.075 Antennas, Emergency Service.

Any antenna, and associated equipment and structures, used principally for communications related to government provided emergency services, including but not limited to, police, fire, and paramedic services. (Ord. 4891, 1994.)

28.04.080 As-Graded.

The extent of surface conditions on completion of grading. (Ord. 5416, 2007.)

28.04.085 Association.

The organization of persons who own a lot, parcel, area, condominium or right of exclusive occupancy in a project. (Ord. 4000 §1, 1979.)

28.04.090 Automated Teller Machine (ATM).

An electronic device from which a person is able to withdraw cash, make a deposit, or undertake other financial transactions. (Ord. 5072, 1998.)

28.04.095 Automobile Service Station.

A retail business establishment primarily supplying gasoline, other types of fuel, oil, minor accessories and services for motor vehicles, excluding painting, body work and steam cleaning. (Ord. 4033 §1, 1980; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.100 Automobile Service Station/Mini-Market.

A retail business establishment supplying gasoline, other types of fuel, oil and services for motor vehicles which also sells other products, merchandise or services that are not directly related to the operation of motor vehicles where such sale is by means other than vending machines. (Ord. 4033 §2, 1980.)

28.04.105 Balcony.

A cantilevered platform that projects from the wall of a building above the ground and is surrounded by a railing, balustrade, or parapet. (Ord. 5459, 2008.)

28.04.110 Basement.

That portion of a building between floor and ceiling which is partly below and partly above grade (as defined in this chapter), but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling. A basement shall be counted as a story. (Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.115 Bed and Breakfast Inn.

The definitions of "Bed and Breakfast Inn" and "Hotel" are synonymous. See Section 28.04.395. (Ord. 5459, 2008; Ord. 4199, 1983.)

28.04.120 Bedroom.

Any habitable room in a dwelling other than a bathroom, a kitchen or a living room (except in studios, where a living room is considered a habitable room). (Ord. 3950 §2, 1978.)

28.04.125 Birth Center.

A structure that contains facilities to assist in human births, but is not licensed as a hospital. (Ord. 4152, 1982.)

28.04.130 Boarding House.

A building, group of buildings or a portion of a building which is designed for or occupied as sleeping quarters for five (5) or more paying guests and where meal service is included in the price of the lodging. A boarding house is not considered a single residential unit. (Ord. 5459, 2008; Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.135 Building.

Any structure having a roof supported by columns or walls for the shelter, housing or enclosure of persons, animals, chattels or property of any kind. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.140 Building Height.

The maximum vertical height of a building or structure at all points measured from natural or finished grade, whichever is lower. Architectural elements that do not add floor area to a building, such as chimneys, vents, antennae, and towers, are not considered a part of the height of a building, but all portions of the roof are included. (Ord. 5416, 2007; Ord. 4641, 1990; Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.145 Building, Main.

A building in which the principal use of the lot is conducted. (Ord. 5459, 2008.)

28.04.150 Bungalow Court.

Three (3) or more detached single or duplex dwellings located upon a single lot under one (1) ownership, together with all open spaces as required by this ordinance. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.155 Car Wash.

Any business whose activity involves washing, steam cleaning, or detailing motor vehicles. (Ord. 5459, 2008.)

28.04.160 Carport.

A building with a solid weatherproof roof that is permanently open on at least two sides and is designed to shelter one or more vehicles. A carport may be freestanding or attached to another structure. A trellis or other similar structure is not considered a carport. (Ord. 5459, 2008.)

28.04.165 Cellar.

That portion of a building between floor and ceiling which is wholly or partly below grade (as defined in this chapter) and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling. A cellar shall not be counted as a story if the vertical distance from grade to ceiling is four feet (4') or less on all sides. (Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.170 Child Care Center.

Any State-licensed child care facility other than a family day care home in which less than 24-hour per day non-medical care and supervision is provided in a group setting for children under 18 years of age. (Ord. 4858, 1994.)

28.04.175 Club.

Any organization, group or association supported by the members thereof, the purpose of which is to render a service customarily rendered for members and their guests, but shall not include any organization, group or association, the chief activity of which is to render a service customarily carried on as a business. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.180 Commercial.

Managed on a business basis for profit derived from the promise or delivery of compensation, money, rent, or other bargained-for consideration in exchange for: (a) goods; (b) services; (c) rights or interests in property; or (d) any other valuable consideration. (Ord. 4924, 1995.)

28.04.185 Common Area.

An entire project excepting all units therein granted or reserved. (Ord. 4000 §1, 1979.)

28.04.190 Community Apartment.

As defined in Section 11004 of the Business and Professions Code. (Ord. 4000 §1, 1979.)

28.04.195 Community Care Facility.

A State-licensed facility, place or building which is maintained and operated to provide non-medical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, as further defined in Chapter 3 of Division 2 of the California Health and Safety Code; but not including a group home. (Ord. 4924, 1995; Ord. 4858, 1994.)

28.04.200 Compaction.

The act of increasing the density of a fill by mechanical means. (Ord. 5416, 2007.)

28.04.205 Condominium.

As defined in Sections 783 and 1350 of the Civil Code. (Ord. 4000 §1, 1979.)

28.04.210 Condominium, Community Apartment.

The development of land and attached structures as a condominium or community apartment project, regardless of the present or prior use of such land and structures, and regardless of whether substantial improvements have been made to such structures. (Ord. 4000 §1, 1979.)

28.04.215 Condominium or Community Apartment Project.

A plan by a developer to sell residential condominium or community apartment units in a building through conversion to condominium or community apartment status. (Ord. 4000 §1, 1979.)

28.04.220 Condominium Unit.

The elements of a condominium which are not owned in common with the owners of other condominiums in the project. (Ord. 4000 §1, 1979.)

28.04.225 Congregate Dining Facility.

A room or rooms which contain suitable space for group dining to feed all the residents of the facility in one or two sittings, accessible to and for the primary use of the residents of a State licensed residential facility for the elderly or similar residential facility. Such a facility shall provide full meal service for the residents which shall include at least two meals per day for seven days per week. (Ord. 4413, 1986.)

28.04.230 Court.

An area open to the sky that is enclosed on at least three sides by walls, sometimes referred to as a courtyard. (Ord. 5459, 2008; Ord. 5416, 2007.)

28.04.235 Deck.

An outdoor platform wholly or partially supported from the ground below, which may be surrounded by a railing, balustrade, or parapet. A deck can be freestanding or attached to a building. (Ord. 5459, 2008.)

28.04.240 Deck, Roof.

A deck constructed above any top plate of a structure and which is designed to function as useable outdoor area. (Ord. 5459, 2008.)

28.04.245 Distance Between Buildings.

The shortest distance measured from the exterior wall or supporting post(s) of a building to the nearest exterior wall or supporting post(s) of another building. (Ord. 5459, 2008.)

28.04.250 Drive-Through Facility.

A motor vehicle drive-through facility which is a commercial building or structure or portion thereof which is designed or used to provide goods or services to the occupants of motor vehicles. It includes, but is not limited to, banks and other financial institutions, fast food establishments, and film deposit/pick-up establishments, but shall not include drive-in movies, gasoline stations, or car-wash operations. (Ord. 4001, 1979.)

28.04.255 Driveway.

A minor private way that provides vehicular access from a street or alley to an on-site parking facility. Driveways may provide vehicular access for up to four lots or to multiple buildings on the same lot. Driveways are usually differentiated from private streets by shorter lengths, narrower widths, and the lack of curbs, gutters, sidewalks, street lights, and similar improvements. Driveways are usually differentiated from alleys in that they are located on the lots to which they provide vehicular access, while alleys are normally separated from adjacent real property by a lot line. Except as otherwise specified in this Title, setbacks do not apply to driveways. (Ord. 5459, 2008.)

28.04.260 Dwelling Unit.

As used in this title, the terms dwelling unit and residential unit are synonymous. (Ord. 5459, 2008; Ord. 4858, 1994; Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.265 Earth Material.

Any rock, natural soil or fill or any combination thereof. (Ord. 5416, 2007.)

28.04.270 Educational Institution.

An institution of learning giving general academic instruction equivalent to the standards prescribed by the State Board of Education; or, a non-profit institution or center of advanced study and research in the field of learning equivalent to or higher than the level of standards prescribed by the State Board of Education. An educational institution may include administrative offices, classrooms, technical and other support services directly related to the operations of the institution. (Ord. 4181, 1982; Ord. 3710, 1974; Ord. 2729, 1959.)

28.04.273 Emergency Shelter.

Housing for homeless persons with minimal supportive services that is limited to a length of occupancy of not more than six months. Minimal supportive services shall mean administrative offices, intake and waiting areas, kitchen and dining facilities, and laundry facilities as long as the facilities are directly related to the operation of the emergency shelter or for the exclusive use of the residents of the emergency shelter. Homeless shelters providing more than minimal supportive services or supportive services to persons other than the residents of the shelter shall require a conditional use permit pursuant to Section 28.94.030.W of this Title. (Ord. 5662, 2014.)

28.04.275 Erosion.

The wearing away of the ground surface as a result of the movement of wind, water or ice. (Ord. 5416, 2007.)

28.04.280 Excavation.

The mechanical removal of earth material. (Ord. 5416, 2007.)

28.04.285 Existing Grade.

The grade prior to grading. (Ord. 5416, 2007.)

28.04.290 Family.

A single residential unit or a person or group of persons living together as a domestic unit in a single residential unit. (Ord. 4858, 1994; Ord. 3710, 1974; Ord. 3648, 1974.)

28.04.295 Family Day Care Home.

A State-licensed home which regularly provides care, protection, and supervision of children under 18 years of age in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, as further defined and permitted pursuant to the California Health and Safety Code and other applicable State Regulations. The term "Family Day Care Home" includes the terms “Large Family Day Care Home” and “Small Family Day Care Home” as such terms are defined in Sections 1597.465 and 1597.44 of the California Health and Safety Code. (Ord. 5459, 2008; Ord. 4858, 1994.)

28.04.300 Fast Food Restaurant.

Any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, and whose design or principal method of operation includes foods, frozen desserts, or beverages that are usually served in edible containers or in paper, plastic, or other disposable containers. (Ord. 4063, 1980.)

28.04.305 Fill.

A deposit of earth material placed by artificial means. (Ord. 5416, 2007.)

28.04.310 Finished Grade.

The final grade of the site that conforms to the approved plan. (Ord. 5416, 2007.)

28.04.315 Floor Area, Net.

The net floor area of a building shall be calculated in accordance with the following general rule and any applicable special rules:

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 or an elevator shaft within the exterior walls of a building shall be counted only on one floor of the building.

2. Freestanding accessory buildings that do not require a building permit for construction or installation are excluded from the net floor area calculation. (Ord. 5459, 2008; Ord. 5416, 2007.)

28.04.320 Frontage of Block.

That dimension along one (1) side of a street between two (2) intersecting streets, or between an intersecting street and the end of a street where such frontage is not between two (2) intersecting streets. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.325 Garage, Private.

A building or portion of a building in which motor vehicles used by the occupants or tenants of the main building or buildings on the premises are stored or kept. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.330 Garden Apartment Development.

A multiple-family residence development of four (4) or more dwelling units of high quality designed to provide greater amenities than are normally provided in R-3 apartment developments, the plans and specifications, site development plans, landscaping plans and general appearance of which meet the approval of the Planning Commission. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3117, 1966.)

28.04.335 Gazebo.

A freestanding, open-sided, roofed structure. (Ord. 5459, 2008.)

28.04.340 General Plan.

The comprehensive General Plan of the City of Santa Barbara together with all Specific Plans adopted by the City Council. (Ord. 4000 §1, 1979.)

28.04.345 Grade.

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. (Ord. 5416, 2007; Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.350 Grading.

Any excavating or filling or combination thereof. (Ord. 5416, 2007.)

28.04.355 Group Home.

The residence of a group of persons with mental or other handicaps, or otherwise disabled, which is organized as a single, relatively stable, bonafide housekeeping unit. Residents of a group home are a "household" for purposes of this Code, and a group home is one residential unit.

The term "group home" does not include any center for the medical treatment of non-handicapped persons, halfway house, club, fraternity or sorority house, boarding house, dormitory, or the commercial use of property as a bed and breakfast, hostel, hotel, inn, lodging, motel, resort, timeshare project or other temporary lodging where the term of occupancy, possession, or tenancy is fewer than thirty (30) days. (Ord. 4924, 1995.)

28.04.360 Guest Room.

Any habitable room, except a kitchen, designed or used for occupancy by one or more persons and not in a dwelling unit. (Ord. 4199, 1983.)

28.04.365 Hazardous Waste.

A waste, or combination of wastes, which because of the quantity, concentration or physical and chemical characteristics may either a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed. Hazardous waste also includes those materials described in Title 22, Division 4.5, Chapter 11, California Code of Regulations (CCR). (Ord. 4825, 1993.)

28.04.370 Hazardous Waste Management Facility, Off-Site.

A facility that accepts hazardous wastes from more than one generator, and may also be referred to as a Commercial or Specified Hazardous Waste Facility.

An Off-site Hazardous Waste Management Facility shall include the following:

A. Hazardous Waste Transfer Station. "Hazardous Waste Transfer Station" means a facility where hazardous waste from more than one source is collected and consolidated for shipment to a treatment, recycling and/or disposal facility or facilities. Transfer stations which handle only latex paint, used oil, antifreeze, spent lead acid batteries and/or small household batteries in accordance with provisions of California Health and Safety Code Section 25201(c) and meet all conditions for exemption outlined in California Health and Safety Code Section 25201(c), and are known as a household hazardous waste collection facility, are specifically excluded from this definition.

B. Hazardous Waste Storage Facility. "Hazardous Waste Storage Facility" means a hazardous waste facility at which hazardous waste is contained for a period greater than 96 hours at an off-site facility with specified exceptions provided in the California Health and Safety Code, Section 25123.3. On-site facilities which store hazardous wastes for periods of greater than 90 days shall be considered to be an Off-site Hazardous Waste Storage Facility.

C. Hazardous Waste Treatment Facility. "Hazardous Waste Treatment Facility" means a facility where the toxicity, chemical form and/or volume of a hazardous waste is altered to render the waste less toxic, less chemically active, or of a reduced volume.

D. Hazardous Waste Recycling Facility. "Hazardous Waste Recycling Facility" means a facility engaged in the process of reclaiming, using or reusing hazardous wastes.

E. Hazardous Waste Residuals Repository. "Hazardous Waste Residuals Repository" means a disposal facility for the long-term storage of the byproducts of treated hazardous waste for which there is no further means of practical treatment to render them less toxic or less chemically reactive. (Ord. 4825, 1993.)

28.04.375 Hazardous Waste Management Facility, On-Site.

A facility that stores, treats, recycles and/or disposes of hazardous waste generated only within the facility's boundaries. (Ord. 4825, 1993.)

28.04.380 Hazardous Waste Management Plan.

A plan prepared, adopted and amended from time to time, pursuant to Section 25135 of the California Health and Safety Code by Santa Barbara County to direct the management of hazardous wastes within the boundaries of the County. It is also known as the Hazardous Waste Element of the Santa Barbara County Comprehensive Plan. (Ord. 4825, 1993.)

28.04.385 Home Occupation.

Any use customarily conducted entirely within the dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and does not change the character thereof or adversely affect the use or uses permitted in the zone in which the dwelling is located, and in connection with which there shall be no exterior display, no display windows, no stock in trade or commodity stored or sold upon the premises, no persons employed, and no mechanical, electrical or other specialized equipment used except such as is necessary for ordinary housekeeping purposes. Clinics, hospitals, barber shops, beauty parlors, tea rooms, tourist courts, rest homes, insurance and real estate offices, dancing schools, retail stores, commercial manufacturing, animal hospitals, kennels, among others, and any business which requires a City permit or license, except licenses issued for revenue purposes only, shall not be deemed home occupations. (Ord. 3710, 1974; Ord. 2938, 1963.)

28.04.390 Hospice.

A State-licensed facility which provides 24-hour nursing and supportive care and other services in a home-like setting to persons who have a medical diagnosis of terminal illness. (Ord. 4858, 1994.)

28.04.395 Hotel.

A building, group of buildings or a portion of a building which is designed for or occupied as the temporary abiding place of individuals for less than thirty (30) consecutive days including, but not limited to establishments held out to the public as auto courts, bed and breakfast inns, hostels, inns, motels, motor lodges, time share projects, tourist courts, and other similar uses. (Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.400 Household.

A person, or a group of persons living together as a single, relatively permanent, bonafide housekeeping unit in a residential unit. Any reference in this Code to "family" means "household".

The term "Household" does not include any center for the medical treatment of non-handicapped persons, halfway house, club, fraternity or sorority house, boarding house, dormitory, or the commercial use of property as a bed and breakfast, hostel, hotel, inn, lodging, motel, resort, timeshare project or other temporary lodging where the term of occupancy, possession, or tenancy is fewer than thirty (30) consecutive calendar days. (Ord. 4924, 1995.)

28.04.405 Household Hazardous Waste Collection Facility.

A facility run by, or under contract to, a public agency which only accepts certain types of hazardous materials and then only for transport to an authorized recycling facility or to a permitted hazardous waste collection facility. The types of wastes that can be accepted are latex paint, used oil, antifreeze, spent lead-acid batteries and small household batteries in accordance with all provisions of California Health and Safety Code Section 25201(c). The materials cannot be stored for more than 180 days. Such facilities shall be accessible to individuals, households or small businesses. (Ord. 4825, 1993.)

28.04.410 Junk Yard.

The term junk yard includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for the storage, keeping or abandonment of junk including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles, or machinery or parts thereof. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.415 Kitchen.

Any room used or intended or designed to be used for cooking and/or preparation of food. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.420 Lot.

A parcel of land shown with a separate and distinct number on a plot or map recorded or filed with the Recorder of the County or a parcel of land held under separate ownership on the effective date of this ordinance. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.425 Lot, Corner.

A lot situated at the intersection of two (2) or more streets having an angle of intersection of not more than one hundred thirty-five degrees (135º). (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.430 Lot, Interior.

A lot other than a corner lot. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.435 Lot Line, Front.

The line or lines dividing a lot from a public or private street. The line or lines that divide a lot from an alley or a driveway shall not be considered front lot lines. On lots that abut multiple streets, all lines that divide the lot from a street shall be considered front lot lines. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3444, 1970; Ord. 2763, 1963.)

28.04.440 Lot Line, Interior.

Any lot lines other than front lot lines. (Ord. 3710, 1974; Ord. 3587, 1973.)

28.04.445 Lot, Through.

A lot having frontage on two (2) parallel or approximately parallel streets. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.450 Mezzanine.

Mezzanine or mezzanine floor is an intermediate floor placed in any story or room. When the total area of any such mezzanine floor exceeds thirty-three and one-third percent (33-1/3%) of the total floor area in that room, it shall be considered as constituting an additional story. The clear height above or below a mezzanine floor construction shall be not less than seven feet (7'). (Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.455 Microcell.

A small cellular transceiver facility installed at or below ground level and comprised of a utility cabinet, one or more small antennas mounted on a steel pipe, an existing public utility pole or existing structure, and transmitters with an effective radiated power not exceeding five watts per channel and not to exceed a total of 200 watts per facility. (Ord. 4891, 1994.)

28.04.460 Mixed Use Development.

A development in which both nonresidential and residential uses are permitted on the same lot. (Ord. 4946, 1996.)

28.04.465 Mobilehome.

A structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the California Vehicle Code. Mobilehome includes a manufactured home, as defined in Section 18007 of the California Health and Safety Code, and a mobilehome as defined in Section 18008 of the California Health and Safety Code, but does not include a recreational vehicle as defined in Section 28.04.555 of this Code and Section 18010 of the California Health and Safety Code, or a commercial coach as defined in Section 18001.8 of the California Health and Safety Code. (Ord. 5459, 2008; Ord. 4269, 1984; Ord. 4113, 1981.)

28.04.470 Mobilehome Park.

An area of land where two or more mobilehome spaces are rented, or held out for rent, to accommodate mobilehomes for more than thirty (30) days. (Ord. 4269, 1984.)

28.04.475 Mobilehome Park Space.

That portion of a mobilehome park set aside and designated for the occupancy of one (1) mobilehome, including any contiguous area designed or used for automobile parking, carport, storage, awning, cabana or other use which is clearly incidental and accessory to the primary use of the space. (Ord. 4269, 1984.)

28.04.480 Modular Cooking Unit.

A self-contained cooking and food preparation area shall be permitted when located in a state-licensed residential care facility for the elderly, community care facility, or hospice after a performance standard permit or conditional use permit is obtained pursuant to either Chapter 28.93 or Chapter 28.94 of this Code. The modular cooking unit shall contain no more than a two-burner stove, oven or microwave oven, single compartment sink, refrigerator, utensil drawer(s), and cabinet(s) in one detachable module. The modular cooking unit shall not be larger than eighteen (18) square feet. Dishwashers and garbage disposals shall not be allowed. The modular cooking unit shall not be located in a room separated from other living areas, but could be located in a small recessed opening off other living areas. (Ord. 5380, 2005; Ord. 4858, 1994.)

28.04.485 Motel.

The definitions of "Motel" and "Hotel" are synonymous. See Section 28.04.395. (Ord. 5459, 2008; Ord. 4199, 1983.)

28.04.490 Multiple Residential Unit.

A building, or portion thereof, configured and/or occupied as three (3) or more residential units and including apartment houses, but not including hotels. (Ord. 4858, 1994.)

28.04.495 Nonconforming Building.

A building, structure or portion thereof which does not conform to the regulations of this ordinance and which lawfully existed at the time the regulations with which it does not conform became effective. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.500 Nonconforming Use.

A use of a building or land which does not conform to the regulations of this ordinance and which lawfully existed at the time the regulations with which it does not conform became effective. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.505 Non-Transient Tenant.

A person who has resided in a residential hotel for a period of more than 30 days as of the time a development application is submitted for that residential hotel. (Ord. 4984, 1996.)

28.04.510 Owner.

Any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be converted to commence, maintain, and complete proceedings to convert the same under this ordinance. (Ord. 4000 §1, 1979.)

28.04.515 Parcel.

A general term including all plots of land shown with separate identification on the latest equalized county assessment roll. Parcels may or may not be separate lots, depending upon whether or not such parcels are created as required by the Subdivision Ordinance. (Ord. 4000 §1, 1979.)

28.04.520 Patio.

A hardscaped (e.g., concrete, tile, brick, stone, etc.) space, constructed on the ground, usually adjoining a building and intended for indoor-outdoor living and recreation. A patio may be surrounded by walls or roofed, but not both. (Ord. 5459, 2008.)

28.04.525 Planned Residence Development.

One (1) or more contiguous parcels of land in a single ownership or planning control which shall be planned and developed as a single unit, under provisions of this ordinance, in a manner which shall be in harmony with the basic characteristics of the land use zone district in which it is located. (Ord. 3710, 1974; Ord. 2892, 1962.)

28.04.530 Porch.

A raised platform, usually roofed and sometimes partly enclosed with low walls, that extends along an outside wall of a building, usually at an entrance to a dwelling. A porch may also be referred to as a veranda. (Ord. 5459, 2008.)

28.04.535 Public Facility.

A facility open to the public and owned or operated by a governmental entity. (Ord. 4152, 1982.)

28.04.540 Public Utilities.

The general classification for public water, gas, sewer, electrical, cable television and telephone lines and facilities; does not include natural or improved drainage facilities. (Ord. 4000 §1, 1979.)

28.04.545 Public Works Director.

The Public Works Director or any of his deputies or assistants. (Ord. 4000 §1, 1979.)

28.04.550 Quasi-Public Facility.

A facility that is open to the public and has a public purpose but is not owned or operated by a governmental entity. A community center, a public museum, and an art gallery are examples of a quasi-public facility. (Ord. 4152, 1982.)

28.04.555 Recreational Vehicle.

A. RECREATIONAL VEHICLE. A motor home, slide-in camper, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy.

B. CAMPING TRAILER. A vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite and designed for human habitation for recreational or emergency occupancy.

C. MOTOR HOME. A vehicular unit built on or permanently attached to a self-propelled motor vehicle chassis, chassis cab or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.

D. SLIDE-IN CAMPER. A portable unit, consisting of a roof, floor and sides, designed to be loaded onto and unloaded from the bed of a pickup truck, and designed for human habitation for recreational or emergency occupancy and shall include a truck camper.

E. TRAVEL TRAILER. A portable unit, mounted on wheels, of such a size and weight as not to require special highway movement permits when drawn by a motor vehicle and for human habitation for recreational or emergency occupancy. (Ord. 4269, 1984.)

28.04.560 Recreational Vehicle Park.

Recreational vehicle park includes a permanent recreational vehicle park and overnight recreational vehicle park as defined in this Chapter. (Ord. 4269, 1984.)

28.04.565 Recreational Vehicle Park (Overnight).

Any area of land where two (2) or more recreational vehicle spaces are rented, or held out for rent, to owners or users of recreational vehicles used for travel or recreational purposes for less than thirty (30) days. (Ord. 4269, 1984.)

28.04.570 Recreational Vehicle Park (Permanent).

An area of land where two (2) or more recreational vehicle spaces are rented, or held out for rent, to accommodate recreational vehicles for residential purposes for thirty (30) or more days. (Ord. 4269, 1984.)

28.04.575 Recreational Vehicle Space.

That portion of a recreational vehicle park set aside and designated for the occupancy of one (1) recreational vehicle, including any contiguous area designed or used for automobile parking, carport, storage, awning, cabana or other use which is clearly incidental and accessory to the primary use of the space. (Ord. 4269, 1984.)

28.04.580 Residential Care Facility for the Elderly.

A housing arrangement where the residents are at least sixty years of age and where varying levels of care, supervision, or health-related services are provided to the residents based on their varying needs. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in such a facility, not to exceed 25 percent of the residents, as further defined in Chapter 3.2 of Division 2 of the California Health and Safety Code. (Ord. 4858, 1994.)

28.04.585 Residential Hotel.

A hotel or boarding house or similar residential facility where, on the date of the adoption of this ordinance, the average duration of stay for the residents thereof exceeds thirty (30) days. (Ord. 4984, 1996.)

28.04.590 Residential Unit.

A. A building or portion thereof designed or occupied for residential purposes, containing not more than one (1) kitchen per residential unit, but not including hotels or boarding houses.

B. A residential unit may be declared by the Community Development Director when a building or portion thereof is configured or occupied for residential purposes, whether permanent or temporary, and contains elements evidencing separate residential occupancy. Elements to be considered may include, but are not limited to, the proximal arrangement and various combinations of:

1. Sink or bar sink;
2. Garbage disposal;
3. Dishwasher;
4. Toilet;
5. Bathing facility;
6. Interior locking doors;
7. Exterior entrance;
8. Exterior staircase;
9. Separate yard, patio, deck or balcony;
10. Separate phone line, cable line, or utility line;
11. Separate garage or parking area (covered or uncovered) or carport;
12. Countertops or cupboards;
13. Sleeping loft; or

14. Separate address/mail box designation.

Issuance of a building permit or other approvals does not, of itself, establish that a building or portion thereof is not a residential unit.

C. Notwithstanding this Section, a building or portion thereof configured or occupied for residential purposes, whether permanent or temporary, containing a modular cooking unit shall not be deemed a residential unit providing:

1. A performance standard permit or conditional use permit has been issued pursuant to either Chapter 28.93 or Chapter 28.94 of this Code; and

2. The facility has current, valid state licenses to operate a residential care facility for the elderly, community care facility or hospice; and

3. There is a staffed congregate kitchen and dining facility on-site providing regular meals to all residents. (Ord. 5380, 2005; Ord. 4858, 1994.)

28.04.595 Rough Grade.

The stage at which the grade approximately conforms to the approved plan. (Ord. 5416, 2007.)

28.04.600 School, Elementary or High.

An institution of learning which offers instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of California. High schools include junior and senior, parochial and private. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.605 Secondary Dwelling Unit.

A separate, complete housekeeping unit consisting of two (2) or more rooms for living and sleeping purposes, one of which is a kitchen, and having a maximum square footage of six hundred (600) square feet, that is substantially contained within the structure of a one-family dwelling. (Ord. 4225, 1983.)

28.04.610 Self-Service Laundry.

Any establishment for laundering where there is no pick-up or delivery service and no steam or hand laundry of any type; provided, however, that all washing machines and accessory extractors and dryers shall be installed on a single floor and there shall be no intermingling of customers' laundry. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.615 Service Station.

Service station includes both automobile service stations and automobile service station/mini-markets. (Ord. 4033 §3, 1980.)

28.04.620 Setback, Front.

An area between the front lot line and a line parallel to the front lot line bounded by the interior lot lines of the lot that are roughly perpendicular to the front lot line, the depth of such area being the distance required by this zoning ordinance. The front setback is to be provided and maintained as an open space on a lot or parcel of land, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title. (Ord. 5459, 2008.)

28.04.625 Setback, Interior.

An area between an interior lot line and a line parallel to the interior lot line bounded by the two lot lines adjacent to the interior lot line from which the setback is measured, the depth of such area being the distance required by this zoning ordinance. The interior setback is to be provided and maintained as an open space on a lot or parcel of land, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title. (Ord. 5459, 2008.)

28.04.630 Single Residential Unit.

A residential building configured as not more than one (1) residential unit and occupied by not more than one household. (Ord. 4924, 1995; Ord. 4858, 1994.)

28.04.635 Skilled Nursing Facility.

A State-licensed health facility or a distinct part of a hospital which provides continuous skilled nursing care and supportive care to patients whose primary need is for the availability of skilled nursing care on an extended basis. It provides 24-hour inpatient care and, as a minimum, includes physician, nursing, dietary, pharmaceutical services and an activity program. Intermediate care programs which provide skilled nursing and supportive care for patients on a less than continuous basis shall be considered skilled nursing facilities for the purposes of this Ordinance. "Skilled Nursing Facility" and "Intermediate Care Facilities" are further defined in Chapter 2, Division 2 of the California Health and Safety Code. (Ord. 4858, 1994.)

28.04.640 Stock Cooperative.

As defined in Section 11003.2 of the Business and Professions Code. (Ord. 4000 §1, 1979.)

28.04.645 Story.

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it then the space between such floor and the ceiling next above it. The number of stories in a building shall be construed to be the maximum number of stories through which any one (1) of an unlimited number of possible vertical lines can pass, without passing through a wall, excluding certain mezzanines as provided in Section 28.04.450. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.650 Street.

A public or private way constructed for the primary purpose of vehicular travel. An alley or a driveway is not a street. The term "street" describes the entire legal right-of-way or easement (public or private), including, but not limited to, the traffic lanes, bike lanes, curbs, gutters, sidewalk whether paved or unpaved, parkways, and any other grounds found within the legal street right-of-way. The name given to the right-of-way (avenue, court, road, etc.) is not determinative of whether the right-of-way is a street. (Ord. 5459, 2008.)

28.04.655 Street Frontage.

The length of the front lot line along an adjacent street. For the purpose of computing the street frontage of an irregularly shaped lot which is narrower at the front than at the rear, said measurement shall be along a straight line approximately parallel to the street and at a distance from the front property line equal to the front setback. (Ord. 5459, 2008.)

28.04.660 Street, Private.

A street that is privately owned. Private streets do not appear on the official dedicated street map of the City of Santa Barbara. Private streets generally provide access to multiple lots or units and are usually named, unlike driveways. Private streets may be constructed to public street standards. Private streets are generally differentiated from driveways by larger widths, longer lengths, and may include public or private utilities. A private street may also be referred to as private road, lane, or drive. (Ord. 5459, 2008.)

28.04.665 Street, Public.

Any street shown on the official dedicated street map of the City of Santa Barbara, as such map may be amended from time to time. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.670 Structural Alterations.

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, floor joists or roof joists. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.675 Structure.

Anything constructed or erected and the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.680 Time Share Project; Time Share Estate; Time Share Use.

(a) A "time-share project" is one in which a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, or segment of real property, annually or on some other periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided.

(b) A "time-share estate" is a right of occupancy in a time-share project which is coupled with an estate in the real property.

(c) A "time-share use" is a license or contractual or membership right of use in a time-share project which is not coupled with an estate in the real property. (Ord. 4199, 1983.)

28.04.685 Tourist Court.

The definitions of "Tourist Court" and "Hotel" are synonymous. See Section 28.04.395. (Ord. 5459, 2008; Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.690 Trellis.

A structure or frame supporting open latticework, sometimes referred to as a pergola or arbor. A trellis is not considered an accessory building. (Ord. 5459, 2008.)

28.04.695 Two-Residential Unit.

A building configured and/or occupied as not more than two (2) residential units. (Ord. 4858, 1994.)

28.04.700 Vertical.

Perpendicular to the plane of the horizon. (Ord. 3710, 1974; Ord. 3540, 1972.)

28.04.705 Yard.

An open space, on a lot or parcel of land, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

It is the intent of this ordinance to require yard area in all residential zones, which shall be adequate to provide light and air, separation of buildings, privacy of occupancy, reduction of fire hazards, control of building density, enjoyment of occupants, and preservation of residential amenities.

For the purpose of this title, open parking of automotive vehicles, trailers and boats shall be considered as an obstruction. (Ord. 3710, 1974; Ord. 3587, 1973; Ord. 2763, 1960.)

28.04.710 Yard, Front.

A yard extending across the full width of the lot between the front lot line and the nearest wall of any main building on the lot. This yard shall be measured by extending perpendicular lines from each point of the front lot line to the nearest wall of any main building on the lot. Where there is no wall of any main building on the lot which intercepts said perpendicular lines, said yard will terminate at a point determined by extending a line parallel to the front lot line from the corner of the front elevation of the main building to the nearest lot line. The front elevation of a building is any elevation that faces a street. If the corner of the front elevation is rounded (i.e., a tower), the corner of the elevation shall be established by drawing the smallest square or rectangle that will enclose the round element and extend the line from the corner of the superimposed square or rectangle that is closest to the front lot line. (Ord. 5459, 2008; Ord. 3806, 1975; Ord. 3710, 1974; Ord. 2585, 1957.)

28.04.715 Yard, Open.

A required yard, the purpose of which is to provide usable outdoor living space and/or visual open space. (Ord. 5459, 2008.)

28.04.720 Yard, Primary Front.

A front yard, on a lot with multiple front yards, designated by the property owner and approved by the Community Development Director or the Director's designee as the primary front yard. All other front yards on the lot shall be secondary front yards. (Ord. 5459, 2008.)

28.04.725 Yard, Remaining Front.

The area of the front yard outside the required front setback. (Ord. 5459, 2008.)

28.04.730 Yard, Secondary Front.

Any front yard on a lot with multiple front yards that is not designated as the primary front yard. (Ord. 5459, 2008.)

Chapter 28.05

STAFF HEARING OFFICER

Sections:

28.05.010 Staff Hearing Officer; Project Compatibility Criteria.
28.05.020 Suspensions and Appeals of Decisions of the Staff Hearing Officer to the Planning Commission.

28.05.010 Staff Hearing Officer; Project Compatibility Criteria.

A. STAFF HEARING OFFICER AUTHORITY. The Staff Hearing Officer means the Community Development Director or his or her designee. For purposes of this Title 28, the Staff Hearing Officer shall have the authority to investigate, approve, approve with conditions, or deny applications for development as specified in this Title 28. Notwithstanding any provision of this Code designating the Staff Hearing Officer as the reviewing body, if an application requires review by the Planning Commission under any provision of this Code, then all discretionary review of the application shall be conducted by the Planning Commission.

B. COMPATIBILITY CRITERIA. In making those land use decisions authorized for the Staff Hearing Officer by Title 28 of the Municipal Code, the Staff Hearing Officer shall take into consideration the comments of the Architectural Board of Review provided pursuant to the requirements of Section 22.68.045 or the comments of the Historic Landmarks Commission pursuant to Section 22.22.145 (as the appropriate case may be) and, in issuing a project approval or a project denial, the Staff Hearing Officer shall provide written comments on how the ABR or HLC comments affected the Staff Hearing Officer’s land use decision. (Ord. 5464, 2008; Ord. 5380, 2005.)

28.05.020 Suspensions and Appeals of Decisions of the Staff Hearing Officer to the Planning Commission.

Where authorized by this Title 28, decisions of the Staff Hearing Officer may be suspended or appealed in accordance with the following procedures:

A. SUSPENSIONS. The Chairperson, Vice Chairperson or other designated member of the Planning Commission may take action to suspend any decision of the Staff Hearing Officer and to schedule a public hearing before the Planning Commission to review said decision. The notice of suspension must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision. The Community Development Department shall prepare a report to the Planning Commission with staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer. Any review of a decision of the Staff Hearing Officer pursuant to this Subsection A shall be consolidated with and heard at the same time as any timely appeal of said decision.

B. APPEALS. The decisions of the Staff Hearing Officer may be appealed to the Planning Commission by the applicant or any aggrieved person. The appeal must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision. The appellant shall state specifically in the appeal how the decision of the Staff Hearing Officer is not in accord with the provisions of this Title or how it is claimed that there was an error or an abuse of discretion by the Staff Hearing Officer. Except for appeals of actions taken pursuant to Chapter 28.44, the appellant shall pay at the time the appeal is filed a fee for such appeal as provided by resolution of the City Council. The Community Development Department shall prepare a report to the Planning Commission with staff recommendations, including a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant.

C. APPEALS OF DECISIONS OF PLANNING COMMISSION ON SUSPENSIONS OR APPEALS FROM THE STAFF HEARING OFFICER. The decisions of the Planning Commission on suspensions or appeals from decisions of the Staff Hearing Officer may be appealed to the City Council by the applicant or any aggrieved person pursuant to the provisions of Chapter 1.30. 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 Planning Commission regarding a decision of the Staff Hearing Officer shall be provided in the same manner as notice was provided for the hearing before the Planning Commission. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council. (Ord. 5380, 2005.)

Chapter 28.06

PLANNING COMMISSION

Section:
28.06.010 Powers and Duties.

28.06.010 Powers and Duties.

The Planning Commission of the City shall exercise the following functions:

1. All actions provided by the Zoning Ordinance to be performed by the Planning Commission in connection with applications for modifications, variances, special use permits, conditional use permits, site plans, plot plans, development plans and planned residence developments.
2. Make recommendations to the City Council for amendments to the text of the Zoning Ordinance.
3. Act as Advisory Agency for subdivisions as provided for in Title 27 of this Code.
4. In making those land use decisions authorized for the Planning Commission by Title 28 of the Municipal Code, the Commission shall take into consideration the comments of the Architectural Board of Review provided pursuant to the requirements of Section 22.68.045 or the Historic Landmarks Commission pursuant to Section 22.22.145 (as the appropriate case may be) and, in issuing a project approval or a project denial, the Commission shall provide written comments on how the ABR or HLC comments affected the Commission's decision.
5. Such other functions as may be assigned by the City Council. (Ord. 5464, 2008; Ord. 5380, 2005; Ord. 3904 §10, 1977.)

Chapter 28.07

GENERAL PLAN AMENDMENT

Section:
28.07.010 General Plan Amendment Fee.

28.07.010 General Plan Amendment Fee.

In the event that the Planning Commission agrees to hold a hearing on a General Plan amendment, other than upon its own initiative or upon request of the City Council, the person seeking the General Plan amendment shall pay to the City the fee established by resolution of the City Council. Said fee shall be paid within five (5) days of the Planning Commission decision to hold the public hearing. (Ord. 3955, 1978.)

Chapter 28.08

SPECIFIC PLANS

Sections:
28.08.010 Procedures.
28.08.020 Issuance of Building Permits.

28.08.010 Procedures.

The procedure for the preparation, adoption and administration of specific plans shall be as provided by Articles 8, 9, and 10 of Chapter 3 of Division 1 of Title 7 of the California Government Code (commencing with Section 65450 et seq.), as most recently amended, except that a specific plan may only be approved or amended in the same manner that the general plan may be approved or amended pursuant to Section 1507 of the City Charter. (Ord. 4279, 1984.)

28.08.020 Issuance of Building Permits.

A building permit shall not be issued for any structure, alteration or use that is inconsistent with an adopted specific plan unless an exception is granted by the Community Development Director upon finding that the project allowed by the building permit would not impair the City's ability to complete or implement the Specific Plan. (Ord. 4279, 1984.)

Chapter 28.10

ZONES

Sections:

28.10.001 Establishing and Naming Zones.
28.10.010 Boundaries of Zones.
28.10.030 Uses Permitted in Zones.

28.10.001 Establishing and Naming Zones.

In order to classify, regulate, restrict and segregate the uses of land, buildings and structures; to regulate and restrict the height and bulk of buildings; to regulate the area of setbacks, open yards, courts and other open spaces about buildings; and to regulate the density of population; the territory of the City of Santa Barbara is hereby divided into the following zone classifications:

ZONE		CHAPTER
A-1, A-2, E-1, E-2, E-3 & R-1	One-Family Residence Zones	28.15
R-2	Two-Family Residence Zone	28.18
R-3	Limited Multiple-Family Residence Zone	28.21
R-4	Hotel-Motel Multiple Residence Zone	28.21
HRC-1 & HRC-2	Hotel and Related Commerce Zones	28.22
R-H	Resort-Residential Hotel Zone	28.27
	Garden Apartment Developments	28.30
	Planned Residence Developments	28.33
PUD	Planned Unit Development Zone	28.36
PR	Park and Recreation Zone	28.37
P-D	Planned Development Zone	28.39
S-H	Senior Housing Zone	28.42
S-D-3	Coastal Overlay Zone	28.44
S-D	Special District Zone	28.45
SP-5	Westmont Faculty Housing Specific Plan	28.46
SP-7	Riviera Campus Specific Plan	28.47
R-O	Restricted Office Zone	28.48
SP-8	Hospital Zone	28.49
C-O	Medical Office Zone	28.51
C-P	Restricted Commercial Zone	28.54
C-L	Limited Commercial Zone	28.57
C-X	Research and Development and Administrative Office Zone	28.60
C-1	Limited Commercial Zone	28.63
C-2	Commercial Zone	28.66
C-M	Commercial Manufacturing Zone	28.69
H-C	Harbor Commercial Zone	28.70
OC	Ocean-Oriented Commercial Zone	28.71
M-1	Light Manufacturing Zone	28.72
OM-1	Ocean-Oriented Light Manufacturing Zone	28.73
HWMF	Hazardous Waste Management Facility Overlay Zone	28.75

(Ord. 5459, 2008; Ord. 5417, 2007; Ord. 5343, 2005; Ord. 5319, 2004; Ord. 4900, 1995; Ord. 4825, 1993; Ord. 4172, 1982; Ord. 4171, 1982; Ord. 4169, 1982; Ord. 3710, 1974; Ord. 2585, 1957.)

28.10.010 Boundaries of Zones.

Upon the effective date of amendment, boundaries of all areas to be zoned or rezoned, whether by application or initiated by the City, including zoning in areas to be annexed to the City shall be described and documented as follows:

1. a. Metes and bounds (bearings and distances in feet) covering all courses and distances around the boundaries of each area to be zoned or rezoned; or

b. Where the proposed boundary lines are coincident with existing parcel lines, the legal description of the property to be zoned or rezoned may be done by referencing the current assessor's block and parcel numbers; or

c. Combination of the above as determined by the Community Development Director; or

d. When the preferred methods indicated above are determined to be impractical by the Community Development Director, a map which is drawn to scale may be used.

2. The description of subject boundary shall also include, but not be limited to, references to contiguous lines of public alleys, public streets, highways, freeways, and railroad property existing at the time of said zoning or rezoning.

3. The zone boundary description shall be prepared by the applicant and shall be made part of the application submitted to the Planning Commission. In the event that the rezoning is initiated by the City, the zone boundary description shall be prepared by the Public Works Director immediately following approval of zoning or rezoning by the City Council and shall be submitted to the City Attorney for preparation of the Zoning Ordinance amendment.

4. Said zoning and rezoning boundary descriptions shall hereafter be incorporated in each ordinance authorizing each zoning or rezoning classification including land use zones resulting within areas to be annexed to the City.

5. Applications for zoning or rezoning shall be submitted to the Planning Commission as required in Chapter 28.92, on standard forms prepared therefor and shall include one (1) copy of the current City parceling map showing all property involved and currently zoned in said application with the boundary of the portion requested to be rezoned outlined in red color.

6. In addition to documenting zone boundary descriptions, the zoning maps of the City of Santa Barbara, drawn to scale, shall also show the current boundaries of all zoned areas, including such zones documented by descriptions. Dimensions, if shown on the zoning map, shall concur with the dimensions (distances) cited in the corresponding documented zone descriptions.

7. Where uncertainty exists as to the boundary of any zone created and shown on the zoning map after the effective date of this amendment, the corresponding documented zoning description shall govern.

8. In the case of uncertainty as to interpretation of a zone boundary either documented by description or by the zone map in the absence of a documented boundary description, the City Council shall, after recommendation of the Planning Commission, determine the location of the boundary in question.

9. Where a zone boundary, not documented by description as set forth herein, crosses unsubdivided property or any lot and unless the location of such boundary is specified by dimensions shown on the zoning map, said boundary shall be determined by reference to City parceling maps maintained by the Chief of Building and Zoning and on which, in this instance, specific boundary locations shall be shown.

10. Where any public street, alley, or thoroughfare is officially vacated or abandoned and use of the land therein is conveyed to the contiguous property, the zoning regulations applicable to the contiguous property shall apply to the areas so vacated or abandoned.

11. Where any private right-of-way or easement of any railroad, railway, canal, transportation or public utility company is vacated or abandoned, the zoning regulations applicable to the contiguous property shall apply to such vacated or abandoned property.

12. All property in the City of Santa Barbara not otherwise classified, and all property hereafter annexed and not zoned upon annexation, is hereby classified as A-1 Zone.

13. At the time of any zoning or rezoning, the new zone boundary shall follow existing lot lines as shown on the Official Parceling Maps of the City of Santa Barbara, unless otherwise recommended by the Planning Commission. (Ord. 5380, 2005; Ord. 4190, 1982; Ord. 3632, 1974; Ord. 3020, 1965.)

28.10.030 Uses Permitted in Zones.

Except as hereinafter provided:

A. No building or structure shall be erected, moved, altered, added to or enlarged, nor shall any land, building, structure or premises be used, designed, or intended to be used, for any purpose or in any manner other than is permitted in the zones in which such land, building, structure or premises are located.

B. No building or structure shall be erected, moved, reconstructed or structurally altered to exceed in height the limit established for the zone in which such building or structure is located.

C. No building or structure shall be erected nor shall any existing building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building be encroached upon or reduced in any manner except in conformity with the lot area, setback, and open yard regulations established for the zone in which such building or structure is located, except as otherwise provided in this title.

D. No setback, open yard, or other open space provided about any building or structure for the purpose of complying with these regulations shall, by reason of change in ownership or otherwise, be considered as providing a setback, open yard, or open space for any other building or structure. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.11

PROTECTION AND ENHANCEMENT OF SOLAR ACCESS

Sections:

28.11.010 Definitions.
28.11.020 Height Limitation.
28.11.030 Exemptions.
28.11.040 Rules and Regulations.

28.11.010 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. BASE ELEVATION. The elevation of the highest point of contact of a structure with the adjacent ground. For the purposes of this determination, all fences, covered and uncovered walkways, driveways, patio covers and other similar elements shall be considered separate structures.

B. NORTHERLY LOT LINE. Any lot line, of which there may be more than one per lot, that forms a generally north facing boundary of a lot and has a bearing greater than or equal to forty degrees from either true north or true south. For curved lot lines, the bearing of the lot line at any point shall be the bearing of the tangent to the curve at that point.

C. PLAN VIEW. A plot plan of the parcel which shows the horizontal dimensions of a parcel and each structure on the parcel.

D. RESIDENTIAL ZONE. An A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3 or R-4 zone as defined in Title 28 of the Santa Barbara Municipal Code.

E. SHADOW PLAN. A plot plan which shows the extent of shading caused by a proposed structure and is in compliance with the Rules and Regulations approved pursuant to Section 28.11.040 of this Chapter.

F. SOLAR ACCESS. The ability of a location to receive direct sunlight as provided by the height limitations of Section 28.11.020 of this Chapter. (Ord. 4426, 1986.)

28.11.020 Height Limitation.

The maximum elevation of each point on a structure in a residential zone as measured from the base elevation shall not exceed the sum of (i) eighteen (18) feet in an R-3 or R-4 zone or twelve (12) feet in all other residential zones and (ii) fifty-eight percent (58%) of the shortest distance from that point to the nearest northerly lot line as measured horizontally on the plan view of the structure. Any height limitation imposed by this Section shall be in addition to any other height limitation imposed in the Charter or this Code, such that the more restrictive height limitation shall apply. (Ord. 4426, 1986.)

28.11.030 Exemptions.

The following shall be exempt from the height limitations of Section 28.11.020:

A. Any portion of a structure in existence, or for which a valid building permit was issued, prior to the effective date of the ordinance first enacting this Chapter.

B. Any portion of a structure which received Preliminary Approval by the Architectural Board of Review prior to the effective date of the ordinance first enacting this Chapter.

C. Any flagpole, antenna, ornamental spire, chimney, or other building element less than four (4) feet along each horizontal dimension.

D. A utility pole and line.

E. Any portion of a structure for which a shadow plan is prepared and submitted by the applicant demonstrating that shadows cast by that portion of the structure at 9:00 a.m., noon, and 3:00 p.m., Pacific Standard Time on December 21 will:

1. Not exceed the boundaries of a simultaneous shadow cast by a legally existing structure, or by a hill or other topographical feature other than trees or other vegetation; or

2. Not shade that portion of any adjacent residentially-zoned lot which is occupied by a dwelling or which could legally and without modification of required setbacks be occupied in the future by a dwelling; or

3. Fall entirely within the boundaries of an existing covered or uncovered paved off street parking area, or paved driveway leading thereto. (Ord. 5459, 2008; Ord. 4426, 1986.)

28.11.040 Rules and Regulations.

The Community Development Director may promulgate and administer rules and regulations necessary for the administration and interpretation of this Chapter, subject to approval by the City Council. (Ord. 4426, 1986.)

Chapter 28.12

ZONE MAP

Section:

28.12.001 Title.

28.12.001 Title.

The boundaries of the zones provided in Chapter 28.10 are shown upon the zone map which is entitled as follows: "Sectional Zoning Map of the City of Santa Barbara". All notations, references and other information shown on said map are incorporated by reference herein and made a part hereof. (See end of this title.) (Ords. 5625 and 5626, 2013; Ord. 5138, 1999; Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.15

A-1, A-2, E-1, E-2, E-3 and R-1 ONE-FAMILY RESIDENCE ZONES

Sections:

28.15.001 In General.
28.15.005 Legislative Intent.
28.15.030 Uses Permitted.
28.15.035 Uses Permitted Upon Issuance of Conditional Use Permit or Performance Standard Permit.
28.15.040 Locations Allowed for Mobilehomes.
28.15.045 Prohibition of Shiny Roofing and Siding.
28.15.050 Building Height.
28.15.055 Design Review of Residential Buildings.
28.15.060 Setback and Open Yard Requirements.
28.15.065 Reduction of Setback Requirements.
28.15.070 Distance Between Buildings on the Same Lot.
28.15.080 Lot Area and Frontage Requirements.
28.15.083 Maximum Net Floor Area (Floor to Lot Area Ratio).
28.15.085 Regulations for Nonresidential Buildings, Structures and Uses.
28.15.100 Off-street Parking.
28.15.110 Signs.

28.15.001 In General.

The following regulations shall apply in A-1, A-2, E-1, E-2, E-3 and R-1 One-Family Residence Zones unless otherwise provided in this chapter. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.15.005 Legislative Intent.

These zones are restricted residential districts of low density in which the principal use of land is for single residential units; together with recreation, assembly and education facilities required to serve the community. The regulations for these districts are designed and intended to establish, maintain and protect the essential characteristics of the districts, to develop and sustain a suitable environment for domestic life including the raising of children, and to prohibit all activities which would tend to be inharmonious with or injurious to the preservation of a residential environment. Commercial uses are strictly limited because commercial uses may result in adverse impacts on surrounding residential uses including, but not limited to, increased levels of commercial and residential vehicle traffic, parking demand, light and glare, and noise.

The City Council intends that buildings within these residential districts may be used for housing a person or persons with disabilities, as defined in the Federal Fair Housing Act of 1989 and State Housing Law. Group Home residences of persons with disabilities or handicaps are an allowed use in all residential districts, and are not required to obtain a variance or a conditional use permit in order to operate unless a variance or conditional use permit would be required for a residential unit under the same circumstances. (Ord. 4924, 1995; Ord. 3710, 1974; Ord. 2868, 1962; Ord. 2585, 1957.)

28.15.030 Uses Permitted.

A. A single residential unit occupying a single lot, or a group home.

B. Accessory buildings or uses as follows:

1. A private garage, carport or parking spaces.

2. Work or storage sheds for any non-commercial use or equipment.

3. The keeping of horses and necessary outbuildings in conjunction with the residential use of a lot and subject to the following conditions:

a. The keeping of horses shall be permitted only on lots having an area of twenty thousand (20,000) square feet or more, but in no event for commercial purposes, and provided that the number of animals on any one (1) lot shall be limited to one (1) for every ten thousand (10,000) square feet of lot area, but not more than five (5) per lot.

b. The keeping of such animals shall conform to all other provisions of law governing same, and no such animals nor any pen, stable, barn or corral shall be kept or maintained within thirty-five feet (35') of any dwelling or other building used for human habitation, or within seventy-five feet (75') of the front lot line of the lot upon which it is located, or within seventy-five feet (75') of any public park, school, hospital or similar institution.

c. The keeping of any other animal is only permitted pursuant to the provisions of Title 6 of the Santa Barbara Municipal Code.

C. A Home Occupation.

D. A State-licensed Small Family Day Care Home.

E. A State-licensed Large Family Day Care Home, subject to the provisions in Chapter 28.93 of this Title.

F. State authorized, licensed or certified use to the extent it is required by State Law to be an allowed use in residential zones.

G. A Mobilehome which has been certified under the National Mobilehome Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401 et seq.), as amended from time to time, on an approved permanent foundation.

H. Agriculture, as defined in Section 28.04.030 of this Title, subject to administrative guidelines necessary to monitor and carry out these standards which may be adopted and amended from time to time by resolution of the City Council and subject to the following performance standards:

1. Accessory Buildings. Accessory buildings for agricultural purposes shall not exceed five hundred (500) square feet in aggregate and shall be located a minimum of one hundred (100) feet from any property line. Accessory buildings used for agricultural purposes may be placed on a parcel without a main building. Accessory buildings shall not be placed on ridgelines or in such a manner that the peak of the roof exceeds the ridgeline elevation by more than six (6) feet. All accessory buildings shall be placed outside of the 100-year floodplain of any creeks or drainages on the property. Building siding and roof colors shall be in earth or vegetation tones to minimize visibility unless otherwise approved by the Architectural Board of Review or the Historic Landmarks Commission. If an applicant proposes an agricultural accessory building in excess of five hundred (500) square feet in area, the applicant may apply for a modification under Chapter 28.92 of this Title.

2. Storage Requirements. All flammables, pesticides and fertilizers shall be stored in accordance with the regulations of the California Fire Code and Santa Barbara County Department of Health Services or successor agency. At a minimum, any area where such materials are stored shall have a continuous concrete floor and lip which is tall enough to contain one hundred and ten percent (110%) of the volume of all the materials stored in the area. No pesticides, chemical fertilizers or other hazardous materials shall be stored outside of buildings.

3. Large Vehicles. No vehicles in excess of five (5) tons shall be kept, stored or parked on the property, except that such vehicles may be on the property as necessary for completion of grading performed in accordance with a grading permit issued by the City of Santa Barbara.

4. Sanitation. Sanitary facilities shall be provided for agricultural workers as required by the Santa Barbara County Division of Environmental Health and the California Occupational Safety and Health Administration.

5. Water Meters. All agricultural operations involving an area of one-half (½) acre or greater shall be placed on "Irrigation" water meters, as defined by authorization of Title 14 of this Code.

6. Irrigation Systems. All new or retrofitted agricultural irrigation systems for agricultural uses other than those carried out in greenhouses, shall be designed in accordance with the standards of the Soil Conservation Service for water conserving irrigation.

I. Improvements and additions of 500 square feet or less to existing Public Works Facilities including, but not limited to, sewer lift stations, pump stations, water wells, pressure reducing stations, generator enclosures, minor improvements to existing water storage reservoirs and other miscellaneous structures incidental to or improving the existing use. Standard construction conditions may be imposed on the building permit as deemed appropriate by the Community Development Director. (Ord. 5459, Section 3, 2008; Ord. 5380, 2005; Ord. 4924, 1995; Ord. 4878, 1994; Ord. 4858, 1994; Ord. 4346, 1985; Ord. 4269, 1984; Ord. 4113, 1981; Ord. 3710, 1974; Ord. 3613, 1974; Ord. 2868, 1962.)

28.15.035 Uses Permitted Upon Issuance of Conditional Use Permit or Performance Standard Permit.

As provided in Chapters 28.93 and 28.94 of this Code. (Ord. 5380, 2005; Ord. 2585, 1957.)

28.15.040 Locations Allowed for Mobilehomes.

A. **USE OF MOBILEHOMES GENERALLY.** Mobilehomes installed in accordance with Section 28.15.030.G may be only allowed on lots located in One-Family Residence Zones, except where the lot is located within:

1. City-designated high fire hazard area (as designated in Chapter 22.04 of this Code).
2. Any landmark district established in accordance with Chapter 22.22 of this Code.

B. **INTERIM USE OF A MOBILEHOME TO PROVIDE FIRE SERVICE.** Notwithstanding Subsection A hereof, a mobilehome may be used at City Fire Station No. 7 (Sheffield/Stanwood Station) in accordance with Santa Barbara Municipal Code Section 28.15.030.G for the purposes of providing fire protection services, provided the following conditions apply: 1. that such use does not continue for a period of time in excess of five (5) years from its initiation; 2. that the mobilehome is not installed on a permanent foundation; 3. that the requirements of Santa Barbara Municipal Code Section 28.15.085.A and B regarding the required setback and lot coverage regulations are observed to the greatest extent feasible. (Ord. 5459, 2008; Ord. 5275, 2003; Ord. 4269, 1984; Ord. 4134, 1982; Ord. 4113, 1981.)

28.15.045 Prohibition of Shiny Roofing and Siding.

The materials used for roofing and siding on single-family dwellings shall be of a nonreflective nature. A shiny, mirrorlike or glossy metallic finish for such materials is prohibited. (Ord. 4113, 1981.)

28.15.050 Building Height.

No building in these zones shall exceed a height of thirty feet (30') nor exceed the height limitations imposed for the protection and enhancement of solar access by Chapter 28.11 of this Code. (Ord. 4426, 1986; Ord. 3710, 1974; Ord. 3540, 1972.)

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. (Ord. 5416, 2007; Ord. 4726, 1991.)

28.15.060 Setback and Open Yard Requirements.

The following setbacks and open yard requirements shall be observed on all lots within these zones:

A. Front Setback. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures, and parking on every lot within the indicated zones as follows:

1. A-1 Zone (All buildings, structures, and parking): 35 feet
2. A-2 Zone (All buildings, structures, and parking): 30 feet
3. E-1 Zone (All buildings, structures, and parking): 30 feet
4. E-2 Zone (All buildings, structures, and parking): 25 feet
5. E-3 Zone (All buildings, structures, and parking): 20 feet
6. R-1 Zone:
   a. Ground floor of any building or structure: 15 feet
   b. Upper story portion of a building or structure: 20 feet
   c. Garage or carport with an opening that does not face an adjacent street or uncovered parking that does not back out onto the street : 15 feet
   d. Garage or carport with an opening that faces an adjacent street or uncovered parking that backs out onto the street: 20 feet

B. Interior Setback. An interior setback of not less than the indicated distance shall be provided between any interior lot line and all buildings, structures, and parking on every lot within the indicated zones as follows:

1. A-1 Zone: 15 feet
2. A-2 Zone: 10 feet
3. E-1 Zone: 10 feet
4. E-2 Zone: 8 feet
5. E-3 Zone: 6 feet
6. R-1 Zone: 5 feet

C. Open Yard. An open yard shall be provided on every lot within the A-1, A-2, E-1, E-2, E-3, and R-1 zones. The required open yard shall observe the following general rules regarding dimension, location, and configuration, except as such general rules may be altered by any applicable additional rules or exceptions specified within this Subsection C:

1. General Rules.
   a. Minimum size: One area of at least 1,250 square feet of lot area.
   b. Minimum dimensions: At least 20 feet long and 20 feet wide measured in perpendicular directions.

c. Location and Configuration. The open yard may consist of any combination of ground level areas such as patios, ground floor decks, pathways, landscaped areas, natural areas, flat areas, or hillsides, so long as the overall size and dimensions of the open yard area meet the requirements specified in these general rules and the open yard is not located in any of the following locations:

(1) Any portion of the front yard,

(2) Any areas designated for use by motor vehicles, including, but not limited to, driveways and parking areas, or

(3) On decks, patios, terraces, or similar improvements where the maximum height of the improvement above existing or finished grade, whichever is lower, is greater than 36 inches.

2. Additional Rules for Sloped Open Yards. If the average slope of the open yard is greater than 20% (as calculated pursuant to Section 28.15.080), the lot shall contain at least one flat area (which may be provided on grade or on a deck or patio) that observes the following dimensions and configurations:

a. Minimum Size: 160 square feet of area.

b. Minimum dimensions: At least 10 feet long and 10 feet wide measured in perpendicular directions.

c. Maximum slope: 2%.

3. Exception for Lots with Multiple Front Yards. On lots with multiple front yards, the following exception to the location requirement is available: an open yard may include area in a secondary front yard as long as the open yard observes a 10 foot setback from the front lot line.

4. Exceptions for Lots of Less than 6,000 Square Feet of Net Lot Area. On lots of less than 6,000 square feet of net lot area and which are sloped less than 20% (as calculated pursuant to Section 28.15.080), the following exceptions to the general rules regarding size and location shall apply:

a. Size. The 1,250 square feet of open yard area may be provided in one area or in multiple areas; however, each area of open yard shall be at least 20 feet long and 20 feet wide measured in perpendicular directions.

b. Location. Up to 850 square feet of open yard area may be provided in the remaining front yard of the lot. (Ord. 5459, 2008.)

28.15.065 Reduction of Setback Requirements.

It is hereby declared that under the following conditions a physical hardship exists on all E-1, E-2, E-3 and R-1 single-family residence zone lots, and that the listed exceptions are hereby granted where the stated conditions exist:

Where the average natural slope of the front half of a lot is more than one foot (1') rise or fall in five feet (5') horizontal, the front setback required by Section 28.15.060 is reduced by five feet (5').

Other provisions of this chapter notwithstanding, a conforming addition may be made to an existing non-conforming single-family dwelling where such non-conformance is due to inadequate front setback or interior setback, providing said single-family dwelling complied with the setbacks required by ordinance at the time of construction. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3587, 1973.)

28.15.070 Distance Between Buildings on the Same Lot.

No main building shall be closer than twenty feet (20') to any other main building on the same lot. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.15.080 Lot Area and Frontage Requirements.

A-1 Zone. Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having a net area of not less than one (1) acre (43,560 square feet) and not less than one hundred feet (100') of frontage on a public street, except that where the zone designation A-1 is preceded by a number, such as 2-A-1, 5-A-1, 10-A-1, etc., the minimum lot area, in acres, shall be equal to the preceding number, and the minimum frontage on a public street shall be equal to one hundred feet (100') times the preceding number, except that street frontage in excess of 300 feet shall not be required for any lot.

Every lot hereafter created in an A-1 Zone, or in an A-1 Zone preceded by a number, shall have an average width which is not less than the number of feet of public street frontage required nor less than one-third (1/3) the depth of the lot.

A-2 Zone. Each single-family dwelling with its accessory building hereafter erected shall be located upon a lot having an area of not less than twenty-five thousand (25,000) square feet, and not less than one hundred feet (100') of frontage on a public street.

E-1 Zone. Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having an area of not less than fifteen thousand (15,000) square feet, and not less than ninety feet (90') of frontage on a public street.

E-2 Zone. Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having an area of not less than ten thousand (10,000) square feet, and not less than seventy-five feet (75') of frontage on a public street.

E-3 Zone. Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having an area of not less than seven thousand five hundred (7,500) square feet, and not less than sixty feet (60') of frontage on a public street.

R-1 Zone. Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having an area of not less than six thousand (6,000) square feet, and not less than sixty feet (60') of frontage on a public street.

Any lot of less than the required area or frontage for the district in which such lot is located at the time this ordinance becomes effective may be used as a building site by such owner or his successors in interest, provided all other regulations of the zone prescribed by this ordinance are observed.

With the exception of those parcels having frontage on the Pacific Ocean, the minimum lot areas and densities 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% up to and including 20%
2.0 times minimum lot area	over 20% up to & including 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 IL divided by 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. (Ord. 4726, 1991; Ord. 3753, 1975; Ord. 3710, 1974; Ord. 2585, 1957.)

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) two or more stories tall, 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 in accordance with the following general rule and any applicable special rules:

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) Stairs and Elevators. The area occupied by stairs or an elevator shaft within the exterior walls of a building shall be counted only on one floor of the building. (ii) Small Accessory Buildings. Freestanding accessory buildings that do not require a building permit for construction or installation are excluded from the net floor area calculation. (iii) Basements and Cellars. 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 length of the perimeter of the basement or cellar. The floor area of a basement or cellar shall be excluded from the calculation of net floor area if the vertical distance from grade to the ceiling is four feet (4') or less for the entire length of the perimeter of the basement or cellar. For purposes of the exclusion of floor area, one (1) section of the basement or cellar perimeter length, not exceeding five (5) feet in length, may have a distance from grade to ceiling greater than four feet in order to allow for an exterior door, and the basement or cellar may still qualify for the exclusion if the door is located outside the required front setback. (iv) Secondary Dwelling Units. 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. (v) Carports. The area within the exterior walls or supporting columns of a carport shall be included in the calculation of net floor area.

2. **Net Floor Area on a Lot**. The net floor area on 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:

NET LOT AREA (SQ. FT.)	MAXIMUM NET FLOOR AREA (SQ. FT.)
Less than 4,000	2200
4,000 to 9,999	1200 + (.25 multiplied by the net lot area)
10,000 to 14,999	2500 + (.125 multiplied by the net lot area)

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 on 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 on the lot will exceed the maximum net floor area for the lot as calculated pursuant to this Section, or

2. The net floor area on 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 in excess of twenty-five feet (25'), 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). (Ord. 5518, 2010; Ord. 5459, Section 3, 2008; Ord. 5444, 2008; Ord. 5416, 2007.)

28.15.085 Regulations for Nonresidential Buildings, Structures and Uses.

A. SETBACKS. Setbacks for all buildings and structures used for nonresidential purposes shall be double the setback requirements for a dwelling as required for the zone in which such building or structure is located.

B. LOT COVERAGE. Not more than twenty-five percent (25%) of the area of a lot may be covered by buildings used for nonresidential purposes.

C. ARCHITECTURAL APPROVAL. All buildings used for nonresidential purposes shall be subject to the approval of the Architectural Board of Review, or the 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.

D. OTHER REQUIREMENTS. The City Council may impose other requirements as may be deemed necessary to preserve the residential character of the neighborhood, including the mailing of notices to property owners and the holding of a public hearing. (Ord. 5459, 2008; Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.15.100 Off-street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3753, 1975; Ord. 3710, 1974; Ord. 2585, 1957.)

28.15.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3116, 1966.)

Chapter 28.18

R-2 TWO-FAMILY RESIDENCE ZONE

Sections:

28.18.010 R-2 Zone - In General.
28.18.020 Uses Permitted.
28.18.030 Uses Permitted Upon Issuance of a Conditional Use Permit or Performance Standard Permit.
28.18.050 Building Height.
28.18.060 Setback, Open Yard, and Private Outdoor Living Space Requirements.
28.18.065 Reduction of Setback Requirements.
28.18.070 Distance Between Buildings on the Same Lot.
28.18.075 Lot Area and Frontage Requirements.
28.18.085 Regulations for Nonresidential Buildings, Structures and Uses.
28.18.090 Other Requirements.
28.18.100 Off-Street Parking.
28.18.110 Signs.

28.18.010 R-2 Zone - In General.

The regulations described in this Chapter shall apply in the R-2 Two-Family Residence Zone of the City unless otherwise expressly provided in this Title.

The R-2 Zone is a restricted residential district of medium density in which the principal use of the land is for two-family dwellings, together with recreational, religious and educational facilities required to serve the community. The regulations for this zone are designed and intended to establish, maintain and protect the essential characteristics of the zone, to develop and sustain a suitable environment for family life, and to prohibit activities of a commercial nature and those which would tend to be inharmonious with or injurious to the preservation of a residential environment.

For the purposes of this Chapter, the term "lot" shall be used as defined in Santa Barbara Municipal Code Section 27.02.100. (Ord. 5271, 2003; Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.020 Uses Permitted.

The land uses permitted in the R-2 Zone shall be as follows:

1. One and two family dwellings;
2. Any use permitted in the R-1 Zone and subject to the restrictions, limitations and conditions contained therein as an expressly permitted land use in the R-2 Zone except that the construction and use of a parcel for more than one dwelling unit (including buildings and uses accessory thereto) shall be subject to the specific restrictions of the R-2 Zone as established in this Chapter.
3. Buildings and uses accessory to the residential uses allowed under subparagraphs (1) and (2) above.

(Ord. 5271, 2003; Ord. 4912, 1995; Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.030 Uses Permitted Upon Issuance of a Conditional Use Permit or Performance Standard Permit.

The land uses which are conditionally allowed in the R-2 Zone shall be as provided in Chapters 28.93 and 28.94 of this Title. (Ord. 5380, 2005; Ord. 5271, 2003; Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.050 Building Height.

No building in the R-2 Zone shall exceed a height of thirty feet (30') nor exceed the height limitations imposed for the protection and enhancement of solar access by Chapter 28.11 of this Code. (Ord. 4426, 1986; Ord. 3710, 1974; Ord. 3587, 1973.)

28.18.060 Setback, Open Yard, and Private Outdoor Living Space Requirements.

The following setback, open yard, and private outdoor living space requirements shall be observed on all lots within the R-2 zone:

A. Front Setback. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures, and parking on the lot as follows:

1. Ground floor of any building or structure: 15 feet
2. Upper story portion of a multiple story building or structure: 20 feet
3. Garage or carport with an opening that does not face an adjacent street or uncovered parking that does not back out onto the street: 15 feet

4. Garage or carport with an opening that faces an adjacent street or uncovered parking that backs out onto the street: 20 feet

B. Interior Setback. An interior setback of not less than the indicated distance shall be provided between the interior lot line and all buildings, structures, and parking on the lot as follows:

1. Buildings and structures other than covered parking: 6 feet
2. Covered or uncovered parking: 3 feet

C. Open Yard and Private Outdoor Living Space. An open yard shall be provided on all lots within this zone. The required open yard shall observe the following general rules regarding dimension, location, and configuration, except as such general rules may be altered by any applicable additional rules or exceptions specified within this Subsection C:

1. General Rules. In this zone, open yards shall conform to the following dimension, location, and configuration requirements:

a. Minimum size: Total area of at least 1,250 square feet of lot area.

b. Minimum dimensions: The open yard may be provided in one area or in multiple areas; however, each area of open yard shall be at least 20 feet long and 20 feet wide measured in perpendicular directions.

c. Common Area or Assigned. The open yard may be provided as a common open yard or as private open yard assigned to individual units.

d. Location and Configuration. The open yard may consist of any combination of ground level areas such as patios, ground floor decks, pathways, landscaped areas, natural areas, flat areas, or hillsides, so long as the overall size and dimensions of the open yard area meet the requirements specified in these general rules and the open yard is not located in any of the following locations:

(1) Any portion of the front setback; however, up to 850 square feet of the open yard may be provided in the remaining front yard,

(2) Any areas designated for use by motor vehicles, including, but not limited to, driveways and parking areas, or

(3) On decks, patios, terraces, or similar improvements where the maximum height of the improvement above existing or finished grade, whichever is lower, is greater than 36 inches.

2. Additional Open Yard and Private Outdoor Living Space Requirements for Lots Developed with Four or More Dwelling Units.

a. Common Open Yard. On lots developed with four or more dwelling units, a common open yard shall be provided that meets the size, dimensional, and location requirements specified in the general rules.

b. Private Outdoor Living Space. In addition to the required common open yard, lots developed with four or more dwelling units shall provide private outdoor living space for each dwelling unit of not less than the size specified below based on the number of bedrooms in the dwelling unit:

(1) Studio Unit: 100 square feet
(2) 1 Bedroom Unit: 120 square feet
(3) 2 Bedroom Unit: 140 square feet
(4) 3+ Bedroom Unit: 160 square feet.

The minimum dimensions of the private outdoor living space shall be at least 10 feet long and 10 feet wide measured in perpendicular directions. In addition, private outdoor living space provided pursuant to this paragraph shall observe the requirements specified in subparagraphs (c), (e), (f), (g), and (h) of paragraph 28.21.081.A.1 of this Code.

3. Alternative Open Yard and Private Outdoor Living Space Requirements for Lots Developed with Accessory Dwelling Units Pursuant to Section 28.18.075.E.

a. Common Open Yard. On any lot developed with an Accessory Dwelling Unit pursuant to Section 28.18.075.E, a common open yard shall be provided that meets the following size, dimension, and location and configuration requirements:

(1) Minimum size: The open yard may be provided in one area of at least 600 square feet, or two areas, each of which must be at least 300 square feet.

(2) Minimum dimensions: Each area of open yard shall be at least 10 feet long and 10 feet wide measured in perpendicular directions.

(3) Location and configuration: The common open yard shall observe the location and configuration requirements specified in the general rules, except that any amount of the common open yard may be located in the remaining front yard.

b. Private Outdoor Living Space. In addition to the required common open yard, any lot developed with an Accessory Dwelling Unit pursuant to Section 28.18.075.E shall provide private outdoor living space for each dwelling unit of not less than the size specified below, based on the number of bedrooms in the dwelling unit:

(1) Studio Unit 60 square feet
(2) 1 Bedroom Unit 72 square feet
(3) 2 Bedroom Unit 84 square feet
(4) 3+ Bedroom Unit 96 square feet

The minimum dimensions of the private outdoor living space shall be at least 6 feet long and 6 feet wide measured in perpendicular directions. The private outdoor living space may be provided by a patio, balcony, porch, deck, or similar improvement on the ground or on any upper floor. The private outdoor living space may be provided in the primary or secondary front setback, provided that it observes a setback of at least 9 feet from the front lot line. In addition, private outdoor living space provided pursuant to this paragraph shall observe the requirements specified in subparagraphs (c), (e), (f), (g), and (h) of paragraph 28.21.081.A.1 of this Code.

4. Exception to Location Requirement for Lots with Multiple Front Yards. On lots with multiple front yards, the following exception to the location requirement specified in the general rules or any applicable additional requirements is available: an open yard may include area in a secondary front yard as long as the open yard observes a 10 foot setback from the front lot line. (Ord. 5459, 2008.)

28.18.065 Reduction of Setback Requirements.

It is hereby declared that, under the following conditions, a physical hardship exists on all R-2 Two-Family Residence Zone lots, and that the modifications described below are hereby granted where the stated conditions exist:

A. **REDUCTION OF FRONT SETBACK.** Where the average natural slope of the front half of a lot is more than one foot (1') rise or fall in five feet (5') horizontal, the required front setback may be reduced to ten feet (10').

B. **CONFORMING ADDITIONS.** Other provisions of this title notwithstanding, a conforming addition may be made to an existing nonconforming single-family or two-family dwelling where such nonconformity is due to inadequate front setback or interior setback, providing the existing dwelling complied with the setbacks required by this Code at the time of its construction.

C. **NONCONFORMING ADDITIONS.** Other provisions of this Title notwithstanding, where an existing building has been constructed five (5) feet from an interior property line, a ground level addition to the building may be made or constructed so long as the addition is also constructed no less than five (5) feet from the same interior property line. (Ord. 5459, 2008; Ord. 5271, 2003; Ord. 3710, 1974; Ord. 3587, 1973.)

28.18.070 Distance Between Buildings on Same Lot.

A. **GENERAL SEPARATION REQUIREMENTS.** No main building shall be closer than fifteen feet (15') to any other main building on the same lot, except that a one (1) story building shall be no closer than ten feet (10') to another one (1) story building.

B. **ACCESSORY DWELLING UNIT SEPARATION.** Notwithstanding subsection (A) above, no portion of a one story accessory dwelling unit constructed pursuant to subsection (E) of SBMC Section 28.18.075 may be closer than five (5) feet to another one story main building nor may a two story accessory dwelling unit or a main building be closer than ten (10) feet to another two story accessory or main building. (Ord. 5271, 2003; Ord. 3710, 1974; Ord. 2585, 1957.)

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 6,999 SQUARE FEET.** Existing lots between 6,000 and 6,999 square feet of net lot area, inclusive, 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.** Existing lots of less than six thousand (6,000) square feet of net lot area 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 Paragraph (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 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.

6. **Not Applicable To Sloped Lots.** The provisions of this Subsection E shall not apply to any lot with an average slope of ten percent (10%) or greater as calculated pursuant to the formula specified in Subsection F below.

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 IL divided by 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. (Ord. 5459, 2008; Ord. 5416, 2007; Ord. 5271, 2003; Ord. 4632, 1990; Ord. 3753, 1975; Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.085 Regulations for Nonresidential Buildings, Structures and Uses.

A. **SETBACKS.** Setbacks for all buildings and structures used for nonresidential purposes shall be double the setback requirements for a dwelling as required for the zone in which such building or structure is located.

B. **LOT COVERAGE.** Not more than twenty-five percent (25%) of the area of a lot may be covered by buildings used for nonresidential purposes.

C. **ARCHITECTURAL APPROVAL.** All buildings used for nonresidential purposes shall be subject to the approval of the Architectural Board of Review, or the 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. (Ord. 5459, 2008; Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.090 Other Requirements.

The City Council may impose other requirements as may be deemed necessary to preserve the residential character of the neighborhood including the mailing of notices to property owners and the holding of a public hearing. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.100 Off-Street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.18.110 Signs.

Signs shall be permitted in this zone only as prescribed in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3117, 1966.)

Chapter 28.20

AVERAGE UNIT-SIZE DENSITY INCENTIVE PROGRAM

Sections:

28.20.010 Purpose.
28.20.020 Definitions.
28.20.030 Permitted Zones for the Program.
28.20.040 Program Duration.
28.20.050 Status of R-3 and R-4 Residential Density.
28.20.060 Average Unit Size Density Incentives.
28.20.065 Average Unit Size and Inclusionary Housing Projects.
28.20.070 Additional Development Incentives.
28.20.080 Planning Commission Review of Rental Housing Projects.

28.20.010 Purpose.

The Average Unit-Size Density Incentive Program carries out a key program directed by the 2011 General Plan. The Program facilitates the construction of smaller housing units by allowing increased density and development standard incentives in selected areas of the City. Housing types that provide housing opportunities to the City's workforce are encouraged and facilitated by the program. The Average Unit-Size Density Incentive Program will be in effect for a trial period of either eight years or until 250 residential units have been constructed in the areas designated for High Density residential [as defined in SBMC §28.20.060(B)] or the Priority Housing Overlay [as defined in SBMC §28.20.060(C)], as shown on the City's Average Unit-Size Density Incentive Program Map, whichever occurs earlier. (Ord. 5630, 2013.)

28.20.020 Definitions.

For purposes of this Chapter 28.20, the following words or phrases shall have the respective meanings assigned to them in the following definitions unless, in a given instance, the context in which they are used indicates a different meaning:

A. Affordable Housing. Residential units that are sold or rented at values defined as being affordable by the City of Santa Barbara's Affordable Housing Policies and Procedures, as such policies and procedures may be approved by the City Council from time to time.

B. Average Unit Size. The total of the net floor area of each of the residential units in a project and divided by the number of residential units in that project.

C. Community Benefit Housing. Residential development that has a public benefit including the following housing types:

1. Priority Housing;
2. Housing affordable to low, moderate, or middle income households as defined in SBMC Chapter 28.43; and

3. Transitional Housing, affordable efficiency dwelling units (as described in Section 28.87.150 of this Code), and supportive housing which supports special needs populations such as housing for seniors, the physically or mentally disabled, the homeless, or children aging out of foster care.

D. Employer-Sponsored Housing. Residential units which are developed, owned, maintained, and initially sold or rented to employees of a local Employer (or group of employers) where each residential unit is occupied as a primary residence (as defined by federal income tax law) by a household that includes at least one person who works in the south coast region of Santa Barbara County.

E. Net Floor Area. For purposes of this Average Unit-Size Density Program, net floor area is the area in square feet of all floors confined within the exterior walls of a residential unit, but not including the area of the following: exterior walls, vent shafts, courtyards, garages, carports, common areas not controlled by the occupant of an individual residential unit, and any areas with a ceiling height of less than five (5) feet above the finished floor. In addition, the area occupied by stairs or an elevator shaft within the exterior walls of a residential unit shall be counted only on one floor of the residential unit.

F. Limited-Equity Housing Cooperative. A corporation organized on a cooperative basis that meets the requirements of state Civil Code § 817 and which restricts the resale price of the cooperative's shares in order to maintain a specified level of affordability to any new shareholder.

G. Local Employer. A person, business, company, corporation or other duly formed legal entity which employs persons whose primary place of employment is located within the South Coast region of Santa Barbara County.

H. Priority Housing. Priority Housing includes the following three categories of housing: 1. Employer-Sponsored Housing; 2. Limited-Equity Housing Cooperatives; and 3. Rental Housing.

I. Project Site. All lots included within a project proposed in accordance with the Average Unit-Size Density Incentive Program.

J. Rental Housing. Housing developed and maintained as multiple dwelling units on the same lot for occupancy by separate households pursuant to a lease or other rental agreements where all dwelling units are owned exclusively by the same legal entity.

K. Supportive Housing. As defined in state Health and Safety Code Section 50675.14(b)(2).

L. Transitional Housing. That type of Supportive Housing that is re-circulated to other eligible program participants as specified and defined in state Health and Safety Code Section 50675.2(h). (Ord. 5671, 2014; Ord. 5630, 2013.)

28.20.030 Permitted Zones for the Program.

The Average Unit-Size Density Incentive Program as established herein is a density incentive program available in the following zones of the City: R-3, R-4, HRC-2, R-O, C-P, C-L, C-1, C-2, C-M, and OC Zones, as shown on the City of Santa Barbara Average Unit-Size Density Incentive Program Map attached hereto as Exhibit A. The fact that a lot may be subject to an overlay zone, including, but not limited to, the S-D-2 or S-D-3 Overlay Zones, does not preclude the application of the Average Unit-Size Density Incentive Program on that lot if the Average Unit-Size Density Incentive Program is otherwise allowed in the base zoning of that lot. Development Projects developed in accordance with the provisions of the Average Unit-Size Density Incentive Program shall comply with the development standards specified in this Chapter 28.20. (Ord. 5630, 2013.)

28.20.040 Program Duration.

A. Initial Program Period. The Average Unit-Size Density Incentive Program shall have an initial duration of eight years after the effective date of the ordinance codifying this Chapter or until 250 new residential units under this program are constructed (as evidenced by the issuance of a Certificate of Occupancy) within the areas of the City designated for High Density Residential or the Priority Housing overlay (as shown on the City of Santa Barbara Average Unit-Size Density Incentive Program Map attached to this Chapter as Exhibit A), whichever occurs sooner.

B. Exclusion of Low and Very Low Housing Units. Housing projects that are affordable to low-income and very low-income households, as defined in the City's Affordable Housing Policies and Procedures, will not count towards the 250 unit Program limit established in subsection A above.

C. Pending Applications. Any application for new development that is deemed complete prior to the expiration of the Program term established in subsection A or the issuance of the certificate of occupancy for the 250th residential unit (whichever occurs sooner) may continue to be processed and potentially approved under the Average Unit-Size Density Incentive Program. (Ord. 5630, 2013.)

28.20.050 Status of R-3 and R-4 Residential Density.

Notwithstanding the provisions of SBMC Section 28.21.080 of this Title, for the duration of the Average Unit-Size Density Incentive Program established in Section 28.20.040(A) above, the following incentive program is available regarding the residential density of new development projects in zones of the City which otherwise would apply the R-3 residential density:

A. Average Unit-Size Density Incentive Program. Projects developed in accordance with the provisions of the Average Unit-Size Density Incentive Program established in Section 28.20.060 hereof are exempt from the standard R-3 residential density provisions specified in Subsections B through E of Section 28.21.080 of this Title.

B. Variable Density. The variable density provisions specified in Subsection F of Section 28.21.080 of this Code shall be suspended for the period of time the Average Unit-Size Density Incentive Program established by this Chapter is available. Projects developed or approved in accordance with the terms of variable density prior to the effective date of this Chapter shall remain legal conforming land uses. During the suspension of Subsection F of SBMC Section 28.21.080, alterations and additions to variable density projects are permitted provided the alterations or additions do not add new residential units or add bedrooms to existing residential units in excess of the number of bedrooms that could have been developed on the real property under the Variable Density Program.

C. Development of Affordable Housing. Projects that meet the affordability criteria of the State Density Bonus Law or the City's Affordable Housing Policies and Procedures may continue to propose development pursuant to the density incentives established in Section 28.87.400 of this Title. (Ord. 5630, 2013.)

28.20.060 Average Unit Size Density Incentives.

The Average Unit-Size Density Incentive Program offers project applicants dwelling unit density incentives as alternatives to the base residential densities specified for the particular City zones in which the program is available. The Average Unit-Size Density Incentive Program consists of three density tiers which may apply based upon the City's General Plan land use designation for the lot and the nature of the development being proposed as follows:

A. Medium-High Density. The Medium-High density tier applies to those lots with a City General Plan land use designation of Medium High Density Residential. The Medium-High density tier allows the development of projects at residential densities ranging from fifteen (15) to twenty-seven (27) dwelling units per acre. The maximum average unit size within the Medium-High density tier varies from 1,450 square feet of floor area to 905 square feet of floor area, depending upon the number of units per acre being developed, as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit B and incorporated by this reference as though fully set forth herein.

B. High Density. The High Density tier applies to those lots with a City General Plan land use designation of High Density Residential. The High Density tier allows the development of projects at residential densities ranging from twenty-eight (28) to thirty-six (36) dwelling units per acre. The maximum average unit size within the High Density tier varies from 1,245 square feet of floor area to 970 square feet of floor area, depending upon the number of units per acre being developed, as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit B.

C. Priority Housing Overlay. The Priority Housing Overlay applies to lots within the City with a City General Plan land use designation of High Density Residential and lots zoned C-M (regardless of the General Plan land use designation) as shown on the City of Santa Barbara Average Unit-Size Density Incentive Program Map attached to this Chapter as Exhibit A. The Priority Housing Overlay allows the development of projects at residential densities ranging from thirty-seven (37) to sixty-three (63) dwelling units per acre. The maximum average unit size within the Priority Housing Overlay varies from 970 square feet of floor area to 811 square feet of floor area, depending upon the number of units per acre being developed, as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit B. The Priority Housing Overlay is only available for Rental Housing, Employer-Sponsored Housing, or Limited-Equity Housing Cooperative. A project developed under the Priority Housing Overlay may have a mixture of Priority Housing categories (i.e., a portion of the project may be Rental Housing while another portion of the project may be Employer-Sponsored housing).

D. Process to Establish Priority Housing. For the purposes of this Chapter, the different forms of Priority Housing shall be established in the following manner:

1. Employer-Sponsored Housing. In order to qualify for the density incentives allowed under the Average Unit-Size Density Incentive Program, the applicant for a proposed Employer-Sponsored Housing project should typically propose a project which contains a range of dwelling unit sizes and which offers a range of rents or purchase prices, some of which are affordable to a household earning 200% of the Area Median Income or less at the time of the initial occupancy of the project. The owner of an approved Employer-Sponsored Housing project must record a written instrument against the real property, in a form acceptable to the City Attorney, by which the employer sponsor(s) that owns the real property agrees to limit the occupancy of each residential unit to a household who occupies the unit as their primary residence and which includes at least one person who is primarily employed at a place of employment located within the south coast region of Santa Barbara County for as long as the property is developed and maintained at the incentive densities.

2. Limited-Equity Housing Cooperative. In order to qualify for the density incentives provided under the Average Unit-Size Density Program, all of the dwelling units within the Limited-Equity Housing Cooperative must be affordable to households earning up to 250% of the Area Median Income measured at the time of purchase, as affordability is defined in the City's Affordable Housing Policies and Procedures, and a covenant containing this requirement (in a form acceptable to the City Attorney) shall be recorded against the real property to this effect.

3. Rental Housing. In order to qualify for the Priority Housing Overlay density incentives allowed under the Average Unit-Size Density Incentive Program, the owner of real property developed with Rental Housing must record a written covenant, in a form acceptable to the City Attorney, by which the owner agrees to maintain the rental housing use for as long as the property is developed and maintained at the incentive densities provided for in this Chapter.

E. Dwelling Unit Sizes. The unit sizes shown in the Average Unit-Size Density Incentive Program Table are the maximum average unit sizes allowed for the corresponding residential densities specified in the applicable density tier. Projects may be developed under the Average Unit-Size Density Incentive Program at a residential density that is greater than the base density for the zone in which the lot is located, but at a residential density that is less than the density range specified in the density tier assigned to the lot by its City General Plan land use designation. However, the average unit size of any project that is developed at a residential density which exceeds the SBMC Chapter 28.21 base density for the zone in which the lot is located through the application of the Average Unit-Size Density Incentive Program may not exceed the maximum average unit size for the applicable residential density tier as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit B. (Ord. 5630, 2013.)

28.20.065 Average Unit Size and Inclusionary Housing Projects.

If a project developed in accordance with the Average Unit-Size Density Incentive Program of this Chapter is required to comply with the City's Inclusionary Housing Ordinance (SBMC Chapter 28.43), and if the owner of the Project elects to provide the inclusionary units on-site as part of the project (as opposed to paying the allowed in-lieu fee allowed by SBMC Chapter 28.43), the increased number of dwelling units to which the owner is entitled under SBMC Chapter 28.43 shall also comply with the maximum average unit size for the base density of the project under the Average Unit-Size Density Incentive Program. (Ord. 5630, 2013.)

28.20.070 Additional Development Incentives.

A. Development Standards Generally. In order to further encourage the development of projects in accordance with the provisions of this Average Unit-Size Density Incentive Program, the development standards listed in this Section 28.20.070 are allowed for those projects developed and maintained in accordance with the Average Unit-Size Density Incentive Program. Except as otherwise specified in this Section, projects developed in accordance with the provisions of the Average Unit-Size Density Incentive Program shall otherwise comply with the development standards applicable to the base zone in which the lot is located.

B. Market Rate Ownership Projects Within the S-D-2 Overlay Zone. Projects developed with market rate ownership units on lots with a City General Plan land use designation of Medium-High Density within the S-D-2 overlay zone shall comply with S-D-2 zone development standards as required by Section 28.45.008 of this Title.

C. Building Height. Projects developed and maintained in accordance with the Average Unit-Size Density Incentive Program shall conform to the building height standards specified within the zone in which the lot is located, except that Average Unit-Size Density Incentive Program projects in the R-3, R-4, HRC-2, R-O, C-P, C-L, C-1, S-D-2, and OC Zones may be built with up to four stories so long as such buildings do not exceed a maximum of 45 feet in building height; provided, however, that projects developed with market rate ownership units on lots with a City General Plan land use designation of Medium-High Density and subject to the S-D-2 overlay zone shall comply with S-D-2 zone building height and building story limitations of Section 28.45.008 of this Title.

D. Setbacks. Projects developed and maintained in accordance with the Average Unit-Size Density Incentive Program shall observe the following building setback standards:

1. R-O, C-P, C-L, C-1, C-2, C-M, and S-D-2 Zones. Projects developed in accordance with the Average Unit-Size Density Incentive Program in the R-O, C-P, C-L, C-1, C-2, C-M, and S-D-2 Zones shall observe the following building setback standards:

a. Front Setback.

i. State Street and First Blocks of Cross Streets. Projects on lots fronting State Street between Montecito Street and Sola Street, and lots fronting the first block east or west of State Street on streets that cross State Street between and including Montecito Street and Sola Street, shall not be required to provide a front building setback.

ii. Commercially-Zoned Lots Subject to the S-D-2 Overlay Zone. Projects developed on commercially-zoned lots within the S-D-2 overlay zone shall observe a front setback of ten (10) feet; provided, however, that projects on commercially zoned lots in the Medium-High Density designation and developed with market rate ownership units shall observe the front setback standards of the S-D-2 overlay zone required by Section 28.45.008 of this Title.

iii. All Other Lots. Projects on lots that do not front on the streets specified in Section 28.20.070(D)(1)(a)(i) shall observe the following front building setback standard: A uniform front setback of five (5) feet shall be provided except where that portion of the structure which intrudes into the required five (5) foot front setback is appropriately balanced with a front building setback area that exceeds the minimum five (5) foot front setback. The additional compensating setback area shall not be located farther from the adjacent front lot line than one half of the length of the front lot line.

b. Interior Setback Adjacent to Nonresidential Zone. No interior setback is required for those projects adjacent to a nonresidential zone; provided, however, that projects on commercially-zoned lots in the Medium-High Density designation within the S-D-2 overlay zone and developed with market rate ownership units shall observe the interior setback standards required by the applicable base zone.

c. Interior Setback Adjacent to Residential Zone. A uniform interior setback of six (6) feet shall be provided except for those projects where that portion of the structure which intrudes into the required six (6) foot interior setback is appropriately balanced with an interior setback area that exceeds the minimum six (6) foot interior setback; provided, however, that projects developed on commercially-zoned lots in the Medium-High Density designation within the S-D-2 overlay zone and developed with market rate ownership units shall observe the interior setback standards required by the applicable base zone.

2. R-3 and R-4 Zones. Projects on lots developed in accordance with the Average Unit-Size Density Incentive Program in the R-3 and R-4 Zones (except for market rate ownership projects within the S-D-2 overlay zone) shall observe the following building setbacks:

a. Front Setback. A front setback of not less than the indicated distance indicated below shall be provided between the front lot line and all buildings, structures, and parking areas on the lot as follows:

i. One or two story buildings or structures: ten (10) feet
ii. Three or more story buildings or structures:
(1) Ground floor portions: ten (10) feet
(2) Second story portions: ten (10) feet
(3) Third or more story portions: twenty (20) feet
(4) Parking: As required by Sections 28.21.060.A.3 and 28.21.060.A.4 of this Title.

b. Interior Setback. An interior setback of not less than the distance indicated below shall be provided between the interior lot line and all buildings, structures, and parking on the lot as follows:

i. One or two story buildings or structures: six (6) feet
ii. Three or more story buildings or structures:
(1) Ground floor portions: six (6) feet
(2) Second story portions: six (6) feet
(3) Third or more story portions: ten (10) feet
(4) Garages, carport or uncovered parking: As required by Section 28.21.060.B.3. of this Title.

c. Rear Setback. A rear setback of not less than the indicated distance shall be provided between the rear lot line and all buildings, structures, and parking on the lot as follows:

i. Ground floor portions: six (6) feet
ii. Second story portions: ten (10) feet
iii. Third or more story portions: ten (10) feet
iv. Garage, carport, or uncovered parking: three (3) feet.

3. HRC-2 and O-C Zones. Lots developed in accordance with the Average Unit-Size Density Incentive Program in the HRC-2 and OC Zones shall observe the setback standards required by the applicable base zone.

E. Distance Between Buildings on the Same Lot.

No main building (as defined in SBMC Section 28.04.145) shall be closer than ten (10) feet to any other main building on the same lot; provided, however, that projects on lots in the Medium-High Density designation subject to the S-D-2 overlay zone and developed with market rate ownership units shall observe the building separation standards required by the applicable base zone.

F. Parking.

As an alternative to the residential parking requirements specified in Subsections G and H of Section 28.90.100 of this Title, projects developed under the Average Unit-Size Density Incentive Program may observe the following residential parking requirements; provided, however, that projects on lots in the Medium-High Density designation subject to the S-D-2 overlay zone and developed with market rate ownership units shall observe the parking requirements required by the applicable base zone:

1. Residential Units. A minimum of one covered or uncovered parking space shall be provided for each residential unit.

2. Bicycle Parking. A minimum of one covered and secured bicycle parking space shall be provided for each residential unit.

3. Guest Parking. Guest parking is not required.

4. Other Parking Standards. Other than the residential parking requirements specified in Subsections G and H of Section 28.90.100, projects developed under the Average Unit-Size Density Incentive Program shall observe the parking standards specified in Chapter 28.90 of this Title.

G. Outdoor Living Space.

Projects developed in accordance with the Average Unit-Size Density Incentive Program shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Title with the following exceptions:

1. All projects on lots in the Medium-High Density designation within the S-D-2 overlay zone and developed with market rate ownership units shall observe the Outdoor Living Space requirements specified by the applicable base zone.

2. All projects in commercial zones electing to provide outdoor living space pursuant to the Private Outdoor Living Space Method specified in Subsection A of SBMC Section 28.21.081 are required to provide both the Private Outdoor Living Space specified in SBMC Section 28.21.081(A)(1) and the Common Open Area specified in SBMC Section 28.21.081(A)(3). Projects developed under the Average Unit-Size Density Incentive Program which elect to provide outdoor living space pursuant to the Private Outdoor Living Space Method of SBMC Section 28.21.081(A)(1) may, but are not required to, provide the Open Space specified in SBMC Section 28.21.081(A)(2).

3. All projects in commercial zones electing to provide outdoor living space pursuant to the Common Outdoor Living Space Method specified in Subsection B of SBMC Section 28.21.081 shall provide common outdoor living space in accordance with Subsection B of that Section. In addition, for projects developed in accordance with the Average Unit-Size Density Incentive Program, the required common outdoor living space may be located at either grade or on any floor of the building(s), notwithstanding SBMC Section 28.21.081(B)(4) to the contrary. (Ord. 5630, 2013.)

28.20.080 Planning Commission Review of Rental Housing Projects.

A. Planning Commission Review. The Planning Commission shall review all rental housing projects proposed in accordance with the provisions of the Average Unit-Size Density Incentive Program when both of the following criteria are satisfied:

1. Any lot within the project site has a High Density Residential land use designation or the project is being proposed under the Average Unit-Size Density Incentive Program Priority Housing Overlay, and
2. The project site has a combined net lot area of 15,000 square feet or greater.

B. Review by Pre-Application Review Team. All Average Unit-Size Density Incentive Program projects subject to Planning Commission review pursuant to this Section 28.20.080 shall be reviewed by the Pre-Application Review Team as provided in Section 27.07.070 of this Code.

C. Timing of Review. The Planning Commission review pursuant to this Section 28.20.080 shall occur after the initial concept review by the Architectural Board of Review or Historic Landmarks Commission, as applicable. The project applicant may elect to have additional concept reviews by the applicable design review body, prior to the review by the Planning Commission. If an Average Unit-Size Density Incentive Program project requires a discretionary approval by the Planning Commission pursuant to any other provision of this Code, then the review required pursuant to this Section 28.20.080 may be combined with the hearing for the other discretionary approval required for the project.

D. Hearing Procedures. The Planning Commission shall conduct its review at a public hearing noticed in accordance with Section 28.87.380 of this Code. The Planning Commission shall receive a written report from the Pre-Application Review Team concerning the proposed design and improvement of the project and the project's consistency with the City's General Plan. The Planning Commission shall provide comment and recommendation by majority vote regarding the proposed design and improvement of the project and the project's consistency with the City's General Plan. The Planning Commission comments and recommendations are intended for use by the applicable design review body in their deliberations.

E. Communication to Design Review Body. Following the Planning Commission review hearing, the Community Development Department staff shall communicate the Planning Commission's comments and recommendations to the applicable design review body.

F. Additional Planning Commission Review. If a project is subject to Planning Commission review pursuant to this Section 28.20.080, the Historic Landmarks Commission cannot elect to refer the project to the Planning Commission pursuant to Section 22.22.133, and the Architectural Board of Review cannot elect to refer the project to the Planning Commission pursuant to Section 22.68.050. However, the project applicant may request an additional concept review of the project by the Planning Commission. (Ord. 5671, 2014.)

MAP:

AVERAGE UNIT-SIZE DENSITY INCENTIVE PROGRAM MAP

AVERAGE UNIT-SIZE DENSITY (AUD) INCENTIVE PROGRAM TABLE

Medium-High Density (15-27 du/ac)		High Density (28-36 du/ac)		Priority Housing Overlay (37-63 du/ac)	
Maximum Average Unit Size SF	**Density du/ac**	**Maximum Average Unit Size SF**	**Density du/ac**	**Maximum Average Unit Size SF**	**Density du/ac**
1,450	15	1,245	28	970	37
1,360	16	1,200	29	970	38
1,280	17	1,160	30	970	39
1,210	18	1,125	31	970	40
1,145	19	1,090	32	970	41
1,090	20	1,055	33	970	42
1,040	21	1,025	34	970	43
1,005	22	995	35	970	44
985	23	970	36	970	45
965	24			970	46
945	25			970	47
925	26			970	48
905	27			969	49
				960	50
				941	51
				935	52
				917	53
				901	54
				896	55
				880	56
				874	57
				859	58
				845	59
				840	60
				827	61
				825	62
				811	63

Chapter 28.21

R-3 LIMITED MULTIPLE-FAMILY RESIDENCE ZONE AND R-4 HOTEL-MOTEL-MULTIPLE RESIDENCE ZONE

Sections:

28.21.001 In General.
28.21.005 General Description and Legislative Intent.
28.21.030 Uses Permitted.
28.21.035 Uses Permitted Upon the Issuance of a Conditional Use Permit or Performance Standard Permit.
28.21.050 Building Height.
28.21.060 Setbacks.
28.21.065 Reduction of Setback Requirements.
28.21.070 Distance Between Buildings on the Same Lot.
28.21.080 Lot Area and Frontage Requirements.
28.21.081 Outdoor Living Space.
28.21.085 Regulations for Nonresidential Buildings, Structures and Uses.
28.21.090 Other Requirements.
28.21.100 Off-street Parking.
28.21.110 Signs.
28.21.120 Public Street Requirements.
28.21.130 Development Plan Approval.
28.21.131 Development Potential.

28.21.001 In General.

The following regulations shall apply to both the R-3 Limited Multiple-Family Residence Zone and the R-4 Hotel-Motel-Multiple-Residence Zone unless otherwise provided in this ordinance. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.005 General Description and Legislative Intent.

1. R-3 ZONE.

This is a restricted residential district of high density in which the principal use of land is for multiple-family dwellings, together with recreational, religious and educational facilities required to serve the community. The regulations for this district are designed and intended to establish, maintain and protect the essential characteristics of the district, to develop and sustain a suitable environment for family life and to prohibit activities of a commercial nature and those which would tend to be inharmonious with or injurious to the preservation of a residential environment.

2. R-4 ZONE.

This is a hotel-motel multiple residence district in which the principal use of land is intended to be for multiple housing, together with recreational, religious and educational facilities required to serve the community. The provisions of this ordinance are intended to provide a pleasant and healthful environment by establishing provisions for usable open spaces.

It is the intent of this district to allow hotels and similar establishments, including related recreational, conference center and other auxiliary uses primarily for use by hotel guests, while protecting the existing housing stock, and to preserve the residential character of those neighborhoods which are still primarily residential. In addition, the preservation of buildings of architectural and/or historical significance shall be encouraged. A conversion permit will be required in order to convert existing dwelling units for the purpose of providing hotel or similar uses.

Regulations for this district are designed to control activities of a retail commercial nature and those which would tend to be inharmonious with housing. Restaurants intended to serve the visitors using the established hotels and motels in the immediate vicinity are permitted subject to approval of a conditional use permit. (Ord. 4199, 1983; Ord. 4018 §1, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.030 Uses Permitted.

A. R-3 ZONE.

1. Any use permitted in the R-2 Zone and subject to the restrictions and limitations contained therein, except that any use specifically mentioned hereafter shall be subject to the restrictions of the R-3 Zone.

2. One-, two-, and multiple-family dwellings.

3. Community care facilities, residential care facilities for the elderly and hospices serving 7 to 12 individuals subject to the provisions in Chapter 28.93.

B. R-4 ZONE.

1. Any use permitted in the R-3 Zone and subject to the restrictions and limitations contained therein, except that any such use specifically mentioned hereafter shall be subject to the restrictions of the R-4 Zone.

2. Hotels and related recreational, conference center and other auxiliary uses primarily for use by hotel guests. Any hotels, when units are designed or constructed with cooking facilities shall, as to such units, be subject to the lot area per unit requirements of the R-4 Zone and to the parking requirements for multiple family units required in Subsection 28.90.100.G.3 of this Code. Such hotels when designed, constructed or used for either twenty-four (24) or more dwelling units, or fifty (50) guest rooms or more may include a business, except a restaurant, conducted therein for the convenience of the occupants and their guests; provided entrance to such places of business be from the inside of such buildings; that the floor area used for all the businesses in the facility shall not exceed thirty percent (30%) of the total ground floor area of all the buildings comprising the hotel which are on a single lot or contiguous lots; and provided further that no street frontage of any such building shall be used for such business. Any hotel, regardless of the number of units or rooms therein, may include a restaurant for use by the hotel occupants and their guests only, provided that such facility conforms to all other requirements imposed on any "business" by this paragraph. A restaurant not conforming to all other requirements imposed on any "business" by this paragraph or not for use solely by hotel occupants and their guests may be established only if a conditional use permit is obtained for operation of a restaurant under Chapter 28.94 of this Code. (Ord. 4858, 1994; Ord. 4199, 1983; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.035 Uses Permitted Upon the Issuance of a Conditional Use Permit or Performance Standard Permit.

As provided in Chapters 28.93 and 28.94 of this ordinance. (Ord. 5380, 2005; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.050 Building Height.

Three (3) stories, which three (3) stories combined shall not exceed (i) forty-five feet (45') nor (ii) exceed the height limitations imposed for the protection and enhancement of solar access by Chapter 28.11 of this Code. (Ord. 4426, 1986; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.060 Setbacks.

The following setbacks shall be observed on all lots within these zones:

A. Front Setback. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures, and parking on the lot, as follows:

1. One or two story building or structure: 10 feet
2. Three story building or structure: 15 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the front setback shall be reduced as follows:
    a. Ground floor portions: 10 feet
    b. Second story portions: 10 feet
    c. Third story portions: 20 feet
3. Parking that does not back out onto the street: 10 feet
4. Parking that backs out onto the street: 20 feet

B. Interior Setback. An interior setback of not less than the indicated distance shall be provided between the interior lot line and all buildings, structures, and parking on the lot as follows:

1. One or two story building or structure: 6 feet
2. Three story building or structure: 10 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the interior setback shall be reduced as follows:
    a. Ground floor portions: 6 feet
    b. Second story portions: 6 feet
    c. Third story portions: 10 feet
3. Garage, carport or uncovered parking: 6 feet; however, if the width of the lot is less than fifty-five (55) feet at the opening of a garage or carport, the garage or carport opening does not face the street, and the interior depth of the garage or carport does not exceed twenty (20) feet, the setback may be reduced by up to 3 feet by the design review body that reviews the project.

C. Rear Setback. A rear setback of not less than the indicated distance shall be provided between the rear lot line and all buildings, structures, and parking on the lot:

1. Ground floor portions: 6 feet
2. Second story portions: 10 feet
3. Third story portions: 10 feet
4. Garage, carport, or uncovered parking: 3 feet

For purposes of this section, a rear setback shall be provided from the lot line opposite to the front lot line. In the event of two or more front lot lines, the rear setback shall be provided from the lot line opposite to any of the front lot lines. (Ord. 5459, 2008.)

28.21.065 Reduction of Setback Requirements.

It is hereby declared that under the following conditions a physical hardship exists on all R-3 and R-4 Zone lots, and that the listed modifications are hereby granted where the stated conditions exist.

Other provisions of this title notwithstanding, a conforming addition may be made to an existing nonconforming dwelling where such nonconformance is due to inadequate front setback or interior setbacks, providing said dwelling complied with the setbacks required by ordinance at the time of construction. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3587, 1973.)

28.21.070 Distance Between Buildings on the Same Lot.

No main building shall be closer than fifteen feet (15') to any other main building on the same lot, except that a one-story building shall be no closer than ten feet (10') to another one-story building. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.080 Lot Area and Frontage Requirements.

A. Minimum Lot Size and Frontage for New Lots. Every lot hereafter created in an R-3 and R-4 Zone shall contain at least fourteen thousand (14,000) square feet and sixty feet (60') of frontage on a public street.

B. Lots Less Than 5,000 Square Feet. Existing lots of less than five thousand (5,000) square feet of net lot area may be used as a building site for a one-family dwelling, provided that all other regulations of the zone prescribed by this title are observed.

C. Existing Lots of 5,000 to 6,999 Square Feet. Existing lots of 5,000 to 6,999 square feet of net lot area, inclusive, may be used as a building site for two (2) dwelling units, provided that all other regulations of the zone prescribed by this title are observed.

D. Lots of 7,000 to 13,999 Square Feet. Existing lots of 7,000 to 13,999 square feet of net lot area, inclusive, may be used as a building site for three (3) units, provided that all other regulations of the zone prescribed by this title are observed.

E. Lots of 14,000 Square Feet or More. For lots of fourteen thousand (14,000) square feet or more of net lot area, a minimum of three thousand five hundred (3,500) square feet of net lot area shall be provided for each dwelling unit hereafter erected.

F. Variable Density in Certain Zones. Lots in the R-3, R-4, C-1, C-2, C-M and R-O Zones, as well as lots in the HRC-2 and OC Zones where residential uses are allowed by the Local Coastal Plan, may be used as a building site for more units than permitted in paragraphs B, C, D and E above if the number of bedrooms in the dwelling unit is limited in accord with the following:

1. Studio unit - one (1) unit per 1,600 square feet of lot area;
2. 1 bedroom unit - one (1) unit per 1,840 square feet of lot area;
3. 2 bedroom unit - one (1) unit per 2,320 square feet of lot area;
4. 3 or more bedroom unit - one (1) unit per 2,800 square feet of lot area.

Existing lots with less than 5,000 square feet of net lot area shall not be used as a building site under this Subsection (F) for more than two (2) dwelling units. This Subsection (F) shall be applicable in the R-3, R-4, C-1, C-2, C-M, R-O, HRC-2 and OC Zones and not in any other zone. The fact that a lot may be subject to an overlay zone, including, but not limited to, the S-D-2 or S-D-3 Overlay Zones, does not prohibit the application of variable density if variable density is otherwise allowed in the base zoning of the lot. (Ord. 5459, 2008; Ord. 5343, 2005; Ord. 4772, 1992; Ord. 3950 §1, 1978; Ord. 3753, 1975.)

28.21.081 Outdoor Living Space.

Every lot in this zone shall provide outdoor living space in accordance with either of the following methods:

A. Private Outdoor Living Space Method. Lots providing outdoor living space in accordance with this method shall provide each of the spaces described in paragraphs 1-3 below:

1. Private Outdoor Living Space. Private outdoor living space shall be provided for each dwelling unit as follows:

a. Minimum size. The private outdoor living space shall be not less than the size specified below based on the number of bedrooms in the dwelling unit and the location where the private outdoor living space is provided:

(1) Ground floor:
- (a) Studio unit - 100 square feet
- (b) 1 Bedroom unit - 120 square feet
- (c) 2 Bedroom unit - 140 square feet
- (d) 3 or more Bedroom unit - 160 square feet

(2) Second or higher story:
- (a) Studio unit - 60 square feet
- (b) 1 Bedroom unit - 72 square feet
- (c) 2 Bedroom unit - 84 square feet

(d) 3 or more Bedroom unit - 96 square feet

b. Minimum Dimensions. The private outdoor living space shall have minimum dimensions as specified below, measured in perpendicular directions based on the location where the private outdoor living space is provided:

(1) Ground floor: 10 feet

(2) Second or higher story: 6 feet

c. Connectivity. Private outdoor living space shall be contiguous to and accessible from the dwelling unit for which it is provided.

d. Multi-story dwelling units. Dwelling units that occupy more than one story may provide the required private outdoor living space on any story.

e. Allowed amenities. Private outdoor living space may include planter areas totaling no more than fifty (50) square feet, patio areas, balconies, and decks.

f. Exclusions. Private outdoor living space shall not include stairs, entrance decks, or landings. In addition, private outdoor living space shall not include areas located under eaves, balconies, or other cantilevered architectural or building projections not providing additional floor area where the vertical clearance under the architectural or building projection is less than seven feet.

g. Allowed setback encroachments. Private outdoor living space may encroach into setbacks as follows:

(1) Private outdoor living space provided on grade may encroach into interior and rear setbacks up to the property line.

(2) Private outdoor living space provided on grade may be located up to ten (10) feet from the front lot line, subject to the following conditions:

(a) The area of the private outdoor living space located in the front yard may not exceed more than 50% of the front yard area, excluding driveways.

(b) The private outdoor living space provided in the front yard shall be enclosed by a solid fence having a minimum height of five (5) feet and a maximum height of six (6) feet. The exterior of the fence shall be landscaped. However, the design review body that reviews the project may reduce or waive the requirement for a fence or landscaping in order to preserve substantial views from the unit being served by the private outdoor living space or if the area does not abut a street.

2. Open Space. In addition to all setbacks, every lot satisfying the outdoor living space requirement in accordance with this private outdoor living space method shall provide on grade open space of an area not less than ten percent (10%) of the net lot area in accordance with the provisions of this paragraph 2. The intent of this provision is to provide relief from building volume, driveways and parking beyond that afforded by setbacks.

a. Examples of Permitted Open Space Improvements. The required open space may consist of landscaped or hardscaped areas unobstructed from the ground upwards, including, but not limited to:

(1) Walks,

(2) Patios,

(3) Planted areas,

(4) Decks no more than 18” above grade at all points, and

(5) Swimming pool areas.

b. Examples of Open Space Improvements Not Permitted. The required open space shall not consist of the following:

(1) Garages,

(2) Carports,

(3) Driveways,

(4) Loading areas,

(5) Parking and turnaround areas,

(6) Balconies,

(7) Porches,

(8) Decks higher than 18” above grade at any point,

(9) Roof decks, or

(10) Areas located under trellises, arbors, eaves, balconies, bay windows, window seats, or other cantilevered architectural or building projections not providing additional floor area where the vertical clearance under the structure or architectural or building projection is less than seven feet.

3. Common Open Area. The common open area requirement specified in this Paragraph 3 shall only apply to lots developed with four (4) or more dwelling units. Every lot satisfying the outdoor living space requirement in accordance with this private outdoor living space method shall provide a common open area in accordance with this paragraph 3. The common open area shall have a minimum dimension of fifteen (15) feet measured in perpendicular directions and shall be accessible to all dwelling units on the lot. The common open area may be located on grade, on the second or higher story, or on a roof deck. On grade common open area may include portions of the interior setback or rear setback. On grade common open area may include portions of any remaining front yard, but shall not include any portion of the front setback. The common open area required in this paragraph 3 may be counted as part of the open space required in paragraph 2 as long as the other conditions of paragraph 2 are satisfied.

B. Common Outdoor Living Space Method. Lots providing outdoor living space in accordance with this method shall provide common outdoor living space in accordance with the following:

1. Accessibility. The common outdoor living space shall be accessible to all dwelling units on the lot.

2. Minimum Size. The common outdoor living space shall consist of at least fifteen percent (15%) of the net lot area.

3. Minimum Dimensions. The common outdoor living space may be provided in multiple locations on the lot, but at least one location shall have a minimum dimension of twenty (20) feet measured in perpendicular directions.

4. Location. Common outdoor living space must be located on grade. On grade common outdoor living space may be located in an interior setback or rear setback. On grade common outdoor living space may be located in the remaining front yard but shall not include any portion of the front setback.

5. Exclusions. Common outdoor living space shall not include any of the following areas:

a. Areas designed for use by motor vehicles, including, but not limited to, driveways, parking, and turnaround areas.

b. Areas located under trellises, arbors, eaves, balconies, bay windows, window seats, or other architectural or building projections not providing additional floor area where the vertical clearance under the structure or architectural or building projection is less than seven feet. (Ord. 5630, 2013; Ord. 5459, 2008.)

28.21.085 Regulations for Nonresidential Buildings, Structures and Uses.

A. SETBACKS. Setbacks for all buildings and structures used for nonresidential purposes shall be double the setback requirements for a dwelling as required for the zone in which such building or structure is located. Notwithstanding the foregoing, the following shall be exempt from the double setback requirement:

1. Conversions of existing residential structures to structures that contain nonresidential uses specifically allowed in Paragraph 28.21.030.B.2, and

2. Remodels of existing buildings that contain nonresidential uses specifically allowed in Paragraph 28.21.030.B.2.

B. LOT COVERAGE. Not more than twenty-five percent (25%) of the net area of a lot may be covered by buildings used for nonresidential purposes. Notwithstanding the foregoing, the following shall be exempt from the lot coverage limitation:

1. Conversions of existing residential structures to structures that contain nonresidential uses specifically allowed in Paragraph 28.21.030.B.2, and

2. Remodels of existing buildings that contain nonresidential uses specifically allowed in Paragraph 28.21.030.B.2.

C. ARCHITECTURAL APPROVAL. All buildings used for nonresidential purposes shall be subject to the approval of the Architectural Board of Review, or the 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. (Ord. 5459, 2008; Ord. 4946, 1996; Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.090 Other Requirements.

The City Council may impose other requirements as may be deemed necessary to preserve the residential character of the neighborhood including the mailing of notices to property owners and the holding of a public hearing. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.100 Off-street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.110 Signs.

Signs shall be permitted in these zones only as prescribed in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.21.120 Public Street Requirements.

A. When any person proposes to construct one (1) or more multiple-family dwellings, wherein the number of dwelling units is controlled by Section 28.20.060, on a lot or combination of lots, the size, shape, dimensions or topography of which, in relation to existing abutting public streets, require that there be an adequate access or internal circulation roadway for vehicular traffic, including, but not limited to, emergency vehicles and equipment traffic, the City's Chief Building Official may, prior and as a condition to the issuance of a building permit for such dwelling or dwellings, require the submission by the owner or applicant of a plot plan of such lot or combination of lots showing the location of all existing buildings and all buildings proposed to be constructed thereon and showing the location, width, and extent of improvements of an adequate access or internal circulation roadway thereon designed to connect with the abutting public street or streets.

The term adequate access or internal circulation roadway shall mean a dedicated public street established and improved to City standards and so located as to provide convenient and orderly traffic movement, ingress and egress and circulation upon, through and within the lot or combination of lots in relation to abutting streets, the multiple-family dwelling or dwellings, and the off-street parking areas required in connection with such dwelling or dwellings.

The plot plan and adequate access or internal circulation roadway shall be required by the Chief Building Official where:

1. The lot or combination of lots which is the site of the proposed construction exceeds five (5) acres; or
2. The maximum possible number of dwelling units which could be constructed on such lot or combination of lots, pursuant to Section 28.20.060 exceeds one hundred (100); or
3. Any portion of a multiple-family dwelling proposed to be constructed on the lot or combination of lots will be more than two hundred and fifty feet (250') from the right-of-way line of an abutting street.

When none of the three (3) foregoing categories are applicable to the lot or combination of lots, the adequate access or internal circulation roadway as defined herein shall not be required where the lot or combination of lots abut on a previously dedicated street or streets and where the private driveway access from the nearest entry to the required off-street parking area to the point of connection with such street or streets does not exceed one hundred and fifty (150) lineal feet.

B. When the plot plan required by the Chief Building Official is filed, the Building Official shall forthwith submit the same to the Community Development Department and the Public Works Department for investigation, report and recommendation. Such reports and recommendations shall be submitted to the Planning Commission for hearing at its earliest convenience, and such Planning Commission shall, following such hearing, approve, modify or reject such proposed adequate access or internal circulation roadway in respect to location and connection with existing abutting street or streets.

C. The owner or applicant may appeal any decision of the Planning Commission to the City Council in the manner provided by Chapter 1.30 of this Code.

D. Following approval by the Planning Commission or the City Council, as the case may be, of the proposed adequate access or internal circulation roadway shown on the plot plan, the owner or applicant shall:

1. By formal instrument offer to dedicate said proposed roadway as a public street; and
2. Either complete the required improvement of such public street to the satisfaction of the City Engineer or agree to complete such improvement within a period of one (1) year, such agreement to be secured by a good and sufficient surety bond in a principal sum equivalent to the estimated cost of such public street on the basis of estimates to be provided by the Department of Public Works, and conditioned on final completion of the construction of said street.

E. Upon completion of such public street improvement to the satisfaction of the City Engineer, or the execution and acceptance of an agreement to complete, secured by bond, a building permit shall then be issued if the requirements of other applicable ordinances have been met. The offer of dedication shall continue until, and shall not be accepted until, the required improvements have been completed to the satisfaction of the City Engineer.
(Ord. 5630, 2013; Ord. 3710, 1974; Ord. 3119, 1966; Ord. 3118, 1966.)

28.21.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982.)

28.21.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.22

HRC-1 and HRC-2 HOTEL AND RELATED COMMERCE ZONES

Sections:

28.22.010 In General.
28.22.030 Land Uses Permitted.
28.22.035 Uses Permitted Upon the Issuance of a Conditional Use Permit.
28.22.040 Coastal Zone Review.
28.22.045 Development Potential.
28.22.050 Building Height Standards.
28.22.060 Setbacks.

28.22.010 In General.

This is a zone which, because of its proximity to the shoreline and its location along two major arteries, strives to promote, maintain and protect visitor-serving and commercial recreational uses. Tourist and traveler related uses shall be encouraged in this zone in a manner which does not detract from the desirability of the shoreline as a place to visit. Residential uses are appropriate in certain areas of the HRC-2 zone.

Land classified in the HRC-2 zone may also be overlaid with a second classification of being in the Ocean-Oriented Commercial zone (hereinafter referred to as the "OC zone.") The OC zone regulations shall apply to all development projects on land with a dual HRC-2 / OC zoning designation. (Ord. 5343, 2005; Ord. 4320, 1985; 4172, 1982.)

28.22.030 Land Uses Permitted.

The following land uses are allowed in the HRC zones indicated:

A. HRC-1 ZONE:

Hotels, motels and tourist courts, including related recreational, conference center and other auxiliary uses primarily for use by hotel guests and as permitted in Section 28.21.030.B.2 of this code. In addition, restaurants, including those with entertainment facilities used in conjunction with the restaurant, are allowed.

B. HRC-2 ZONE:

1. General. Any use permitted in the HRC-1 Zone and subject to the restrictions and limitations contained therein.

2. Specific. Any of the following uses which are primarily visitor-serving or of a commercial recreational nature specific to the Coastal Zone are allowed:

a. Bicycle, roller skating, moped, dive gear and other recreational equipment rental stores.
b. Stores which sell liquor, groceries and food, which do not exceed 2,500 sq. ft. in gross floor area.
c. Specialty and gift shops.
d. Art galleries.
e. Bait and tackle shops, sales of boats, marine supplies and related equipment.
f. Other visitor-serving or commercial recreational uses deemed appropriate by the Planning Commission.

3. General Office Use. The second and third floors of commercial buildings are allowed to be used for general office uses upon issuance of a Conditional Use Permit. A Conditional Use Permit may be granted by the Planning Commission or City Council on appeal for such uses in accordance with the provisions of Chapter 28.94 of this Code, subject to the following additional findings:

a. The use is compatible with visitor-serving uses;
b. Visitor-serving uses remain the primary use of the building; and
c. Non-visitor-serving uses shall not exceed fifty (50) percent of the total square footage of the building.

4. Restriction on Residential Use. Residential use is prohibited in the HRC-2 Zone except in the following areas:

a. The area bounded by Cabrillo Boulevard on the southeast, Los Patos Way on the southwest and the existing railroad right-of-way on the north.
b. The area identified as Area A of the Cabrillo Plaza Specific Plan as specified in Resolution No. 83-155.

Any use permitted in the R-3 Zone is allowed in these areas subject to the restrictions and limitations contained therein.

5. Special Treatment Area. The following additional restrictions shall apply in the area bounded by Cabrillo Boulevard on the southeast, Los Patos Way on the southwest and the existing railroad right-of-way on the north, due to concerns about protection of the sensitive habitat character and aesthetics of the Andree Clark Bird Refuge:

a. High Intensity Uses. The following high-intensity uses shall be prohibited:
i. fast food restaurants

ii. stores which sell liquor, groceries and food, except that off-site sale of beer and wine and picnic items may be allowed only when incidental to and related to the primary use of the establishment.

iii. automobile service station.

b. Front Setback. There shall be a front setback of not less than:

i. Ten (10) feet for one-story buildings that do not exceed fifteen (15) feet in height; and

ii. one hundred (100) feet for the second-story portion of any building that exceeds fifteen (15) feet in height.

c. Building Height. Three-story buildings and buildings in excess of thirty (30) feet in height shall be prohibited. (Ord. 5678, 2014; Ord. 5459, 2008; Ord. 5343, 2005; Ord. 4320, 1985; Ord. 4172, 1982.)

28.22.035 Uses Permitted Upon the Issuance of a Conditional Use Permit.

In the HRC-2 Zone, automobile rentals, parking lots, automobile service stations and automobile service station/mini-markets shall be permitted with a conditional use permit issued in accordance with the provisions of Chapter 28.94 of this Code, except where specifically prohibited elsewhere in this Chapter. (Ord. 4320, 1985; Ord. 4172, 1982.)

28.22.040 Coastal Zone Review.

All development in the Coastal Overlay Zone (S-D-3) is subject to review pursuant to Chapter 28.44 of this Code. (Ord. 5417, 2007; Ord. 4320, 1985; Ord. 4172, 1982.)

28.22.045 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989, unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

28.22.050 Building Height Standards.

No building or structure in an HRC zone shall exceed three (3) stories or exceed forty-five (45) feet in height. (Ord. 5343, 2005; Ord. 4320, 1985; Ord. 4172, 1982.)

28.22.060 Setbacks.

A FRONT SETBACK. There shall be a front setback of not less than:

1. Ten (10) feet for one-story buildings that do not exceed fifteen (15) feet in height; and
2. Twenty (20) feet for all other buildings.

B. INTERIOR SETBACK. Buildings on property immediately adjacent to residentially-zoned property shall have an interior setback of no less than ten (10) feet or one-half (½) the height of the building, whichever is greater. (Ord. 5459, 2008; Ord. 4320, 1985; Ord. 4172, 1982.)

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Chapter 28.27

R-H RESORT-RESIDENTIAL HOTEL ZONE

Sections:

28.27.001 Title.
28.27.005 Legislative Intent.
28.27.010 Dual Zoning Classifications.
28.27.015 Regulations Applicable to R-H Zone/Exclusive Development and Use.
28.27.030 Uses Permitted.
28.27.040 Minimum Site Area.
28.27.050 Building Regulations.
28.27.060 Land Coverage.
28.27.070 Sleeping Unit Density.
28.27.090 Development Plan as Prerequisite to R-H Zoning.
28.27.100 Development Plan as Prerequisite to Development.
28.27.101 Development Potential.
28.27.110 Signs.

28.27.001 Title.

R-H Resort-Residential Hotel Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.005 Legislative Intent.

The purpose of the R-H Zone is to provide for the highly specialized uses that are associated with the development and operation of resort-residential hotels and to insure the least possible conflict with or disturbance of the amenities attached to and associated with adjoining residential areas. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.010 Dual Zoning Classifications.

Land classified and zoned as R-H shall also be classified and zoned as E-1, E-2, E-3, R-1, R-2 or R-3. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.015 Regulations Applicable to R-H Zone/Exclusive Development and Use.

The regulations contained in this part shall apply to property zoned R-H and developed for the uses permitted in Section 28.27.030.

Property classified and zoned R-H shall be developed and used either exclusively under the regulations contained in this part, or exclusively under the regulations applicable to the underlying residential zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.030 Uses Permitted.

The following uses are permitted in R-H Zones:

1. Resort-residential hotels, consisting of a main building containing dwelling units, and regularly maintained, customary and usual hotel facilities conducted for the convenience of the occupants and their guests including, without limitation, dining rooms, cocktail lounges, news stands and similar facilities, all of which have their main entrance from the lobby; and
2. Together with, and operated under the same ownership as the main building, separate residential structures, hereinafter called guest buildings.
   a. Dwelling units in guest buildings may be equipped with kitchens.
   b. A single guest building may not contain in excess of twelve (12) bedrooms, nor in excess of six (6) dwelling units.
   c. At least fifty percent (50%) of the total number of dwelling units shall be located in guest buildings.

(Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.040 Minimum Site Area.

Property shall not be zoned R-H nor be used for R-H purposes unless the site so zoned and used consists of not less than four (4) acres. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.050 Building Regulations.

A. SETBACK. All buildings and structures shall be separated from interior lot lines and front lot lines a distance equal to or greater than twice the maximum front setback requirement for the underlying residential zone, and in no case less than thirty feet (30') nor less than the height of the building or structure.

B. DISTANCE BETWEEN BUILDINGS. No part of any building shall be located nearer to any part of any other building than the height of the taller of them, and in no case less than fifteen feet (15').

C. HEIGHT LIMITATION, MAIN BUILDING. The main building shall not be higher in number of feet than the building height limitation for the underlying residential zone.

D. HEIGHT LIMITATIONS, ALL OTHER BUILDINGS. Buildings, other than the main building, shall not exceed two (2) stories in height. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.060 Land Coverage.

No more than thirty-three and one-third percent (33-1/3%) of the property zoned and used as R-H may be covered with buildings and structures, to include parking structures, exclusive of porches, balconies and patios.

Not more than thirty-three and one-third percent (33-1/3%) of the property zoned and used as R-H may be covered by open parking spaces, turn-around areas and driveways. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.070 Sleeping Unit Density.

For the purpose of this section a sleeping unit is a room designed in whole or part for sleeping purposes for not more than two (2) persons. (For example, a two-bedroom apartment would contain two (2) sleeping units, a studio apartment would contain one (1) sleeping unit, a hotel room would be also one (1) sleeping unit, etc.)

The number of sleeping units per acre which may be constructed or maintained, or both, on property zoned and used as R-H shall be determined by the following formula:

BASIC UNDERLYING RESIDENTIAL ZONE	MAXIMUM NUMBER OF SLEEPING UNITS PER ACRE
E-1	5
E-2	8
E-3	10
R-1	15
R-2	20
R-3	40

(Ord. 3710, 1974; Ord. 2585, 1957.)

28.27.090 Development Plan as Prerequisite to R-H Zoning.

R-H zoning shall not be applied to any property until after a development plan and perspective renderings and elevations have been submitted to the Community Development Department for study and subsequently approved by the Planning Commission or City Council on appeal. The development plan shall include all existing and proposed buildings, driveways, turn-around and parking areas and a landscape plan. The landscape plan shall include the description and location of all landscaping features such as walls, patios, pools, recreation areas, walks, statuary, rockwork and areas to be planted.

Two (2) copies of the approved development plan shall be retained in the files of the Community Development Department. Subsequent development of the property under the regulations contained in this part shall comply with such approved development plan, except that such development plan shall be altered as necessary to conform to amended or added regulations and shall not be deemed nor held to give, convey or provide the source of vested rights to proceed in accord with the approved development plan. (Ord. 4361, 1986; 3948, 1978; Ord. 3710, 1974; Ord. 3068, 1965.)

28.27.100 Development Plan as Prerequisite to Development.

As a prerequisite to construction or relocation of any new buildings, structures, parking lot(s) or facilities, on any property zoned R-H, a development plan containing the information set forth in Section 28.27.090 pertaining to existing conditions and proposed construction or alteration of the property shall be submitted to the Planning Commission for approval or to the City Council on appeal. (Ord. 4361, 1986; 3948, 1978.)

28.27.101 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991)

28.27.110 Signs.

All signs on property zoned and used as R-H shall be subject to the requirements and limitations set out in the Sign Ordinance for signs in the R-4 Zone and shall be approved by the Sign Committee. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.30

GARDEN APARTMENT DEVELOPMENTS

Sections:

28.30.001 Title.
28.30.005 Legislative Intent.
28.30.032 Where Permitted.
28.30.060 Setbacks.
28.30.070 Distance Between Buildings.
28.30.080 Lot Area Requirements.
28.30.090 Units Per Building.
28.30.100 Off-street Parking.
28.30.110 Signs.

28.30.001 Title.

Garden Apartment Developments. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.005 Legislative Intent.

Now, therefore, it is declared to be the legislative intent of the City of Santa Barbara to provide for greater flexibility in the development of residential properties and for greater amenities and open space related thereto when in the public interest and welfare; to encourage a more creative approach to the development of land; to protect and enhance property values and to provide more desirable spatial relationships between buildings and structures on the land than would be possible under strict adherence to ordinance requirements of the basic zone; and to encourage the preservation and enhancement of natural beauty and the provision of landscaped open spaces for visual and recreational enjoyment.

As a further declaration of the legislative intent of this chapter, it is hereby declared that the provisions hereinafter contained for the computation of the allowable maximum number of dwelling units shall not be used as a means of creating density higher than that allowed under Chapter 28.18, nor a density higher than would be possible by way of the usual subdivision procedure.

Garden apartment developments shall provide for close visual and physical relationship between dwelling units and the landscaped open areas which must dominate the site development, such landscaped open areas to include substantial usable areas for passive and/or active recreational use; from public view the development shall present a landscaped open space effect; parking areas and building masses shall not dominate the scene. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.032 Where Permitted.

Garden apartment developments may be permitted in R-2 Two-family Residence Zones upon the issuance of a conditional use permit pursuant to Chapter 28.94 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.060 Setbacks.

A. FRONT SETBACK. There shall be a front setback of not less than thirty feet (30').

B. INTERIOR SETBACK. There shall be interior setbacks of not less than thirty feet (30'). (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3587, 1973.)

28.30.070 Distance Between Buildings.

No building containing dwelling units shall be located closer to another building containing dwelling units than one-half (1/2) the sum of the heights of both such buildings, and in no case less than fifteen feet (15'). (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.080 Lot Area Requirements.

Each garden apartment development hereafter approved shall be located on a site of not less than twenty-five thousand (25,000) square feet of net area.

There shall be a minimum of three thousand (3,000) square feet of lot area per dwelling unit. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.090 Units Per Building.

No building shall contain more than eight (8) dwelling units. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.100 Off-street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.30.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.33

PLANNED RESIDENCE DEVELOPMENTS

Sections:

28.33.001 Title.
28.33.005 Legislative Intent.
28.33.010 Procedures.
28.33.030 Uses Permitted.
28.33.045 Property Development Standards.

28.33.001 Title.

Planned Residence Developments. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.33.005 Legislative Intent.

Whereas, Title 1, Division 7, Chapter 12, Sections 6950 - 6954 of the Government Code of the State of California do provide that a city may acquire by purchase, bequest, devise, grant, gift, or otherwise, any interest or right in real property in order to preserve, through limitation of their future use, open spaces and areas for public use and enjoyment; and

Whereas, Section 6953 of said Government Code does provide that the acquisition of such open area constitutes a public purpose, and that the City may acquire the fee or any lesser interest, development right, easement, covenant or other contractual right necessary to achieve the purposes of Chapter 12 of said Government Code;

Now, therefore, it is declared to be the legislative intent of the Council of the City of Santa Barbara to provide for greater flexibility in the development of residential properties, and for greater amenities and open spaces related thereto, when in the public interest and welfare; to encourage a more creative approach to the development of land; to protect and enhance property values and to provide more desirable spatial relationships between buildings and structures on the land than would be possible under strict adherence to ordinance requirements of the basic zone; and to encourage the preservation and enhancement of natural beauty and the provision of landscaped open spaces for visual and recreational enjoyment. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.33.010 Procedures.

Prior to submission of an application for a conditional use permit for a planned residential development, the applicant shall submit to the Chief of Building and Zoning basic site information including aerial photos where deemed necessary by the Chief of Building and Zoning, generalized development plans including lot sizes and open spaces proposed, existing and proposed deed restrictions and easements, existing neighborhood development and any other information which may be reasonably required by the Chief of Building and Zoning to assist the Division of Land Use Controls in its initial consideration of the planned residential development.

1. After completion of preliminary conference(s), the applicant shall file a request for a conditional use permit, submitting therewith:
    - a. A preliminary title report showing vested ownership and all covenants, restrictions and reservations of record.
    - b. Statement of intent indicating:
        - (1) Reason why the subject property may be suitable for planned residential development;
        - (2) Type and class of residence to be constructed;
        - (3) Any deed restrictions contemplated or proposed;
        - (4) Method and schedule of development and improvement of the tract;
        - (5) Purpose and proposed use of the open space to be provided.
    - c. Site (plot) plans drawn to a scale of not greater than one hundred feet (100') to the inch showing:
        - (1) Proposed lots and lot size;
        - (2) Street rights-of-way, existing and proposed;
        - (3) Street improvements proposed including any proposed modification of City standards;
        - (4) Contours at intervals not greater than five feet (5') extending a distance of one hundred feet (100') beyond the boundaries of the development;
        - (5) Existing and proposed easements;
        - (6) Proposed open spaces.
    - d. Landscaping plan drawn to a scale of forty feet (40') or less to the inch showing:
        - (1) All mature trees, indicating those to be retained, removed or relocated;
        - (2) Special landscape features to be retained or created such as rocks, walls, fences, etc.;
        - (3) Recreation areas and facilities to be provided, if any;
        - (4) Proposed grading in contour intervals of not less than five feet (5').

e. Other information reasonably required by the Chief of Building and Zoning to assist the Division of Land Use Controls in a proper consideration of the proposal.

2. The procedure for consideration of a conditional use permit shall be as outlined in Chapter 28.94. If such permit be approved, the Planning Commission and City Council shall first state their finding that the proposed development is consistent with the purposes and objectives outlined herein; and the Planning Commission and the Council may impose such conditions as are necessary to protect the public welfare and to insure proper development under the approved plans.

3. Upon approval of a conditional use permit the applicant may submit a tentative subdivision map which shall conform to the approved conditional use permit plans and conditions. (Ord. 3710, 1974; Ord. 2892, 1962.)

28.33.030 Uses Permitted.

A. Single-family dwellings.
B. Private parks, public parks, open spaces and areas for public or private use and enjoyment.
C. A State-licensed Small Family Day Care Home.
D. A State-licensed Large Family Day Care Home, subject to the provisions in Chapter 28.93.
E. State authorized, licensed, or certified uses to the extent they are required by State Law to be allowed in residential zones. (Ord. 4858, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.33.045 Property Development Standards.

1. MINIMUM LOT SIZE: To preserve and protect the value of properties adjacent to the proposed development and to provide for an orderly and uniform transition, lots which will adjoin existing developments shall be required to provide an amount of street frontage not less than that of existing lots but not greater than minimum requirements for the zone in which located.

The Planning Commission may, upon its own motion or upon verified application of the developer, permit lot sizes in a planned residential development to be reduced below the minimum standards required by the Zoning Ordinance. As a prerequisite and condition to the granting of such a permit, the developer shall demonstrate to the Planning Commission that there is a reasonable relationship between the requested lot size and the proposed open areas within the development; that such lot sizes are compatible with the comprehensive plan for the residential development and are necessary to assure that the spirit and intent of this Chapter, as set forth in Section 28.33.005 is observed. Reduction in lot size shall only be permitted as an incident to the exercise of discretion by the Planning Commission and not as consideration for an arbitrary exercise of the zoning power; however, lot area and frontage shall not be reduced below the following minimum requirements, except as otherwise provided:

	MINIMUM LOT AREA	MINIMUM LOT FRONTAGE
R-1	5,000 sq. ft.	60 ft.
E-3	6,000 sq. ft.	65 ft.
E-2	8,000 sq. ft.	75 ft.
E-1	10,000 sq. ft.	80 ft.
A-2	15,000 sq. ft.	90 ft.
A-1	25,000 sq. ft.	100 ft.

Exception: Where justified by improved subdivision design, building placement or natural terrain features, the Planning Commission, on recommendation of the Chief of Building and Zoning, may permit interior lots with useable lot area not less than the minimum lot area herein prescribed, and with not less than twenty-five feet (25') of frontage on a public street, provided that such approval shall be consistent with the spirit and intent of this Chapter.

2. STREETS: In order to provide greater flexibility of development and to preserve natural terrain features and open areas the City Council, may, upon the favorable recommendation of the Planning Commission and Public Works Director, grant such modifications of City street design standards as may be deemed necessary to assure that the spirit and intent of this Chapter are observed and the public welfare and safety secured.

3. YARDS AND SETBACKS: Yards or setback lines for individual lots shall be not less than the minimum required in the basic zone district in which the lots are located, except:

No main or accessory building or structure shall be located closer to the exterior boundary of a planned residential development than a distance equal to the height of such structures, such height to be determined as provided in Section 28.04.140 of this Title.

4. DISTANCE BETWEEN BUILDINGS: No main or accessory buildings in a planned residence development shall be located closer to each other than one-half (1/2) of the aggregate height of both buildings, such height to be determined as provided in Section 28.04.140 of this Title, except:

a. Where buildings are so offset that no portion of one (1) building falls within the projection of the outer walls of another, the common space between then may be reduced to not less than twenty feet (20'); and

b. Where buildings face on, or back to, any other residential building, the minimum distance between them shall be thirty feet (30').

5. DENSITY OF DEVELOPMENT: Density of development (permissible number of dwelling units) shall be computed by the following formula: Total net acreage within the planned residential development area divided by the minimum lot area required in the basic zone district. Total net acreage shall mean the total site area exclusive of existing and proposed public street rights-of-way, existing public or quasi-public open spaces, historical sites, schools, churches and similar institutions and land unacceptable for development or open space purposes. Quasi-public open spaces shall be considered to include areas such as golf courses, cemeteries, private parks and recreation areas and similar open uses which are not publicly owned but which provide similar amenities.

6. OPEN SPACES:

a. Control of the design of open spaces is vested in the Planning Commission subject to review as to reasonableness by the City Council; design shall mean size, shape, location and useability for proposed public or quasi-public purposes and development.

b. Approval of such open spaces by the Planning Commission and City Council shall be expressly conditioned upon a conveyance by the developer to the City of Santa Barbara of the development rights, the fee or any lesser interest, any other contractual right or a combination of any of the foregoing necessary to achieve the purposes set forth in Section 28.33.005.

c. No planned residential development shall be approved prior to the submission of a legal document or documents setting forth a plan or manner of care and maintenance of such open spaces, recreational areas and communally owned facilities. No such document shall be acceptable until approved by the City Attorney as to legal form and effect and the Planning Commission as to suitability for the proposed use of the open areas. (Ord. 5459, Section 3, 2008; Ord. 4633, 1990; Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.36

PUD PLANNED UNIT DEVELOPMENT ZONE

Sections:

28.36.001 In General.
28.36.005 Legislative Intent.
28.36.010 Procedure.
28.36.013 Conditions, Restrictions and Modifications.
28.36.025 Action.
28.36.030 Uses Permitted.
28.36.045 Property Development Standards.
28.36.050 Building Height.
28.36.070 Distance Between Buildings.
28.36.075 Setback Requirements.
28.36.100 Parking Requirements.
28.36.120 Street Requirements.
28.36.135 Development Stages.
28.36.195 Open Space and Landscaping Requirements.
28.36.220 PUD Zone Exclusive.

28.36.001 In General.

Land classified in a PUD Zone shall also be classified in an A, E or R-1 Zone and the following regulations shall apply in the PUD Zone unless otherwise provided in this chapter.

Land areas approved for planned unit development in accordance with this chapter shall be shown on the Official Zoning Map by the symbol 'PUD' and a maximum allowable density figure in dwelling units per acre following the symbol of the basic zone classification for the property, such as A-1-PUD-.8 or R-1-PUD-5.6. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.005 Legislative Intent.

Whereas, Title 1, Division 7, Chapter 12, Sections 6950 - 6954 of the Government Code of the State of California provide that a city may acquire by purchase, bequest, grant, gift or otherwise, and through the expenditure of public funds the fee of any lesser interest or right in real property in order to preserve, through limitation of their future use, open spaces and areas for public use and enjoyment; and

Whereas, rapid growth and spread of urban development is encroaching upon, or eliminating many open areas and spaces of varied sizes and character, including many having significant economic or aesthetic values, which areas and spaces if preserved and maintained in their present open state would constitute important physical, social, aesthetic or economic assets to existing or impending urban development; and

Whereas, Section 6953 of said Government Code specifically declares that the acquisition of interests or rights in real property for the preservation of open spaces and areas constitutes a public purpose for which public funds may be expended or advanced and that a city may acquire by purchase, gift, grant, devise lease or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right necessary to achieve the above purpose and may acquire the fee to any property for the purpose of conveying or leasing said property back to the original owner or other person under such covenants or other contractual arrangements as will limit the future use of the property in accordance with the above public purpose.

Now, therefore, it is declared to be the legislative intent of the Council of the City of Santa Barbara to provide for greater flexibility in the development of residential properties, and for greater amenities and open spaces related thereto, when in the public interest and welfare; to encourage a more creative approach to the development of land; to protect and enhance property values and to provide more desirable spatial relationships between buildings and structures on the land than would be possible under strict adherence to ordinance requirements of the basic zone; and to encourage the preservation and enhancement of natural beauty and the provision of landscaped open spaces for visual and recreational enjoyment.

As a further declaration of the legislative intent of this chapter, it is hereby declared that the provisions hereinafter contained for the computation of the allowable maximum number of dwelling units shall not be used as a means of creating density higher than that allowed under Section 28.36.045 of this chapter nor a density higher than would be possible by way of the usual subdivision procedure, with the exception of affordable housing developments which may be granted a density increase of up to 25% over the otherwise allowable units when consistent with Section 28.87.400 of the Zoning Ordinance. Further, planned unit developments shall provide for close visual and physical relationship between dwelling units and the landscaped open areas which must dominate the site development. Such landscaped open areas must include substantial usable areas for passive and/or active recreational use. From public view the development must present a landscaped open space effect. Parking areas and building masses must not dominate the scene. (Ord. 4912, 1995; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.010 Procedure.

1. Procedure for establishing a Planned Unit Development Zone in combination with one (1) of the basic A, E or R-1 Zone classifications shall be the same as set forth under Zone Changes in Chapter 28.92 of this title. The applicant shall also demonstrate that development to the PUD standards contained in this chapter constitutes the best use from the community point of view for the land for which the application is made, consistent with Section 28.36.005 hereof.

2. The development plan for a planned unit development project shall be processed as a condition use permit in accordance with the provisions of Title 28, Chapter 28.94 and may be processed concurrently with the request for the PUD Zone change as required above.

3. Prior to submission of an application for a conditional use permit for a planned unit development plan, the applicant(s) shall submit to the Chief of Building and Zoning basic site information, including aerial photos where deemed necessary by the Chief of Building and Zoning; generalized development plans, including lot sizes and open spaces proposed, existing easements, existing neighborhood development, and any other information which may be reasonably required by the Chief of Building and Zoning to aid and assist the Planning Commission in an initial consideration of the preliminary PUD plan. The preliminary plan shall be presented to the Planning Commission at a regular meeting for discussion by the individual commissioners. No formal action shall be taken by the Planning Commission regarding the preliminary plan.

4. After completion of preliminary conference(s), the applicant(s) shall file a request for a conditional use permit. A professional team approach in the preparation of the planned unit development plan is required. This team should include, but is not limited to, a registered architect, registered landscape architect, and registered civil engineer. The following shall be submitted:

a. A preliminary title report showing vested ownership and all covenants, conditions, restrictions and reservations of record.

b. Statement of intent indicating:

(1) Reason why the subject property is suitable for planned unit development.

(2) Type of residences to be constructed.

(3) Method and time schedule of development and improvement of the project.

(4) Purpose and proposed use of the open space(s) to be provided.

(5) State the manner in which the units will be sold, i.e., type of condominium or cooperative, according to the planned unit development types permitted under Section 28.36.030 of this chapter.

c. Development plans drawn to a scale of not greater than one hundred feet (100') to the inch showing: the boundaries of the site, topography and a proposed grading plan; the width, location and name of surrounding streets, proposed street sections and improvements; existing and proposed sewer lines; existing and proposed surface and improved drainage; the topography, location, dimensions and uses on adjacent property of all existing buildings and structures within one hundred feet (100') of the boundary line of the subject site; the location, dimensions, ground floor area and uses of all existing and proposed buildings and structures on the subject site; landscaping; parking areas, including the size and number of stalls and the internal circulation pattern; signs, including location, size and height; pedestrian, vehicular and service ingress and egress; location, height and material of walls and fences; and other specific uses of the site.

d. Schematic drawings and renderings to scale showing the architectural design of all buildings and structures.

e. Statistical information including the following:

(1) Total acreage of site area.

(2) Height, ground floor area and total floor area of each building.

(3) Number of dwelling units in each building.

(4) Building coverage expressed as a percent of the site area.

(5) Area of land devoted to landscaping and/or open space usable for recreation purposes, and its percentage of the site area and net area.

f. The sequence of construction of various portions of the development if the construction is to occur in stages.

g. A statement as to the source of water and method of sewage disposal.

h. Landscaping plan(s), showing:

(1) All mature trees, indicating those to be retained, removed or relocated.

(2) Special landscape features to be retained or created, such as rocks, walls, fences, etc.

(3) Recreation areas and facilities to be provided, if any.

(4) Proposed grading in contour intervals of not less than five feet (5').

(5) Other landscaping.

i. Other information reasonably required by the Planning Commission for a proper consideration of the proposal including, but not limited to, geological and soil reports.

5. All architectural plans relative to planned unit developments shall be in accordance with the policy of the Architectural Board of Review, or the 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.

6. Where subdivision of land is intended, City Ordinance Number 2872, as amended or superseded, shall apply and tentative subdivision maps may be processed concurrently with the conditional use permit application. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.013 Conditions, Restrictions and Modifications.

As a condition of the approval of a development plan hereunder, the Planning Commission may impose such other appropriate and reasonable conditions and restrictions, and permit such modifications as it may deem necessary for the protection of property in the neighborhood or in the interests of public health, safety and welfare in order to carry out the purposes, spirit and intent of this chapter. However, no variance or modification shall be granted for building height, maximum number of dwelling units per building (four) or maximum dwelling units per acre of site area, as set forth in this chapter. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.025 Action.

1. Upon receipt of fifteen (15) copies of the development plan, together with the required supplemental data, the Division of Land Use Controls shall transmit one (1) copy to each of the following agencies: Public Works Director, Water Superintendent, Chief of the Fire Department, County Assessor, County Health Officer, Clerk of the City Council, City Park and Recreation Commissions, and City Board of Education. Within fifteen (15) days, each such agency shall file with the Division of Land Use Controls recommendations for improvements and revisions to be required as a condition of approval of the development plan. The Division of Land Use Controls shall correlate departmental recommendations and submit them to the developer or his authorized agent not later than one (1) week prior to the Planning Commission meeting at which the plan is to be considered. Within six (6) weeks of receipt of the development plan, the Planning Commission shall consider said plan and the recommendations of the above mentioned agencies and of the Division of Land Use Controls and shall approve, conditionally approve or disapprove the development plan within a reasonable time thereafter.

2. A conditional approval may specify the limits within which the dimensions shown on the development plan may vary. The Planning Commission action shall be final, subject to appeal to the City Council.

Upon approval or conditional approval of the development plan, permits may be issued for grading, uses, buildings and structures which are in substantial conformity with the approved development plan and the conditions imposed.

3. No grading shall be commenced nor shall any building or structure be erected, moved, altered, enlarged, or rebuilt on a planned unit development site except in substantial conformity with the approved development plan and said conditions, except as otherwise provided herein. Substantial conformity shall be determined by the Chief of Building and Zoning, or in case of disagreement with the developer, by the Planning Commission.

4. Revised development plans shall be submitted and processed in the same manner as the original development plan. When approved, such revised development plan shall automatically supersede any previously approved plan. (Ord. 3710, 1974; Ord. 3045, 1965.)

28.36.030 Uses Permitted.

A. Any use permitted in the basic zone classification.

B. Planned unit developments containing:

1. Single-family and/or two-family dwellings.
2. Multiple-family dwellings, provided no building shall contain more than four (4) dwelling units.
3. Accessory buildings and uses, such as recreation facilities, parking lots, carports and garages, private and public parks, open spaces and areas for public and private use.

C. A State-licensed Small Family Day Care Home.

D. A State-licensed Large Family Day Care Home, subject to the provisions in Chapter 28.93.

E. State authorized, licensed, or certified uses to the extent they are required by State Law to be allowed in residential zones. (Ord. 4912, 1995; Ord. 4858, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.045 Property Development Standards.

1. Planned Unit Development Site. A planned unit development site is a lot, or combination of lots which comprise an area of land under, or committed to, a development plan which has been filed with the Planning Commission in accordance with the terms of this chapter.

2. Site Area. The site area shall exclude existing public street rights-of-way and any nonresidential use; however, open recreation, such as golf courses, putting greens, swimming pools, cabana areas, tennis and badminton courts and like facilities, shall not be construed as nonresidential uses.

3. Maximum Number of Dwelling Units. The maximum number of dwelling units allowable in planned unit development shall not exceed the number of lots which could be developed by way of the usual subdivision procedure, utilizing the existing zoning on the property and all subdivision design standards as outlined in Title 27 and Title 28 of this Code. The slope density provisions of Section 28.15.080 of this Code shall be considered when making this determination. Exception: when consistent with Section 28.87.400 of the Zoning Ordinance, up to 25% density bonus units may be allowed in developments if the developer has agreed to construct affordable units.

The Planning Commission may recommend and the City Council may approve a numerical density of dwelling units per acre of site area less than the maximum indicated, based on consideration of the individual site characteristics such as topography, soil, relationship to existing neighborhoods, and similar characteristics. (Ord. 4912, 1995; Ord. 4049, 1980; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.050 Building Height.

1. Two (2) stories, except in hillside development as provided in (2) hereinafter.
2. In hillside development, a multi-level building may be constructed following the natural topography in steps, split levels or full story levels, provided no vertical section of the building shall contain more than two (2) stories. The plane of a bearing wall may not be used as such vertical section. In no case shall a vertical section through the building measure more than thirty five feet (35'). (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.070 Distance Between Buildings.

No building containing dwelling units shall be located closer to the opposing walls of another building containing dwelling units on the property than one-half (1/2) the sum of the heights of both such buildings, provided however that such distance between buildings shall in no case be required to exceed one hundred feet (100'). The distance between two (2) such adjacent buildings so located that the walls of one (1) building do not face the walls of another building shall be not less than fifteen feet (15'). (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.075 Setback Requirements.

In lieu of setback requirements as set forth in the base zone, the following setbacks shall be provided:

A. FRONT SETBACK. There shall be a front setback or setbacks not less than twice the required front setback in the base zone in which the site is located.

B. INTERIOR SETBACK. There shall be an interior setback of not less than forty feet (40'). (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.100 Parking Requirements.

The following permanently maintained off-street parking spaces so designed that a car need not be moved to gain access to any other space nor that any car need back out into a public street, shall be provided:

1. For each dwelling unit, not less than two (2) parking spaces, either in a garage or a carport.
2. One (1) additional off-street uncovered parking space shall be provided for every two (2) dwelling units. Uncovered parking areas and driveways shall be paved in accordance with Chapter 28.90 of this Code. Uncovered parking areas shall be provided with one (1) tree for every ten (10) parking spaces in order to break up the continuity of paved areas.
3. No more than five (5) spaces shall adjoin each other without intervening landscaped areas. Except for necessary access, no part of the paved parking area shall be within the public street right-of-way. The area between the parking area and the public street curb or pavement shall be appropriately landscaped and improved to the satisfaction of the Chief of Building and Zoning to provide visual screening of the parking area and necessary pedestrian ways.

It is the spirit and intent of this chapter that parking areas shall not dominate open spaces and landscaping as defined hereunder. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.120 Street Requirements.

In order to provide flexibility of development and to preserve natural terrain features and open spaces, Planning Commission may grant such modifications of City street design standards as may be deemed necessary to assure that the spirit and intent of this chapter are observe and the public welfare and safety secured. (Ord. 4496, 1988; Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.135 Development Stages.

If the sequence of construction of various portions of the development is to occur in stages then the open space and/or recreational facilities shall be developed, or committed thereto, in proportion to the number of dwelling units intended to be developed during any given stage of construction as approved by the Planning Commission. Furthermore, at no time during the construction of the project shall the number of constructed dwelling units per acre of developed land exceed the overall density per acre established by the approved conditional use permit. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.195 Open Space and Landscaping Requirements.

1. Not less than fifty percent (50%) of the net area of the property shall be open space devoted to planting, patios, walkways and recreational areas, but excluding areas covered by dwelling units, garages, carports, parking areas or driveways. Net area is defined as the site area less all land covered by buildings, streets, parking lots or stalls, driveways, and all other paved vehicular ways and facilities. Any driveway or uncovered parking area shall be separated from the peripheral boundary line of the property by a landscaped area of not less than ten feet (10') in width. Development rights to all or any open space shall be required to be deeded permanently to the City before any permanent occupancy permit to any building or units in any planned unit development shall be granted.
2. Control of the design of open spaces is vested in the Planning Commission. Design shall mean size, shape, location and usability for proposed private, public or quasi-public purposes and development. Approval of such open spaces by the Planning Commission shall be expressly conditioned upon a conveyance by the developer to the City of Santa Barbara of the development rights, or the right to prohibit the construction of additional buildings or other contractual rights, necessary to achieve the purposes set forth in Section 28.36.005 of this ordinance.
3. Planned unit developments shall provide for close visual and physical relationship between dwelling units and the landscaped open areas which must dominate the site development, such landscaped open areas to include substantial usable areas for passive and/or active recreational use. Further, from public view, the development should present a landscaped open space effect to the end that parking areas and building masses shall not dominate the scene.
4. Planned unit developments shall be approved subject to the submission of a legal instrument or instruments setting forth a plan or manner of permanent care and maintenance of such open spaces, recreational areas and communally owned facilities. No such instrument shall be acceptable until approved by the City Attorney as to legal form and effect, and the Planning Commission as to suitability for the proposed use of the open areas. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.36.220 PUD Zone Exclusive.

Notwithstanding anything in Section 28.36.005 to the contrary, when Planned Unit Development Zoning is requested by an owner or developer, or when, on the basis of competent engineering or geological reports furnished to either such body, the City Council, upon recommendation of said Planning Commission or upon its own motion, then finds and determines that the development of the land under standard subdivision procedure would, by reason of its steep topography, soil instability or other natural characteristics create hazardous or dangerous erosion or drainage problems, then upon such finding and determination being duly made the City Council may classify the land in a PUD Zone without also classifying the land in any other zone. (Ord. 3710, 1974; Ord. 3159, 1966.)

Chapter 28.37

PR - PARK AND RECREATION ZONE

Sections:

28.37.001 In General.
28.37.005 Legislative Intent.
28.37.007 Definitions.
28.37.010 Procedure and Noticing.
28.37.025 Findings.
28.37.030 Uses Permitted by Category.
28.37.040 Development Standards.
28.37.090 Coastal Zone Review.
28.37.131 Development Potential.

28.37.001 In General.

The Park and Recreation Zone is established in order to protect and preserve publicly owned park and beach lands for the benefit and enjoyment of present and future generations of residents and visitors. The zone is also established to promote uses of park lands which are compatible with the surrounding land uses and categories within which the respective parks are assigned and to encourage the protection of the City's open space through conservation and appropriate development. (Ord. 4919, 1995; Ord. 4169, 1982.)

28.37.005 Legislative Intent.

The purpose and intent of this zone is to establish categories of park and recreation facilities and/or land and establish an appropriate system of review for proposed uses, improvements and/or development. The regulations of this zone are designed to maintain and protect neighborhoods that are adjacent to parks and recreation facilities, while providing for the appropriate types and/or intensity of land use of parks and recreation facilities, for the benefit of the community. (Ord. 4919, 1995.)

28.37.007 Definitions.

A. ACTIVE RECREATION. Activities such as organized sports and drop-in sports, usually team oriented, which utilize equipment and are played on a field or court. Active Recreation includes, but is not limited to, soccer, football, swimming, baseball, softball, basketball, tennis, ultimate frisbee, volleyball and wheelchair football.

B. BALL FIELDS AND COURTS.

1. **Informal.** Informal Ball Fields are usually open grass areas with no field or court delineation, or only bases, players' benches and backstop. Fields are not scheduled for league or tournament play. No dugouts, bleachers or lighting are provided. May include basketball courts with pavement striping, but without lighting.

2. **Formal.** Formal Ball Fields are often lighted and may include dressed infield area, baselines, pitcher's mound for baseball, large backstops, dugouts, players' benches and bleachers. Soccer fields are delineated, include players' benches and goals and may include lighting. Formal indoor courts for volleyball, basketball and other organized sports are also included. Formal ball fields may also include related food concessions.

C. COMMUNITY GARDEN. A Community Garden is a piece of urban land that is made available to residents of the community who may not have private yard area that is adequate to plant and maintain a private garden. This land is made available for the purpose of planting small personal gardens and usually consists of several small plots that are assigned to individuals or groups of people and which may be subject to an annual rental fee.

D. CONCESSION. A Concession is a rental or lease of land or space in a building by the City to an operator of the following types of retail outlets: snack bar, restaurant, push cart and miscellaneous sundries and equipment rental that relate to the uses of the facility where the concession is located.

E. COMMUNITY MEETING ROOMS.

1. **Small Community Meeting Room.** A Small Community Meeting Room accommodates up to 75 people. Small Community Meeting Rooms may include food preparation areas and are used for meetings, seminars and small parties.

2. **Large Community Meeting Room.** A Large Community Meeting Room accommodates small or large groups of people. Large Community Meeting Rooms usually include food preparation facilities and may be used for large parties, banquets, dances and lectures.

F. LIGHTING.

1. **General Lighting.** General Lighting is used for security, safety or decorative purposes.

2. **Ball Field Lighting.** Ball Field Lighting is used to illuminate formal ball fields and courts in order to allow evening use of such facilities.

G. MINOR BUILDINGS. Buildings which are not used for recreation programming or meetings. Minor buildings include restrooms, storage buildings, equipment sheds and caretakers' residences.

H. OUTDOOR GAME AREA. A delineated area designed specifically, and meeting established criteria, for a game. Outdoor Game Areas include, but are not limited to, volleyball, lawn bowling, horseshoe pitching, tether ball, hopscotch and handball.

I. PARKING AREAS.

1. **Informal Parking Area.** Informal Parking Areas are unimproved, unpaved, include no striping or designated stalls and are not lighted. They may serve as overflow for an existing formal lot.

2. **Small Formal Parking Area.** Small Formal Parking Areas include ten (10) or fewer spaces and are paved, usually striped and sometimes lighted. They are subject to City standards outlined in Chapter 28.90 of this Title.

3. **Large Formal Parking Area.** Large Formal Parking Areas include more than ten (10) parking spaces and are paved, usually striped and sometimes lighted. They are subject to City standards outlined in Chapter 28.90 of this Title.

J. PASSIVE RECREATION. Activities that are engaged in by individuals or small groups, usually not dependent on a delineated area designed for specific activities. Passive Recreation includes, but is not limited to, hiking, bicycling, jogging, frisbee catch, bird watching, walking, picnicking and horseback riding.

K. PICNIC AREA.

1. **Individual Picnic Area.** Picnic tables generally set a minimum of ten feet (10') apart and intended for use by small groups requiring the use of only one (1) picnic table.

2. **Small Group Picnic Area.** A Small Group Picnic Area consists of picnic tables intentionally arranged to accommodate use by a group of up to thirty (30) people. Small Group Picnic Areas often include a single barbecue sized to accommodate a group meal.

3. **Large Group Picnic Area.** A Large Group Picnic Area consists of picnic tables intentionally arranged to accommodate use by more than thirty (30) people, which may be subject to reservation. Large Group Picnic Areas often include one or more barbecues and food preparation tables sized to accommodate a group meal.

L. PLAYGROUND. A playground is an area which includes, but is not limited to, swings, slides, climbing structures, sand play, spring riders and other play structures.

1. **Small Playground.** A Small Playground includes up to 4000 square feet of area.

2. **Large Playground.** A Large Playground includes 4001 or more square feet of area.

M. TRAIL. A Trail is a passageway for hikers, equestrians and/or bicyclists. Uses of individual trails shall be determined by the Parks and Recreation Director. (Ord. 4919, 1995.)

28.37.010 Procedure and Noticing.

A. DESIGNATION OF PARKS BY CATEGORY. The City Council shall adopt a resolution that designates or assigns all City parks and recreation facilities to one of the categories listed in §28.37.030. In addition, the resolution shall include an exhibit that summarizes review and approval procedures for park and recreation facility uses.

In the future, if a new facility is proposed to be designated or an existing facility assigned to another category, the Parks and Recreation Commission and Planning Commission shall make a recommendation on such a designation to the City Council. The City Council shall hold a noticed public hearing prior to making a decision on the proposed category designation and amending said resolution.

B. PARKS AND RECREATION COMMISSION REVIEW. The Parks and Recreation Commission, or City Council on appeal, shall review and may approve, conditionally approve or deny applications based upon the required findings specified in §28.37.025 for the following:

1. **Noticed Public Hearing.** For the following facilities, a noticed public hearing shall be required as outlined in Subsection E of this Section:

a. Additions to or new community buildings that may have the potential to impact the surrounding neighborhood due to a change in the intensity of use resulting in traffic, noise or lighting impacts.

b. Formal ball fields and courts.

c. Large playgrounds.

d. Large group picnic areas.

e. New community gardens.

f. New ball field lighting for previously unlit formal ball fields and courts.

g. New parking areas with more than 10 spaces or additions of more than 10 spaces to existing parking areas.

h. Child care centers.

i. Carousels and similar amusements.

j. Concessions.

2. Public Meeting. For the following facilities, a public meeting shall be held:

a. Informal ball fields and courts.

b. Small playgrounds.

c. Parking Areas/Improvements involving ten (10) or fewer spaces.

d. General Lighting, except new ball field lighting in previously unlit areas.

e. Minor buildings, except temporary restrooms.
f. Swimming and wading pools.
g. Miscellaneous projects including but not limited to artwork, memorials and shade structures.

C. PLANNING COMMISSION REVIEW. The Planning Commission, or City Council on appeal, shall review and may approve, conditionally approve or deny applications based upon the required findings specified in §28.37.025 for the following:

1. **Projects that are located within or outside the Coastal Zone (S-D-3 Overlay Zone):**
   a. Additions to or new community buildings pursuant to Chapter 28.85 of this Title.
   b. New formal ball fields and courts.
   c. New swimming or wading pools.
2. **Projects that are located in the Coastal Zone.** Such projects that meet the definition of "development" as defined in Chapter 28.44 of this Title may require a noticed public hearing pursuant to said Chapter.

D. DESIGN REVIEW. Design review is required to the extent provided for by Chapters 22.22 (Historic Structures) and 22.68 (Architectural Board of Review) of this Code.

E. NOTICING. The public notice for projects specified above in Subsections A, B.1 and C of this Section shall be mailed and posted at least ten (10) days prior to the hearing date and shall include the following:

1. Posting of signs at all park entrances and along adjacent streets at a sign spacing interval of 150 feet; and
2. Mailed notice to all property owners within 300 feet of the park property shall be required if the project involves a new park or recreational facility or changes to an existing Sports Facility or Regional Park, as defined in §28.37.030 of this Chapter. If the proposed project involves changes to any other existing park or recreation facility, mailed notice shall be provided to all property owners within one hundred feet (100') of the park or recreation facility property.

F. APPEAL - NOTICE OF HEARING. Decisions by the Park and Recreation Commission or the Planning Commission are appealable to the City Council pursuant to Section 1.30.050 of this Code. If noticing was required pursuant to Subsection E of this Section before either the Parks and Recreation Commission or the Planning Commission, such notice shall also be provided as delineated in said Subsection E for the hearing on the appeal.

G. COMMUNITY DEVELOPMENT DIRECTOR REVIEW. Determinations as to whether a use or a change in the intensity of use is allowed in a particular park category and the appropriate review process shall be made by the Community Development Director. (Ord. 5609, 2013; Ord. 5380, 2005; Ord. 5136, 1999; Ord. 4919, 1995; Ord. 4849, 1994; Ord. 4701, 1991; Ord. 3944, 1978; Ord. 3646 §1, 1974.)

28.37.025 Findings.

The Parks and Recreation Commission and/or Planning Commission, where applicable, or City Council on appeal, shall review and make the following findings when approving or denying a project pursuant to §28.37.010.B and §28.37.010.C:

A. That the proposed park and recreation improvements are appropriate or necessary for the benefit of the community and visitors;

B. That the proposed park and recreation facilities including lighting, play areas, parking facilities and associated landscaping, will be compatible with the character of the neighborhood;

C. That the total area of the site and the setbacks of all facilities from the property lines and street are sufficient, in view of the physical character of the land, proposed development and neighborhood, to avoid significant negative effects on surrounding properties;

D. That the intensity of park use is appropriate and compatible with the character of the neighborhood;

E. That the proposed park and recreation facilities are compatible with the scenic character of the City; and

F. That any proposed structures or buildings are compatible with the neighborhood in terms of size, bulk and scale or location. (Ord. 4919, 1995.)

28.37.030 Uses Permitted by Category.

A. The following categories of park and recreation facilities reflect the diversity of such facilities within the community. Parks and recreation facilities with similar use characteristics have been grouped into the following categories to establish an orderly system of inventory and allowed uses within the respective categories and to make property owners aware of the uses allowed in such nearby facilities.

1. UNDEVELOPED PARKLAND. The future use of these undeveloped parklands has not been determined. These are properties that the City owns that may or may not be appropriate for parks and/or recreation use.

2. OPEN SPACE. This land is intended to be protected and managed as a natural environment with passive recreation usage and minimal development.

3. PASSIVE PARK. These are developed parks of natural, cultural or ornamental quality suited to passive outdoor recreation such as bird watching, walking and picnicking.

4. NEIGHBORHOOD PARK. These are small parks that typically serve a limited geographic area and nearby population.

5. BEACH. These are areas that provide access to the ocean and sand areas for passive and active recreation.

6. COMMUNITY PARK. These multi-use parks are usually larger than Neighborhood Parks. These are parks where special, pre-arranged activities and special events and functions occur. These are specialized facilities that serve a concentrated or limited population or specific group from a wide geographic area of the City.

7. SPORTS FACILITIES. These are outdoor facilities where intense recreational activities and organized sports and tournaments occur and which may include related buildings and parking areas.

8. COMMUNITY BUILDINGS. These are indoor facilities where intense recreational activities and organized sports and tournaments, meetings and gatherings and other community oriented activities occur. Community Buildings may also include related parking and grounds.

9. REGIONAL PARK. These are facilities where major organized events occur that draw people from throughout the region. They may also include areas of diverse environmental, cultural, educational or scientific quality with a variety of opportunities for both passive and active recreation activities.

B. The following chart sets out the uses allowed in the park and recreation categories defined above. "Yes" means the use or improvement is allowed. "No" means the use or improvement is prohibited.

CATEGORIES OF PARKS AND RECREATION FACILITIES AND ALLOWED IMPROVEMENTS/USES

ALLOWED IMPROVEMENTS/USES (a)	CATEGORY OF PARK								
	Undeveloped	Open Space	Passive Park	Neighborhood Park	Beach	Community Park	Sports Facilities	Community Buildings	Regional Park
Trails	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
Minor Buildings	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Meeting Rooms •Small (≤ 75 people)	No	No	No	Yes	No	Yes	No	Yes	Yes
•Large (>75 people)	No	No	No	No	No	Yes	No	Yes	Yes
Outdoor Game Areas and Informal Ball Fields and Courts	No	No	No	Yes	Yes	Yes	Yes	No	Yes
•Formal Ball Fields and Courts	No	No	No	No	No	No	Yes	Yes	Yes
Swimming Pools •Wading	No	No	No	Yes	No	Yes	Yes	Yes	Yes
•Swimming	No	No	No	No	No	No	Yes	Yes	Yes
Playgrounds •Small (Up to 4,000 SF)	No	No	No	Yes	Yes	Yes	Yes	No	Yes
•Large (> 4,000 SF)	No	No	No	No	Yes	Yes	Yes	No	Yes
Picnic Areas •Individual	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes
•Small Group (up to 4 tables together)	No	No	No	Yes	Yes	Yes	Yes	No	Yes
•Large Group	No	No	No	No	Yes	Yes	Yes	No	Yes
Community Gardens	No	No	No	Yes	No	Yes	No	No	Yes
Child Care Centers	No	No	No	Yes	No	Yes	No	Yes	Yes
Carousels and similar amusements	No	No	No	No	No	Yes	No	No	Yes
Day Camps	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Concessions	No	No	No	No	No	Yes	Yes	Yes	Yes
Parking Area •Informal (not paved)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
•Small Formal (≤ 10 spaces)	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
•Formal (> 10 spaces)	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Lighting - General	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
•Ball Field Lighting	No	No	No	No	No	No	Yes	No	Yes
Miscellaneous •Artwork or Memorial	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
•Shade Structure	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes

If an improvement is proposed that is not specifically called out as an allowed use in the category, the Community Development Director will determine if the improvement is allowed or whether the park or recreation facility would be required to move to another category.

C. SPECIAL PROVISIONS. In addition to the uses and improvements allowed in the categories of uses stated in Subsection B of this Section, the following special provisions apply:

1. Formal courts for volleyball only are allowed at Beaches.

2. Zoological gardens that are classified as a Regional Park are also allowed to include the following uses: animal exhibits/habitats and related animal care, medical and holding areas for animals, class rooms including indoor educational exhibit space, gift shops, restaurants, snack bars and administrative offices and service facilities related to zoological garden operations.

3. Outdoor performance areas, including band shells and amphitheaters, existing or approved prior to June 30, 1995, are allowed uses and may be maintained and improved without a Conditional Use Permit as long as: a. no expansion in seating occurs; or, b. no improvements occur which allow amplified music where it did not previously exist. Future outdoor performance areas and expansions of existing ones may be allowed in Community and Regional Parks, subject to issuance of a Conditional Use Permit as outlined in Chapter 28.94 of this Title. (Ord. 4919, 1995; Ord. 4169, 1982.)

28.37.040 Development Standards.

A. SETBACKS. The following setbacks shall apply to parking areas, buildings, structures, outdoor game areas, playground equipment and formal/informal ball fields:

1. Front Setback. The required front setback shall be the same as that specified for the residential zone of the property on the abutting parcels on each side of the subject property. Where the setbacks on the abutting parcels are different from each other, the front setback shall be the least restrictive residential setback of the abutting zones. In the event the park property is bounded by a street, the front setback shall be the same as the least restrictive front setback on the adjacent properties on the same side of the street. In no case shall the front setback be less than ten (10) feet.

2. Interior and Rear Setbacks. There shall be interior and rear setbacks of not less than ten (10) feet.

B. LIGHTING. All exterior lighting shall be directed such that it will not cast light or glare onto adjacent properties. Any lighting shall be hooded or shielded so that no direct beams fall upon adjacent residential property. Indirect diffused lights and low garden lights shall be used wherever possible and shall be required as necessary to assure compatibility with adjacent and surrounding properties.

C. LOCATION OF PLAY AREAS. Outdoor playgrounds and informal ball fields and courts shall be located in a manner that is compatible with the character of the surrounding area and that minimizes significant detrimental noise impacts to adjacent properties while promoting visibility and safety.

D. PARKING REQUIREMENTS. Parking within the Park and Recreation Zone shall be in accordance with requirements set forth in Chapter 28.90 - Automobile Parking Requirements. (Ord. 5459, 2008; Ord. 4919, 1995; Ord. 4169, 1982.)

28.37.090 Coastal Zone Review.

All development in the Coastal Overlay Zone is subject to review pursuant to Chapter 28.44 of this Code. (Ord. 5417, 2007; Ord. 4169, 1982.)

28.37.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85 of this Title. (Ord. 5609, 2013; Ord. 4919, 1995; Ord. 4670, 1991.)

Chapter 28.39

P-D PLANNED DEVELOPMENT ZONE

Sections:

28.39.001 In General.
28.39.005 Legislative Intent.
28.39.030 Uses Permitted.
28.39.050 Building Height.
28.39.060 Setbacks.
28.39.100 Parking Requirements.
28.39.110 Signs.
28.39.115 Architectural Control.
28.39.130 Development Plan Approval.
28.39.131 Development Potential.

28.39.001 In General.

Land classified in a P-D Zone shall also be classified in another zone and the following regulations shall apply in the P-D Planned Development Zone unless otherwise provided in this chapter. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.005 Legislative Intent.

These regulations are intended to implement the orderly development of land in conformance with the comprehensive General Plan of the City of Santa Barbara, and in particular the provision for planned centers provided therein, by providing for uses and restrictions other than those contained in other zone districts in this title where justified by one (1) or more of the following circumstances:

1. Unusual topographic conditions.
2. Proximity to public parks, buildings, major traffic carriers, bodies of water, watercourses, open spaces and other similar improvements or land features.
3. Disparity between adjacent zoning district (e.g., single-family residential adjacent to commercial) warranting special features to protect the more restricted district.
4. Areas designated by the General Plan for planned center or other special or unique land use. (Ord. 3710, 1974.)

28.39.030 Uses Permitted.

1. Any use permitted in the other zone in which the land is classified and when so used subject to the restrictions and limitations contained therein.
2. Any of the following uses and subject to the restrictions and limitations contained in this chapter.
   (1) New automobile sales, rental and leasing, including trucks of not more than one (1) ton capacity, and including the following accessory uses:
      (a) Used car sales;
      (b) Automotive repair and servicing conducted entirely within a building. Repair bays shall not be visible from a public street;
      (c) Motor home and camper sales;
      (d) Incidental sales, servicing and repair of trucks, truck trailers and buses greater than one (1) ton capacity.
   (2) Automobile washing and polishing.
   (3) Automobile diagnostic center.
   (4) Automobile service station and accessory uses limited to incidental tire and tube repairing, battery servicing, automobile lubrication and other minor automotive service within the building, not including auto body repair.
   (5) Bank.
   (6) Boat sales.
   (7) Church.
   (8) Club or lodge.
   (9) Hospital.
   (10) Hotel, motel.
   (11) Museum.
   (12) Offices: general, administrative, business, professional and public.
   (13) Parking lots.
   (14) Public building.
   (15) Recreational vehicle storage.
   (16) Research and development.
   (17) Restaurant.
   (18) Schools: art, music, dance, vocational and public.

(19) Sports centers.
(20) Tennis, swimming, lawn bowling or other sporting club.
(21) Theatre or auditorium.
(22) Trailer sales.
(23) Mini-warehouse, designed and used exclusively for storage of privately owned household articles and vehicles not in inventory for resale; individual storage compartments not to exceed 400 square feet in area. (Ord. 3853, 1976.)

28.39.050 Building Height.

A maximum three (3) stories not exceeding forty-five feet (45'). (Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.060 Setbacks.

A. FRONT SETBACK. There shall be a front setback of not less than ten feet (10').
B. INTERIOR SETBACKS, LOT AREA, STREET FRONTAGE, DISTANCE BETWEEN BUILDINGS ON THE SAME LOT. Interior setbacks, lot area, street frontage, and distance between buildings shall be provided as may be required pursuant to Section 28.39.130. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.100 Parking Requirements.

Off-street parking and loading space shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.115 Architectural Control.

The architectural and general appearance of all buildings and grounds shall be in accordance with the action of the Architectural Board of Review, or the 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. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.39.130 Development Plan Approval.

Before any building or structure is hereafter erected or any land hereafter used in the P-D Zone under the provisions of this Chapter, a development plan shall be submitted for the approval of the Planning Commission showing proposed building location, size, setbacks, floor area and elevations, proposed parking lot design and landscaping plan.

It is hereby declared that most of the uses allowed in the P-D Zone are special uses and of such a nature that it is impractical to establish in advance of development the minimum requirements for parking, site area, setbacks, hours or manner of operation, lighting, landscaping or other standards usually applied to each individual facility or planned center proposed to be established under these provisions.

The Planning Commission may, therefore, further limit the allowed uses and building height and require additional setbacks in the P-D Zone where necessary to secure an appropriate development.

In lieu of prescribing herein minimum performance and development standards, the Planning Commission shall make the following findings and impose conditions necessary to secure and perpetuate the basis for such findings:

1. That the total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided;
2. That prescribed hours and days of operation of the facilities are such that the character of the area is not inappropriately altered or disturbed;
3. That the design and operation of outdoor lighting equipment will not be a nuisance to the use of property in the area;
4. That the appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area and of the City. (Ord. 4361, 1985; 3710, 1974; Ord. 3617, 1974.)

28.39.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.42

S-H SENIOR HOUSING ZONE

Sections:

28.42.001 In General.
28.42.005 Legislative Intent.
28.42.006 Senior Citizen and Elderly Person Defined.
28.42.010 Procedure.
28.42.013 Limited to Housing for Elderly.
28.42.030 Uses Permitted.
28.42.045 Basic Standards and Requirements.
28.42.060 Setbacks.
28.42.070 Distance Between Buildings.
28.42.100 Off-street Parking.
28.42.110 Signs.
28.42.127 Regulations, Limitations and Restrictions.
28.42.128 Termination of S-H Senior Housing Zone Classification.
28.42.130 Development Plan.
28.42.132 Precise Plan.
28.42.150 Maximum Permitted Occupancy.

28.42.001 In General.

Land classified in a S-H Zone shall also be classified in an A, E, R-1 or R-2 Zone and the following regulations shall apply in the S-H Senior Housing Zone unless otherwise provided in this chapter. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.005 Legislative Intent.

These regulations are designed and intended to insure the orderly development of land in conformance with the comprehensive scheme contemplated by the General Plan of the City of Santa Barbara by permitting the enforcement of restrictions other than those imposed by the other zone districts in this title where justified by the existence of the following findings:

1. The Planning Commission finds that a substantial need exists in the community for additional housing facilities for elderly persons of low and moderate incomes.
2. The Planning Commission finds that the characteristics of the site development proposed are such that the surrounding properties will not be adversely affected by the proposed senior housing project.
3. The Planning Commission finds that sufficient safeguards exist which will assure the long term continued use of the premises in accordance with the intent of this section and the conditions of approval of the development.
4. The design of the buildings shall be such that it is compatible and/or convertible to uses consistent to the zone in which the buildings are located.

These regulations are further designed and intended to insure that development occurs substantially in conformance with the developer's plans submitted as a basis for a proposed rezoning; to avoid the possibility of providing an excessive area of land zoned for the same uses as a result of failure to fully develop the land so zoned; and to minimize the use of rezoning primarily as a method of appreciating the value of a specific parcel of land for speculative purposes when such rezoning excludes comparable rezoning of other properties.

These regulations recognize that more than one (1) parcel or group of parcels of land may be suitable for a specified use but that if all such suitable parcels are zoned for such use there would result an imbalance in the area zoned for various types of uses to the detriment of the community or the district as a whole. (Ord. 3877, 1977; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.006 Senior Citizen and Elderly Person Defined.

For purposes of this part, elderly persons or senior citizens are defined as follows: Low and moderate income persons, sixty-two (62) years of age or older. (Ord. 3710, 1974; Ord. 3407, 1970.)

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. (Ord. 5416, 2007; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.013 Limited to Housing for Elderly.

In order to insure continued use of the development for affordable housing for elderly persons, prior to the approval of any precise plan for development under this Chapter, the applicant shall submit evidence satisfactory to the Planning Commission that an enforceable regulatory agreement exists to assure the continued operation of the facility for its intended use for not less than thirty years. Said agreement shall be reviewed by the Office of the City Attorney.

No variance, modification or other waiver to this Section shall be granted. (Ord. 4364, 1985; Ord. 3877, 1977; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.030 Uses Permitted.

1. Any use permitted in the basic zone in which the land is classified, and when so used subject to all of the provisions contained in sections defining said zone.

2. Housing developments for elderly persons, including group dining and recreation facilities accessory thereto subject to the provisions of this chapter. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.045 Basic Standards and Requirements.

Neither the Planning Commission nor the Division of Land Use Controls shall accept for filing an application and development plan which does not comply with all of the following provisions:

1. No building shall exceed a height of two (2) stories.
2. No building shall contain more than four (4) units.
3. No building containing residence units shall exceed a gross floor area of two thousand two hundred (2,200) square feet exclusive of garages or carports.
4. The total number of residence buildings in the development shall not exceed the product of the net area of the site in acres multiplied by the following appropriate density factor for the basic zone in which the site is located:

BASIC ZONE	RESIDENCE BUILDINGS	DWELLING UNITS PER ACRE
A-1	0.8	3.2
A-2	1.5	6.0
E-1	2.3	9.2
E-2	3.6	14.4
E-3	4.6	18.4
R-1	5.6	22.4
R-2	5.6	22.4

This provision shall not be construed as granting any right to the applicant to the maximum number of buildings and units represented by the above density factors. The Planning Commission and/or City Council may, in order to carry out the intent of this chapter, further limit the total number of buildings in the development and/or density of buildings per acre of net site area.

5. Any single uncovered parking area shall not provide more than ten (10) parking spaces. A parking area containing spaces on both sides of a common aisle shall be counted as one (1) parking area.

6. Carports and garages shall be attached to and made a part of a main building. No carport or garage shall provide more than three (3) auto parking spaces.

7. No more than ten percent (10%) of the number of buildings in a development shall have a flat roof. All other roofs shall be hipped or gabled.

The intent of this provision is to minimize the contrast between the architectural character of the development and the typical or standard architectural style of single-family dwellings in the community.

8. All buildings shall be located on the site in a manner similar to the way residences might be located in the zone in which the property is classified. For example, if PUD, they may be clustered; if single-family, they should be laid out like a standard subdivision. To demonstrate this, the applicant shall submit, in rough form, a practical subdivision scheme of the property with the proposed buildings shown thereon. Lot sizes, frontages, street alignments, setbacks and all other aspects of such hypothetical subdivision shall be in accordance with applicable Zoning Ordinances and Subdivision Ordinance requirements. (Ord. 3877, 1977; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.060 Setbacks.

Setback requirements shall be the same as in the base zone in which the property is located. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.070 Distance Between Buildings.

The minimum distance between buildings shall be the same as required in the basic zone in which the property is located. (Ord. 3710, 1974.)

28.42.100 Off-street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.110 Signs.

Signs shall be permitted as provided in the basic zone in which the property is located. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.127 Regulations, Limitations and Restrictions.

The Planning Commission may recommend and the City Council may adopt as part of the development plan, and may require in the precise plan, requirements, regulations, limitations and restrictions more restrictive than those specified elsewhere in this title, and designed to protect property values in the vicinity of the subject property and the public peace, health, safety and general welfare of persons residing, working in and passing through the neighborhood. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.128 Termination of S-H Senior Housing Zone Classification.

Any ordinance amendment establishing an S-H classification under this chapter shall establish a time limitation within which a precise plan or a substantial portion thereof must be approved by the Planning Commission, provided that such time limitation shall not exceed two (2) years from the effective date of said ordinance amendment.

An ordinance amendment establishing an S-H classification shall terminate and the affected property shall automatically revert to the district classification represented by the basic symbol at the end of the time limitation if the precise plan or a substantial portion thereof has not been approved by the Planning Commission. For good cause shown, the Planning Commission may extend such time limitation for not to exceed a total additional time of six (6) months. Any precise plan which has not been disapproved within sixty (60) days from the date that it was submitted to the Planning Commission shall be deemed approved unless the applicant agrees to a time extension.

Any ordinance amendment adopted under the provisions of this section terminates and the affected property shall automatically revert to the district classification represented by the basic symbol if, within eighteen (18) months after Planning Commission approval of a precise plan, the construction incorporated in the precise plan has not been substantially commenced. Such eighteen (18) month period may be extended by the City Council upon the showing of good cause. (Ord. 3877, 1977; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.130 Development Plan.

Any application for the establishment of an S-H Senior Housing Zone shall be accompanied by a development plan drawn to scale together with supporting data and showing the following:

1. The boundaries of the property, the width, location and names of surrounding streets and uses of adjacent properties.
2. A plot plan drawn to scale showing the location and dimensions of all existing and proposed structures, landscaping, parking areas and other proposed uses on the subject property supplemented by a narrative description of all improvements proposed to be installed and the general types of uses on each portion of the property.
3. Schematic drawings and renderings showing the architectural design of buildings and structures proposed to be constructed.
4. A schedule of time for construction of various portions of the development if the construction is to occur in stages.

The development plan and any supplemental data shall be filed as a permanent record in the Office of the Division of Land Use Controls. (Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.132 Precise Plan.

The precise plan shall consist of a map or maps together with supplemental descriptive data which shall show the location of all buildings and structures to be constructed or maintained upon the property or properties and such other information as may be needed to fully describe and locate all features of the proposed development. The precise plan and any supplemental data shall be filed as a permanent record in the Office of the Division of Land Use Controls.

After the effective date of the amendment applying the S-H symbol to a parcel of property, no grading shall be commenced, nor shall any building or structure be erected, moved, altered, enlarged or rebuilt on such property except in compliance with the precise plan approved by the Planning Commission. (Ord. 4364, 1985; Ord. 3710, 1974; Ord. 3407, 1970.)

28.42.150 Maximum Permitted Occupancy.

The maximum permitted occupancy of units developed in an S-H Overlay Zone is restricted as follows:

1. Efficiency or studio unit: One (1) resident.
2. One (1) bedroom unit: Two (2) residents.
3. Two (2) bedroom unit: Four (4) residents.
4. For units having three (3) or more bedrooms, the maximum permitted occupancy of such units shall be restricted to two (2) persons per bedroom per unit. (Ord. 3710, 1974; Ord. 3407, 1970.)

Chapter 28.43

CITY OF SANTA BARBARA INCLUSIONARY HOUSING ORDINANCE

Sections:

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28.43.010 Purposes and Intent.

A. The purposes and intent of this Chapter, which shall be known as the "City of Santa Barbara Inclusionary Housing Ordinance," are the following:

1. To encourage the development and availability of housing affordable to a broad range of Households with varying income levels within the City;
2. To promote the City's goal to add affordable housing units to the City's housing stock;
3. To increase the availability of housing opportunities for Middle Income and Upper-Middle Income households within the City limits in order to protect the economic diversity of the City's housing stock, reduce traffic, commuting and related air quality impacts, and reduce the demands placed on transportation infrastructure in the region; and
4. To implement policies of the Housing Element of the General Plan which include: a. adopting an inclusionary housing program to meet the housing needs of those not currently served by City Housing and Redevelopment Agency programs; and b. encouraging the development of housing for first time home buyers, including moderate and Middle Income households. (Ord. 5310, 2004.)

28.43.020 Definitions.

As used in this Chapter, the following terms shall have the meaning and usage indicated below:

A. **AFFORDABLE HOUSING POLICIES AND PROCEDURES.** The City's Affordable Housing Policies and Procedures as adopted by the City Council of the City of Santa Barbara and amended from time to time.

B. **AFFORDABLE HOUSING INCLUSIONARY FUND.** That special fund of the City established by the City as provided in Section 28.43.130.

C. **AREA MEDIAN INCOME.** The median household income as provided in Section 50093(c) of the California Government Code, as it is currently enacted or hereinafter amended.

D. **APPLICANT.** Any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities, which seeks City approvals for all or part of a Residential Development.

E. **HOUSEHOLD.** One person living alone or two or more persons sharing residency whose income is considered for housing payments.

F. **INCLUSIONARY HOUSING PLAN.** A plan for a residential development submitted by an Applicant as provided by Section 28.43.090(b).

G. **INCLUSIONARY UNIT.** An Ownership Unit that must be offered to eligible purchasers (in accordance with eligibility requirements set by the City) at a City-approved affordable sale price according to the requirements herein.

H. **MARKET-RATE UNIT.** An Ownership Unit in a Residential Development that is not an Inclusionary Unit.

I. **MIDDLE INCOME HOUSEHOLD.** A Household whose income is between one hundred twenty percent (120%) and one hundred sixty percent (160%) of the Area Median Income, adjusted for household size.

J. **OFF-SITE INCLUSIONARY UNIT.** An Inclusionary Unit that will be built separately or at a different location than the main development.

K. **ON-SITE INCLUSIONARY UNIT.** An Inclusionary Unit that will be built as part of the main development.

L. **OWNERSHIP UNIT.** A dwelling unit that may be sold separately under the requirements of the State Subdivision Map Act. For purposes of this Chapter, a dwelling unit may be designated as an Ownership Unit whether or not it is rented by the owner thereof. The following shall be considered to be a single Ownership Unit: 1. a dwelling unit together with an attached Secondary Dwelling Unit approved under Chapter 28.94, or 2. a dwelling unit together with an additional dwelling unit on the same lot approved under Chapter 28.93 of the City's Municipal Code.

M. **RESIDENTIAL DEVELOPMENT.** The proposed development of any single family, duplex or condominium Dwelling Units in residential or mixed use developments requiring a tentative subdivision map under the City's Subdivision Ordinance. Residential Development shall include the conversion of rental housing to condominiums or similar uses as described in Chapter 28.88 of this Municipal Code.

N. **RESIDENTIAL LOT SUBDIVISION.** The subdivision of land into individual parcels where the application to the City for the subdivision approval does not include a concurrent request for City design approval of the residential dwelling units or homes to be constructed upon on such lots.

O. **TARGET INCOME.** A number, expressed as a percentage of Area Median Income, used in calculating the maximum sale price of an affordable housing unit. It is the household income to which the unit is targeted to be affordable.

P. **UNIT SIZE.** All of the usable floor area within the perimeter walls of a dwelling unit, exclusive of open porches, decks, balconies, garages, basements, cellars that extend no more than two (2) feet above finished grade, and attics that do not exceed a floor-to-ceiling height of five (5) feet.

Q. **UPPER-MIDDLE INCOME HOUSEHOLD.** A Household whose income is between one hundred sixty percent (160%) and two hundred percent (200%) of the Area Median Income, adjusted for household size.
(Ord. 5380, 2005; Ord. 5310, 2004.)

28.43.030 Inclusionary Requirements.

A. **GENERAL REQUIREMENTS.**

1. **Developments of Ten (10) or More Units.** For all Residential Developments of ten (10) or more dwelling units, at least fifteen percent (15%) of the total units must be constructed and offered for sale as Inclusionary Units restricted for owner-occupancy by Middle Income Households or, in the case of Residential Lot Subdivisions for the construction of single family homes, by Upper-Middle Income Households as specified herein.

2. **Developments of Less Than Ten (10) Units But More Than One Unit – Payment of an In-Lieu Fee.** For all Residential Developments of less than ten units and more than one unit, the Applicant shall, at the Applicant's election, either provide at least one unit as an owner-occupied Middle Income restricted Unit, or pay to the City an in-lieu fee equal to five percent (5%) of the in-lieu fee specified by Section 28.43.070B herein, multiplied by the total number of dwelling units of the Residential Development; provided, however, that for those Residential Developments which are not a condominium conversion project (as defined by SBMC Chapter 28.88) and which propose to construct two (2) to four (4) dwelling units, the required in-lieu fee shall equal five percent (5%) of the in-lieu fee specified by Section 28.43.070B herein multiplied by the number of units in the Residential Development which exceed one dwelling unit.

B. **RESIDENTIAL LOT SUBDIVISIONS.**

1. **Subdivisions of Ten or More Parcels.** For all Residential Lot Subdivisions where the lots to be approved would permit the eventual development of ten (10) or more Dwelling Units, the Applicant shall pay an in-lieu fee corresponding to fifteen percent (15%) of the number of Dwelling Units that might eventually be built on the lots, or the Applicant may propose an alternative means of compliance with this Chapter pursuant to Section 28.43.080 below.

2. **Subdivisions of Less Than Ten Parcels.** For all Residential Lot Subdivisions where the real property parcels to be approved would result in the eventual development of less than ten (10) Dwelling Units but more than one (1) Dwelling Unit, the Applicant shall, at the Applicant's election, either provide that one Dwelling Unit will be constructed as an owner-occupied Middle Income Household restricted Unit, or pay an in-lieu fee corresponding to five percent (5%) of the in-lieu fee specified by Section 28.43.070B multiplied by the number of Dwelling Units that might eventually be built as part of the subdivision. At the option of the Applicant, the Applicant may propose an alternative means of compliance with this Chapter pursuant to Section 28.43.080 below.

C. **EXISTING DWELLING UNITS.** Existing Ownership Units that are to be retained shall be included in the number of units in the Residential Development for purposes of calculating the number of Inclusionary Units required under this Section; however, the number of such existing units to be included in the calculation shall not exceed the number of proposed new Ownership Units to be added.

D. **DENSITY BONUS UNITS.** Any additional owner-occupied units authorized and approved as a density bonus under the City's Affordable Housing Policies and Procedures will not be counted in determining the required number of Inclusionary Units.

E. **ROUNDING.** In determining the number of Inclusionary Units required by this Section, any decimal fraction less than 0.5 shall be rounded down to the nearest whole number, and any decimal fraction of 0.5 or more shall be rounded up to the nearest whole number.

F. **PRICE LIMITS FOR INCLUSIONARY UNITS.** Inclusionary Units must be restricted for sale at affordable prices as follows:

1. Except as provided in the following subsections, Inclusionary Units must be restricted to and sold at prices affordable to Middle Income Households, calculated according to procedure specified in the City's Affordable Housing Policies and Procedures [applicable as of the date of Planning Commission's approval] using a Target Income of one hundred twenty percent (120%) of the then current Area Median Income.

2. The Community Development Director may approve a Target Income of one hundred thirty percent (130%) of Area Median Income for Inclusionary Units built as duplexes, or exceptionally large condominiums, in accordance with the City's Affordable Housing Policies and Procedures.

3. Inclusionary Units built as detached single family homes, each on its own separate lot, must be restricted to and sold at prices affordable to Upper-Middle Income Households, with sale prices calculated according to the procedure specified in the City's Affordable Housing Policies and Procedures using a Target Income of one hundred sixty percent (160%) of Area Median Income.

4. Nothing herein shall preclude an Applicant/Owner from voluntarily agreeing to restrict the Inclusionary Units for sale to very-low, low or moderate income households at the Target Incomes specified for such income categories in the City's Affordable Housing Policies and Procedures.

G. **COMBINING RESIDENTIAL DEVELOPMENTS.** If two proposed Residential Developments that share a common boundary are under development review by the City simultaneously, such developments will be treated under this Chapter as if they were combined for purposes of determining the number of Inclusionary Units or Inclusionary Lots required under this Chapter, provided they are proposed by the same Applicant or by joint Applicants which share a substantial legal commonality of ownership and control. Applicants which are related partnerships or corporations will be deemed to share a substantial commonality of ownership and control if more than sixty percent (60%) of the natural persons who are general partners are the same for each partnership or, in the case of corporate ownership, the applicant individual or entity controls sixty percent (60%) of more of the voting stock or shares of each corporation. (Ord. 5488, 2009; Ord. 5310, 2004.)

28.43.040 Exemptions.

A. **PROJECTS EXEMPTED FROM INCLUSIONARY REQUIREMENTS.** The requirements of this Chapter shall not apply to the following types of development projects:

1. **Rental Units.** A project constructing Dwelling Units which may not be separately owned, transferred, or conveyed under the state Subdivision Map Act.

2. **Casualty Reconstruction Projects.** The reconstruction of any residential units or structures which have been destroyed by fire, flood, earthquake or other act of nature, which are being reconstructed in a manner consistent with the requirements of Santa Barbara Municipal Code Section 28.87.038.

3. **Voluntarily Affordable Projects.** Residential Developments which propose that not less than thirty percent (30%) of the units of the development will be deed restricted for occupancy by families qualifying as Upper Middle Income (or lower income) households pursuant to and in accordance with the City's Affordable Housing Policies and Procedures.

4. **Employer-Sponsored Housing Projects.** Employer-Sponsored Housing Projects developed in accordance with the Average Unit-Size Density Incentive Program of SBMC Chapter 28.20. (Ord. 5630, 2013; Ord. 5488, 2009; Ord. 5310, 2004.)

28.43.050 Incentives for On-Site Housing.

A. **PROVIDING UNITS ON-SITE.** An Applicant for a Residential Development of ten or more dwelling units who elects to satisfy the inclusionary housing requirements of this Chapter by producing owner-occupied Inclusionary Housing units on the site of a Residential Development shall be entitled to a density bonus for the number of Inclusionary Units to be provided on-site, in accordance with the City's density bonus program for owner-occupied units as described in the City's Affordable Housing Policies and Procedures without the need for the Applicant to separately apply for a lot area modification for the density bonus.

B. **USE OF ZONING ORDINANCE MODIFICATIONS.** The City may provide modifications in zoning requirements that will facilitate increased density for the purpose of accomplishing the goals of this Chapter, including modifications to parking, setback, yard area, open space and solar access requirements as specified in Section 28.92.110 of this Municipal Code. (Ord. 5488, 2009; Ord. 5380, 2005; Ord. 5310, 2004.)

28.43.060 Affordable Housing Standards.

A. **CONSTRUCTION STANDARDS FOR INCLUSIONARY UNITS.** Inclusionary Units built under this Chapter must conform to the following standards:

1. **Design.** Except as otherwise provided in this Chapter, Inclusionary Units must be dispersed evenly throughout a Residential Development and must be comparable in construction quality and exterior design to the Market-Rate Units constructed as part of the Development. Inclusionary Units may be smaller in aggregate size and may have different interior finishes and features than Market-Rate Units so long as the interior features are durable, of good quality and consistent with contemporary standards for new housing.

2. **Size.** The average number of bedrooms in the Inclusionary Units must equal or exceed the average number of bedrooms in the Market-Rate Units of the Development. Absent a waiver from the Community Development Director, two-bedroom Inclusionary Units shall generally have at least one and one-half bathrooms, and three-bedroom Inclusionary Units shall generally have at least two bathrooms. However, the required number of bathrooms shall not be greater than the number of bathrooms in the Market-Rate Units. The minimum Unit Size of each Inclusionary Unit shall be in conformance with the City's Affordable Housing Policies and Procedures.

3. **Timing of Construction.** All Inclusionary Units must be constructed and occupied concurrently with or prior to the construction and occupancy of Market-Rate Units of the Development. In phased developments, Inclusionary Units may be constructed and occupied in proportion to the number of units in each phase of the Residential Development.

4. **Duration of Affordability Requirement.** Inclusionary Units produced under this Chapter must be legally restricted to occupancy by Households of the income levels for which the units were designated pursuant to and in conformance with the City's Affordable Housing Policies and Procedures. (Ord. 5310, 2004.)

28.43.070 In-Lieu Fees.

A. **PAYMENT OF IN-LIEU FEE TO CITY**. The requirements of this Chapter may also be satisfied by paying an in-lieu fee to the City for deposit into the City's Affordable Housing Inclusionary Fund as such fund is provided for in Section 28.43.130.

B. **CALCULATION OF IN-LIEU FEE**. The in-lieu fee for each required Inclusionary Unit that is not constructed on-site will be calculated as of the date of Planning Commission final approval in a manner sufficient to make up the monetary difference between the following: 1. the Estimated Production Cost of a two-bedroom condominium unit in the City as defined in this Section, and 2. the price of a two-bedroom dwelling unit affordable to a Low-Income Household calculated according to the procedure specified in the City's Affordable Housing Policies and Procedures for a two-bedroom unit. The target income for this calculation shall be seventy percent (70%) of Area Median Income, and the housing-cost-to-income ratio for this calculation shall be thirty percent (30%). The Estimated Production Cost shall be deemed to be the median sale price of two-bedroom condominium units in the City less a fifteen percent (15%) adjustment to reflect an Applicant/Developer's anticipated profit. The median sale price of two-bedroom condominium units in the City shall be established by the City Council, based on data provided by the Santa Barbara Association of Realtors or other source selected by the City Council, for sales during the four most recent calendar quarters prior to the calculation. The City Council may annually review the median sale price of two-bedroom condominium units in the City, and may, based on that review, adjust the in-lieu fee amount.

C. **PRORATING.** If the calculation for the required number of Inclusionary Units as provided in Section 28.43.030 results in a fraction of a unit, the amount of in-lieu fee for such fractional unit shall be prorated.

D. **REDUCTION OF IN-LIEU FEE FOR SMALLER UNITS.** For Residential Developments, the amount of the in-lieu fee shall be reduced where the average Unit Size of the Market-Rate Units is less than 1700 square feet, according to the following:

1. If the average Unit Size of the Market-Rate Units is between 1,400 and 1,699 square feet, the in-lieu fee shall be reduced by fifteen percent (15%).
2. If the average Unit Size of the Market-Rate Units is between 1,100 and 1,399 square feet, the in-lieu fee shall be reduced by twenty percent (20%).
3. If the average Unit Size of the Market-Rate Units is between 800 and 1,099 square feet, the in-lieu fee shall be reduced by twenty-five percent (25%).
4. If the average Unit Size of the Market-Rate Units is below 800 square feet, the in-lieu fee shall be reduced by thirty percent (30%).

E. **TIMING OF PAYMENT OF IN-LIEU FEE.** The timing of payment of the in-lieu fee varies according to the type of development and the number of units to be developed, as follows:

1. **New Construction of Five or More Units.** For new construction of five or more dwelling units, the in-lieu fee shall be paid prior to the issuance of a building permit for the Development; for phased-construction developments, payment of the applicable in-lieu fees shall be made for each portion of the Development prior to the issuance of a building permit for that phase of the Development. In the event that the Applicant/Developer intends to pay the in-lieu fee from proceeds of a bank construction loan, and such bank requires the issuance of a building permit prior to funding the construction loan, the Applicant/Developer may request that the Community Development Director issue the building permit prior to payment of the fee. The Community Development Director may approve such request provided the Applicant/Developer agrees in writing that the fee will be paid within ten (10) days after the issuance of the building permit, and further agrees that the building permit will be deemed revoked by the City and work undertaken pursuant to the building permit stopped if the in-lieu fee is not paid within such ten-day period.
2. **Condominium Conversions.** For condominium conversions, payment of the in-lieu fee shall be made prior to recordation of the Final Subdivision Map.
3. **Residential Lot Subdivisions.** For Residential Lot Subdivisions, payment of the in-lieu fee shall be made prior to recordation of the Final Subdivision Map.
4. **Residential Developments of Four Units or Less.** For Residential Developments of four units or less which are subject to this Chapter and which elect to pay an in-lieu fee under the requirements of this Chapter, the in-lieu fees shall be paid to the City prior to the issuance of a Certificate of Occupancy by the Chief Building Official of the City.

F. **DELAYED PAYMENT.** When payment is delayed, in the event of default, or for any other reason, the amount of the in-lieu fee payable under this Section will be based upon the greater of the fee schedule in effect at the time the fee is paid or the fee schedule in effect at the time of Planning Commission approval. (Ord. 5488, 2009; Ord. 5310, 2004.)

28.43.080 Alternative Methods of Compliance.

A. **ALTERNATIVE METHODS OF COMPLIANCE - APPLICANT PROPOSALS.** An Applicant, at the Applicant's option, may propose an alternative means of compliance with this Chapter by submitting to the City an Inclusionary Housing Plan prepared in accordance with the following alternative compliance provisions:

1. **Off-Site Construction.** All or some of the required Inclusionary Units may be constructed off-site if the Planning Commission (or the City Council on appeal) finds that the combination of location, unit size, unit type, pricing, and timing of availability of the proposed off-site Inclusionary Units would provide equivalent or greater benefit than would result from providing those Inclusionary Units on-site as might otherwise be required by this Chapter. Prior to the recordation of the Final Subdivision Map for the Residential Development subject to the inclusionary requirements of this Chapter, the Applicant shall post a bond, bank letter of credit, or other security acceptable to the Community Development Director, in the amount of the in-lieu fee per Section 28.43.070, which the City may call and may deposit in the Affordable Housing Inclusionary Fund and may spend in accordance with the terms of that Fund in the event that the off-site inclusionary units are not completed (as evidenced by the issuance of a certificate of occupancy for such units) according to the schedule stated in the Inclusionary Housing Plan submitted by the Applicant and prior to the completion and occupancy of the Residential Development.

2. **Dedication of Land For Affordable Housing Purposes.** In lieu of building Inclusionary Units on or off-site or the payment of in-lieu fees, an Applicant may choose to dedicate land to the City [or a City-designated non-profit housing developer] under circumstances where the land is suitable for the construction of Inclusionary Units and under circumstances which the Planning Commission (or the City Council on appeal) reasonably has determined to be of equivalent or greater value than would be produced by applying the City's current in-lieu fee to the Applicant's inclusionary housing obligation.

3. **Combination of Approaches.** The Planning Commission (or the City Council on appeal) may accept any combination of on-site construction, off-site construction, in-lieu fees and land dedication which, in the Planning Commission's or City Council's determination, would provide equivalent or greater benefit than that which might result from providing Inclusionary Units on-site.

B. **DISCRETION OF PLANNING COMMISSION OR CITY COUNCIL.** The Planning Commission (or the City Council on appeal) may approve, conditionally approve or reject any alternative proposed by an Applicant as part of an Affordable Housing Plan. Any approval or conditional approval must be based on a finding that the purposes of this Chapter would be better served by implementation of the proposed alternative. In determining whether the purposes of this Chapter would be better served under the proposed alternative, the Planning Commission (or the City Council on appeal) should consider the extent to which other factors affect the feasibility of prompt construction of the Inclusionary Housing Units, such as site design, zoning, infrastructure, clear title, grading and environmental review. (Ord. 5310, 2004.)

28.43.090 Inclusionary Housing Plan Processing.

A. **GENERALLY.** The submittal of an Inclusionary Housing Plan and recordation of an approved City affordability control covenant shall be a pre-condition on the City approval of any Final Subdivision Map, and no building permit shall be issued for any Development to which this Chapter applies without full compliance with the provision of this Section. This Section shall not apply to exempt projects or to projects where the requirements of the Chapter are satisfied by payment of an in-lieu fee under Section 28.43.070.

B. **INCLUSIONARY HOUSING PLAN.** Every residential development to which this Chapter applies shall include an Inclusionary Housing Plan as part of the application submittal for either development plan approval or subdivision approval. No application for a tentative map, subdivision map, or building permit for a development to which this Chapter applies may be deemed complete until an Inclusionary Housing Plan is submitted to and approved by the Community Development Director as being complete. At any time during the formal development review process, the Community Development Director may require from the Applicant additional information reasonably necessary to clarify and supplement the application or determine the consistency of the Project's proposed Inclusionary Housing Plan with the requirements of this Chapter.

C. **REQUIRED PLAN ELEMENTS.** An Inclusionary Housing Plan must include the following elements or submittal requirements:

1. The number, location, structure (attached, semi-attached, or detached), and size of the proposed Market-Rate and Inclusionary Units and the basis for calculating the number of Inclusionary Units;
2. A floor or site plan depicting the location of the Inclusionary Units and the Market-Rate Units;
3. The income levels to which each Inclusionary Unit will be made affordable;
4. The methods to be used to advertise the availability of the Inclusionary Units and select the eligible purchasers, including preference to be given, if any, to applicants who live or work in the City in conformance with the City's Affordable Housing Policies and Procedures;
5. For phased Development, a phasing plan that provides for the timely development of the number of Inclusionary Units proportionate to each proposed phase of development as required by Section 28.43.060.A.3 of this Chapter;
6. A description of any modifications as listed in Section 28.92.110 that are requested of the City;
7. Any alternative means designated in Section 28.43.080.A proposed for the Development along with information necessary to support the findings required by Section 28.43.080.B for approval of such alternatives; and

8. Any other information reasonably requested by the Community Development Director to assist with evaluation of the Plan under the standards of this Chapter.

D. **AFFORDABILITY CONTROL COVENANTS.** Prior to issuance of a grading permit or building permit, whichever is requested first, a standard City affordability control covenant must be approved and executed by the Community Development Director, executed by the Applicant/Owners, and recorded against the title of each Inclusionary Unit. If subdivision into individual property parcels has not been finalized at the time of issuance of a grading permit or building permit, an overall interim affordability control covenant shall be recorded against the Residential Development, and shall be replaced by separate recorded affordability control covenants for each unit prior to issuance of a Certificate of Occupancy by the City for such units. (Ord. 5310, 2004.)

28.43.100 Eligibility for Inclusionary Units.

A. **GENERAL ELIGIBILITY FOR INCLUSIONARY UNITS.** No Household may purchase or occupy an Inclusionary Unit unless the City has approved the Household's eligibility, and the Household and City have executed and recorded an affordability control covenant in the chain of title of the Inclusionary Unit. Such affordability control covenant is in addition to the covenant required in Section 28.43.090 above. The eligibility of the purchasing household shall be established in accordance with the City's Affordable Housing Policies and Procedures and any additional eligibility requirements agreed upon in writing by the Applicant and the City.

B. **OWNER OCCUPANCY.** A Household which purchases an Inclusionary Unit must occupy that unit as a principal residence, as that term is defined for federal tax purposes by the United States Internal Revenue Code. (Ord. 5310, 2004.)

28.43.110 Owner-Occupied Units; Sales Price; Long-Term Restriction.

A. **INITIAL SALES PRICE.** The initial sales price of an Inclusionary Unit must be set in accordance with the City's Affordable Housing Policies and Procedures, using the Target Income requirements specified in this Chapter.

B. **TRANSFERS AND CONVEYANCES.** A renewal of the affordability controls covenant will be entered into upon each change of ownership of an Inclusionary Unit and upon any transfer or conveyance (whether voluntarily or by operation of law) of an owner-occupied Inclusionary Unit as such covenants are required in accordance with the City's Affordable Housing Policies and Procedures.

C. **RESALE PRICE.** The maximum sales price and qualifications of purchasers permitted on resale of an Inclusionary Unit shall be specified in the affordability control covenant and shall be in conformance with the City's then approved and applicable Affordable Housing Policies and Procedures. (Ord. 5310, 2004.)

28.43.120 Adjustments and Waivers.

A. **ADJUSTMENTS AND WAIVERS.** The requirements of this Chapter may be adjusted to propose an alternative method of compliance with this Chapter in accordance with Section 28.43.080 or waived (in whole or in part) by the City if the Applicant demonstrates to the Planning Commission (or the City Council on appeal) that applying the requirement of this Chapter would be contrary to the requirements of the laws of the United States or California or the Constitutions thereof.

B. **TIMING OF WAIVER REQUEST.** To receive an adjustment or waiver, the Applicant must make an initial request of the Planning Commission for such an adjustment or waiver and an appropriate demonstration of the appropriateness of the adjustment or waiver when first applying to the Planning Commission for the review and approval of the proposed Residential Development development plan or subdivision review as such review and approval is required by either Title 28 or Title 27 of the Santa Barbara Municipal Code.

C. **WAIVER AND ADJUSTMENT CONSIDERATIONS.** In making a determination on an application to adjust or waive the requirements of this Chapter, the Planning Commission (or the City Council on appeal) may assume each of the following when applicable: (i) that the Applicant is subject to the inclusionary housing requirement or in-lieu fee; (ii) the extent to which the Applicant will benefit from inclusionary incentives under Section 28.43.050; and (iii) that the Applicant will be obligated to provide the most economical Inclusionary Units feasible in terms of construction, design, location and tenure.

D. **WRITTEN DECISION.** The Planning Commission (or the City Council on appeal) will determine the application and issue written findings and a decision within sixty (60) days of the public hearing on the Adjustment/Waiver Request.

E. **APPEAL TO THE CITY COUNCIL.** Upon a decision by the Planning Commission on the proposed overall residential development plan, any action taken by the Commission made pursuant to a request for an adjustment for an alternative method of compliance under Section 28.43.080, or for a waiver pursuant to this Section, may be appealed to the City Council in accordance with the appeal procedures of Santa Barbara Municipal Code Section 1.30.050. (Ord. 5310, 2004.)

28.43.130 Affordable Housing Inclusionary Fund.

A. **INCLUSIONARY FUND.** There is hereby established a separate City Affordable Housing Inclusionary Fund ("Fund") maintained by the City Finance Director. This Fund shall receive all fees contributed under Sections 28.43.070 and 28.43.080 and may, at the discretion of the City Administrator, also receive monies from other sources.

B. **PURPOSE AND LIMITATIONS.** Monies deposited in the Fund must be used to increase and improve the supply of housing affordable to Upper-Middle, Middle, Moderate-, Low-, and Very Low-Income Households in the City and to ensure compliance of such Households with the City's Affordable Housing Policies and Procedures. Monies may also be used to cover reasonable administrative or related expenses associated with the administration of this Section, including, but not limited to, the City's purchase and resale of affordable housing units that are in default of the affordable control covenant recorded against that property, provided that the City shall, at all times, comply with the applicable provisions and requirements of the state Mitigation Fee Act, Govt. Code Sections 66000 - 66025.

C. **ADMINISTRATION.** The Fund shall be administered by the Community Development Director, who may develop procedures to implement the purposes of the Fund consistent with the requirements of this Chapter and any adopted budget of the City.

D. **EXPENDITURES.** Fund monies shall be used in accordance with the City's Housing Element, Redevelopment Plan, the City's Affordable Housing Policies and Procedures, or subsequent plan adopted by the City Council to construct, rehabilitate or subsidize affordable housing or assist other governmental entities, private organizations or individuals to do so. Permissible uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development loan funds, participation leases or other public-private partnership arrangements. The Fund may be used for the benefit of both rental and owner-occupied housing in accordance with the applicable requirements of the state Mitigation Fee Act, Govt. Code Sections 66000 - 66025.

E. **COMMUNITY DEVELOPMENT DIRECTOR'S ANNUAL REPORT.** The Community Development Director, with the assistance of the City Finance Director, shall report annually to the City Council on the status of activities undertaken with the Fund. The report shall include a statement of income, expenses, disbursements and other uses of the Fund. The report should also state the number and type of Inclusionary Units constructed during that year. (Ord. 5488, 2009; Ord. 5310, 2004.)

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Chapter 28.44

COASTAL OVERLAY ZONE – S-D-3 ZONE DESIGNATION

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28.44.010 Legislative Intent.

The Coastal Overlay Zone is established for the purpose of implementing the Coastal Act of 1976 (Division 20 of the California Public Resources Code) and to insure that all public and private development in the Coastal Zone of the City of Santa Barbara is consistent with the City's Certified Local Coastal Program and the Coastal Act. (Ord. 5417, 2007.)

28.44.020 Location.

The S-D-3 Zone is applied to the "Coastal Zone" which is defined as generally all of the land 1,000 yards from the mean high tide line as established by the Coastal Act of 1976 and as it may subsequently be amended, which lies within the City of Santa Barbara (including the Santa Barbara Municipal Airport and Goleta). (Ord. 5417, 2007.)

28.44.030 Compliance.

Any person (including the City, any utility, any federal, state or local government, or special district or any agency thereof) wishing to perform or undertake any development within the Coastal Overlay Zone of the City of Santa Barbara shall comply with the provisions of this Chapter 28.44. If there is a conflict between a provision of the City of Santa Barbara Local Coastal Program (including the Land Use Plan and the Coastal Overlay Zone Ordinance) and a provision of the General Plan or any other City-adopted plan, resolution or ordinance not included in the City of Santa Barbara Local Coastal Program, and it is not possible for the proposed development to comply with both the Local Coastal Program and such other plan, resolution or ordinance, the Local Coastal Program shall take precedence and the development shall not be approved unless it complies with the Local Coastal Program provision. (Ord. 5417, 2007.)

28.44.040 Definitions.

For the purposes of this Chapter 28.44, the following words and phrases shall be construed as set forth below in this Section 28.44.040 unless it is apparent from the context that a different meaning is intended:

A. ACCESS.

1. Lateral. An area of land providing public access along the water's edge.

2. Vertical. An area of land providing a connection between the first public road or use area nearest the sea and the publicly-owned tidelands or established lateral access way.

B. AGGRIEVED PERSON. Any person who, in person or through a representative, appeared at a public hearing of the City in connection with the decision or action appealed, or who, by other appropriate means prior to the hearing, informed the City of the nature of his concerns or who for good cause was unable to do either.

C. APPEALABLE DEVELOPMENT.

1. Developments approved by the City between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.

2. Developments approved by the City not included within Paragraph 1 above located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

3. Any development which constitutes a major public works project or a major energy facility.

The Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara, has been prepared to show where the California Coastal Commission retains permit and appeal jurisdiction pursuant to Public Resources Code Sections 30519(b), 30603(a)(1) and (a)(2) and 30600.5(d). In addition, development may also be appealable pursuant to Public Resources Code Sections 30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any appealable area, the matter should be referred to the City of Santa Barbara and/or the Executive Director of the California Coastal Commission for clarification and information. The Post-LCP Certification Permit and Appeal Jurisdiction Map may be updated as appropriate and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Commission.

D. APPLICANT. The person, partnership, corporation or state or local government agency applying for a coastal development permit.

E. COASTAL COMMISSION. California Coastal Commission.

F. COASTAL DEVELOPMENT PERMIT. A permit for any development within the coastal zone that is required pursuant to subdivision (a) of Section 30600 of the California Public Resources Code and issued by the City in accordance with the provisions of this Section.

G. COASTAL ZONE. That land and water area of the City of Santa Barbara extending seaward to the State's outer limit of jurisdiction and extending inland to the boundary shown on the official Zoning Maps for the S-D-3 Coastal Overlay Zone, as amended from time to time and adopted by the Coastal Commission.

H. DEVELOPMENT. On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition or alteration of the size of any structure, including any facility of any private, public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

I. ENERGY FACILITY. Any public or private processing, producing, generating, storing, transmitting or recovering facility for electricity, natural gas, petroleum, coal or other source of energy.

J. ENVIRONMENTALLY SENSITIVE AREA. Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

K. FEASIBLE. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

L. FILL. Earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

M. LAND USE PLAN. Maps and a text which indicate the kinds, location and intensity of land uses allowed in the Coastal Zone and includes resources protection and development policies related to those uses.

N. LOCAL COASTAL PROGRAM. The City's land use plan, zoning ordinances, zoning maps and other implementing actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.

O. MAJOR PUBLIC WORKS PROJECT OR MAJOR ENERGY FACILITY.

1. “Major public works” and “Major energy facilities” mean facilities that cost more than one hundred thousand dollars ($100,000) with an automatic annual increase every year following the baseline of one hundred thousand dollars set in 1983 in accordance with the Engineering News Record Construction Cost Index, except for those facilities governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624.

2. Notwithstanding the criteria in Paragraph 1 above, “major public works” also means publicly-financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.

P. NATURAL DISASTER. Any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owner.

Q. OCEAN-DEPENDENT DEVELOPMENT OR USE. Any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

R. OCEAN-RELATED DEVELOPMENT OR USE. Any development or use which is dependent on an ocean-dependent development or use.

S. OTHER PERMITS AND APPROVALS. Permits and approvals, other than a coastal development permit, required to be issued by the approving authority before a development may proceed.

T. PERSON. Any individual, organization, partnership, limited liability company, or other business association or corporation, including any utility, and any federal, state or local government, special district, or an agency thereof.

U. PUBLIC WORKS PROJECT. Any of the following development shall constitute a public works project:

1. All production, storage, transmission and recovery facilities for water, sewage, telephone and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

2. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.

3. All publicly-financed recreational facilities, all projects of the State Coastal Conservancy and any development by a special district.

4. All community college facilities.

V. SEA. The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks and flood control and drainage channels.

W. STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

X. VISITOR-SERVING DEVELOPMENT OR USE. Stores, shops, businesses, temporary lodging and recreational facilities (both public and private) which provide accommodations, food and services for the traveling public, including, but not limited to, hotels, motels, campgrounds, parks, nature preserves, restaurants, specialty shops, art galleries and commercial recreational development such as shopping, eating and amusement areas.

Y. WETLAND. Lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fens.

Z. WORKING DAY. Any day on which all City offices are open for business. (Ord. 5417, 2007.)

28.44.050 Application for Development.

A. APPLICATION. Except for development involving emergency work subject to the provisions of Section 28.44.100, an application for a coastal development permit shall be submitted prior to the commencement of any development within the Coastal Zone. The application for the coastal development permit shall be filed prior to or concurrent with other necessary City permits or approvals for said development. Such application shall be submitted to the Community Development Department and shall be accompanied by such filing fee as established by the City Council. The Community Development Department shall provide a written handout explaining the requirements for a completed coastal development application. The Community Development Department shall take the following actions:

1. Determine if the proposed project requires a coastal development permit and, if so, determine the category of permit for the project in accordance with this Chapter.

2. File the application and provide notice of action on the application in accordance with this Chapter.

3. For those projects requiring a public hearing, prepare and transmit a staff report and recommendation regarding the application to the Planning Commission or Staff Hearing Officer.

B. DETERMINATION OF APPLICABLE NOTICE AND HEARING PROCEDURES. The determination of whether a development is categorically excluded, non-appealable or appealable for purposes of notice, hearing and appeals procedures shall be made by the Community Development Department at the time the application for the coastal development permit is submitted. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and zoning laws which are adopted as part of the Local Coastal Program. Where an applicant, interested person, or the Community Development Department has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, non-appealable or appealable:

1. The Community Development Department shall make its determination as to what type of development is being proposed (i.e. categorically excluded, non-appealable or appealable) and shall inform the applicant of the notice and hearing requirements for that particular development.

2. If the determination of the Community Development Department is challenged by the applicant or an interested person, or if the City wishes to have a Commission determination as to the appropriate designation, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an opinion from the Executive Director of the Coastal Commission.

3. The Executive Director shall, within two (2) working days of the City's request (or upon completion of a site inspection where such inspection is warranted), transmit the determination as to whether the development is categorically excluded, non-appealable or appealable.

4. Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the City determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Coastal Commission shall schedule the hearing on the determination for the next meeting (in the appropriate geographic region of the state) following the City's request. (Ord. 5417, 2007.)

28.44.060 Permit Required.

In addition to any other permits or approvals required by the City, a coastal development permit shall be required prior to commencement of any development in the coastal zone of the City, unless the development involves emergency work subject to the provisions of Section 28.44.100 or the development is subject to one of the exclusions or exemptions specified in Section 28.44.070. (Ord. 5417, 2007.)

28.44.070 Exclusions and Exemptions.

The following categories of development, through Subsection C, are categorically excluded from the coastal development permit requirements of this Chapter 28.44 pursuant to Categorical Exclusion Order E-86-03 as amended by Categorical Exclusion Order E-06-1 and certified by the California Coastal Commission:

A. TIME-SHARE CONVERSION EXCLUSION. Any activity anywhere in the coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.

B. VESTED RIGHTS EXCLUSION. Any development which, on the effective date of this subsection, has a valid approval from the Coastal Commission shall be considered to have a vested right until such time as said approval expires or lapses; provided, however, that no substantial change may be made in any such development without prior Coastal Commission and City approval having been obtained by the developer.

C. SINGLE FAMILY RESIDENCE EXCLUSIONS.

1. Construction of one (1) single family residence on an existing vacant parcel in the area designated as Non-Appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara.

2. Demolition and reconstruction of an existing single family residence in the area designated as Non-Appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara. Notwithstanding the exclusion specified in this paragraph, if an application for demolition and reconstruction of an existing single family residence is submitted for a lot that either: (1) contains a City Landmark or Structure of Merit, (2) contains or is within 100 feet of archeological or paleontological resources, or (3) contains or is within 100 feet of a environmentally sensitive habitat area, stream, wetland, marsh, or estuary, regardless of whether such resources are mapped or unmapped, then the application shall require a coastal development permit.

The following categories of development, through the end of this Section 28.44.070, are exempt from the coastal development permit requirements of this Chapter 28.44 pursuant to Section 30610 of the Public Resource Code and Sections 13250-13253 of Title 14 of the California Administrative Code.

D. SINGLE FAMILY RESIDENCE EXEMPTION. Improvements to existing single family residences; provided, however, that those improvements which involve a risk of adverse environmental effect shall require a coastal development permit, as provided in Section 13250 of Title 14 of the California Administrative Code, as amended from time to time.

E. OTHER CONSTRUCTION EXEMPTION. Improvements to any structure other than a single family residence or a public works facility; provided, however, that those improvements which involve a risk of adverse environmental effect; or adversely affect public access; or result in a change in use contrary to any policy of the Coastal Act; shall require a coastal development permit, as provided in Section 13253 of Title 14 of the California Administrative Code, as amended from time to time.

F. MAINTENANCE OF NAVIGATION CHANNEL EXEMPTION. Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.

G. REPAIR OR MAINTENANCE EXEMPTION. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activity; provided, however, that extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact shall require a coastal development permit, as provided in Section 13252 of Title 14 of the California Administrative Code, as amended from time to time.

H. UTILITY CONNECTIONS EXEMPTION. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the California Coastal Act of 1976 and this Chapter; provided that the Community Development Director may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.

I. REPLACEMENT OF EXISTING STRUCTURES DESTROYED BY NATURAL DISASTER EXEMPTION. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure. As used in this Subsection I, the term:

1. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

2. "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.

3. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

J. TEMPORARY EVENT EXEMPTION.

1. Definitions. For the purposes of this Subsection J, the following words and phrases shall be construed as set forth below:

a. Exclusive Use. A use that precludes public uses in the area of the temporary event for recreation, beach access or access to coastal waters other than for or through the temporary event itself.

b. Limited Duration. A period of time that does not exceed a two-week period on a continual basis, or does not exceed a consecutive four-month period on an intermittent basis.

c. Non-permanent Structure(s). Include, but are not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, booths, platforms, movie/film sets, which do not involve grading or landform alteration for installation.

d. Temporary Event. An activity or use that constitutes development as defined in Section 30106 of the California Coastal Act; and is an activity or function of limited duration; and involves the placement of non-permanent structures; and/or involves exclusive use of a sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available for general public use.

e. Coastal Resources. Include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources.

f. Sandy Beach Area. Includes publicly-owned and privately-owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest.

2. General Rule. Except as provided in Paragraph 4 below, every temporary event is excluded from the coastal development permit requirements under this Chapter 28.44, unless the temporary event meets all of the following criteria:

a. The event is to be held between Memorial Day weekend and Labor Day, inclusive; and,

b. The event occupies all or a portion of a sandy beach area; and,

c. The event involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).

3. Other Exclusions. The Community Development Director may also exclude a temporary event that satisfies all of the criteria specified in Paragraph 2 above, if:

a. The fee is for preferred seating only and 75% of the provided seating capacity is available free of charge for general public use; or,

b. The event is held on a sandy beach area in a remote location with minimal demand for public use, and there is no potential for adverse effect on sensitive coastal resources; or,

c. The event is less than one day in duration; or,

d. The event has previously received a coastal development permit and will be held in the same location, at a similar season, and for a similar duration, with operating and environmental conditions substantially the same as those associated with the previously-approved event.

4. Special Circumstances. The Community Development Director, or the Planning Commission or City Council through direction to the Community Development Director, may determine that a temporary event shall require a coastal development permit, even if the criteria specified in Paragraph 2 above are not met, if the Community Development Director determines that unique or changing circumstances exist relative to the particular temporary event that have the potential for significant adverse impacts on coastal resources. Such circumstances may include, but shall not be limited to, the following:

a. The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;

b. The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in Paragraph 1 above;

c. The event is scheduled between Memorial Day weekend and Labor Day and would restrict public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters; or

d. The event has historically required a coastal development permit to address and monitor associated impacts to coastal resources. (Ord. 5417, 2007.)

28.44.080 Record of Categorical Exclusion Determinations.

The Community Development Department shall maintain a record of all determinations made which shall be made available to the Coastal Commission or any interested person upon request. This record must include the applicant's name, the location of the project, a brief description of the project, the site plan, the date upon which the determination was made, and all terms and conditions imposed by the City in granting its approval. Notice of each exclusion determination shall be made to the Coastal Commission within five (5) working days of the determination by the Community Development Department. The City is not required to give the Coastal Commission notice of exemption determinations. (Ord. 5417, 2007.)

28.44.100 Permit for Emergency Work.

The Community Development Director may issue an emergency permit without compliance with the procedures for the issuance of a coastal development permit specified in this Chapter 28.44 in cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Administrative Code. Where persons or public agencies seek a permit for emergency work pursuant to Section 30624 of the California Public Resources Code or this Section 28.44.100, the following procedures shall apply:

A. APPLICATION. Applications for permits for emergency work shall be made to the Community Development Director by letter or facsimile during business hours if time allows, or by telephone or in person if time does not allow. The information to be reported during the emergency, if it is possible to do so, or to be reported fully in any case after the emergency, shall include the following:

1. The nature of the emergency;
2. The cause of the emergency, insofar as this can be established;
3. The location of the emergency;
4. The remedial, protective, or preventive work required to deal with the emergency;
5. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action;
6. The identity of other public agencies alerted to the emergency;
7. Access routes to the emergency; and,
8. Any other information deemed necessary by the Community Development Director.

B. VERIFICATION OF EMERGENCY. The Community Development Director shall verify the facts, including the existence and nature of the emergency, insofar as time allows.

C. COORDINATION AND PUBLIC NOTICE. Prior to issuance of an emergency permit, when feasible, the Community Development Director shall notify, and coordinate with, the South Central Coast District Office of the California Coastal Commission as to the nature of the emergency and the scope of the work to be performed. This notification shall be in person or by telephone. The Community Development Director shall provide public notice of the proposed emergency action required by Section 13329.3 of Title 14 of the California Administrative Code, with the extent and type of notice determined on the basis of the nature of the emergency itself.

D. ISSUANCE. The Community Development Director may grant a permit for emergency work upon reasonable terms and conditions, including an expiration date and the requirement for a regular permit application later, if the Community Development Director finds that:

1. An emergency exists and requires action more quickly than permitted by the procedures for ordinary permits, and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
2. Public comment on the proposed emergency action has been reviewed if time allows;
3. The work proposed would be consistent with the requirements of the City's Local Coastal Program and the California Coastal Act of 1976;
4. The work proposed is the minimum action necessary to address the emergency and, to the maximum extent feasible, is the least environmentally damaging temporary alternative for addressing the emergency. This finding shall be made with the maximum information and analysis possible given the expedited review demanded by the emergency situation;
5. The Community Development Director shall not issue an emergency permit for any work that falls within the provisions of Public Resources Code Section 30519(b) since a coastal development permit application for this type of work must be reviewed by the California Coastal Commission pursuant to the provisions of Public Resources Code Sections 30519(b) and 30600(d).

E. FORMAT OF PERMIT. The emergency permit shall be a written document that includes the following information:

1. The date of issuance;
2. An expiration date;
3. The scope of work to be performed;
4. Terms and conditions of the permit. The emergency permit may contain conditions for removal of existing development or structures if they are not authorized in a coastal development permit, or the emergency permit may require that a subsequent coastal development permit must be obtained to authorize the removal of such existing unpermitted development or structures;

5. A provision stating that within ninety (90) days of issuance of the emergency permit, a coastal development permit application shall be submitted and properly filed consistent with the requirements of this Chapter seeking authorization to retain structures erected pursuant to the emergency permit, to remove such structures, or some other alternative;

6. A provision stating that any development or structures constructed pursuant to an emergency permit shall be considered temporary until authorized by a subsequent coastal development permit and that issuance of an emergency permit shall not constitute an entitlement to the erection of permanent development or structures; and

7. A provision that states that the development authorized in the emergency permit must be removed unless a complete application for a coastal development permit is filed within ninety (90) days of approval of the emergency permit. If all or any portion of the application for the coastal development permit seeking authorization for permanent retention of the development authorized pursuant to the emergency permit is denied, the portion of the development that is denied must be removed.

F. NOTICE TO THE PLANNING COMMISSION.

1. The Community Development Director shall report in writing to the Planning Commission at each meeting of the Commission the emergency permits applied for or issued since the last report. The report shall contain a description of the nature of the emergency and the work involved. Copies of this report shall be available at the meeting and shall have been mailed at the time the application summaries and staff recommendations are normally distributed to all persons who have requested such notification in writing. Copies of this report shall also be sent to the South Central Coast District Office of the California Coastal Commission.

2. All emergency permits issued after completion of the agenda for the Planning Commission meeting shall be briefly described by the Community Development Director at the meeting and the written report required by Paragraph 1 above shall be distributed prior to the next meeting of the Planning Commission.

3. The report of the Community Development Director shall be informational only. The decision to issue an emergency permit is solely at the discretion of the Community Development Director. (Ord. 5417, 2007.)

28.44.110 Authority to Review.

Where a coastal development permit is required pursuant to Section 28.44.060, the authority to review an application for a coastal development permit is designated as follows:

A. APPEALABLE DEVELOPMENT.

1. Planning Commission. The Planning Commission shall review all applications for coastal development permits for proposed development in the appealable area unless authority is granted to the Staff Hearing Officer pursuant to Paragraph 2 below.

2. Staff Hearing Officer. The Staff Hearing Officer shall review applications for coastal development permits for development proposed in the appealable area when:

a. The proposed development requires another discretionary action by the Staff Hearing Officer under any other provision of this Code; or

b. The proposed development involves single family residential development unless the proposed development:

(1) is located less than 50 feet from the edge of any coastal bluff or the inland extent of any beach; or

(2) is located seaward of the seacliff retreat line as defined in the City of Santa Barbara Coastal Plan; or

(3) involves an improvement that increases the internal floor area of any structure by more than 500 square feet; or

(4) involves a second story improvement; or

(5) requires a discretionary action by the Planning Commission under another provision of this Code.

B. NON-APPEALABLE DEVELOPMENT.

1. Planning Commission. The Planning Commission shall review applications for coastal development permits for development proposed in the non-appealable area when the proposed development requires another discretionary action by the Planning Commission under any other provision of this Code.

2. Staff Hearing Officer. The Staff Hearing Officer shall review applications for coastal development permits for development proposed in the non-appealable area when the proposed development does not require another discretionary action by the Planning Commission under another provision of this Code.

C. SECONDARY DWELLING UNITS. When a proposed development only involves the addition of a secondary dwelling unit to an existing single family residence, the application shall be reviewed by the Staff Hearing Officer without a public hearing in accordance with subdivision (j) of Government Code Section 65852.2. The Staff Hearing Officer shall not issue a decision on the application until at least ten (10) calendar days after notice having been given pursuant to Section 28.44.130. The Staff Hearing Officer may receive written comments regarding the application and consider such written comments during the review of the application, but the Staff Hearing Officer shall not conduct a public hearing on the application. The decision of the Staff Hearing Officer concerning an application for a coastal development permit pursuant to this subsection C shall constitute the final action of the City. In the appealable area, decisions of the Staff Hearing Officer made pursuant to this subsection C may be appealed to the Coastal Commission in accordance with Section 28.44.200. Actions on applications to construct secondary dwelling units shall be consistent with the provisions of the applicable zone and the policies and development standards of the City of Santa Barbara's certified Local Coastal Program and Chapter 3 of the California Coastal Act. Review of a coastal development permit application for a secondary dwelling unit as an addition to an existing single family residence shall comply with all procedures and development standards of this Chapter, aside from the requirements to conduct a public hearing and City appeals as described in Sections 28.44.120, 28.44.140, and 28.44.160. (Ord. 5417, 2007.)

28.44.120 Public Hearing.

At least one public hearing shall be held on each application requiring a coastal development permit, with the exception of applications that only include the addition of a secondary dwelling unit to an existing single family residence pursuant to Section 28.44.110.C. The Planning Commission or the Staff Hearing Officer, as designated in Section 28.44.110, shall hold the public hearing regarding the coastal development permit concurrently with any other required public hearing or hearings before the reviewing body for any other applications regarding the proposed development. (Ord. 5417, 2007.)

28.44.130 Notice.

A. TIMING AND METHOD. At least ten (10) days prior to the public hearing on the application for a coastal development permit, the Community Development Department shall provide written notice of the public hearing in the following manner:

1. Notice shall be published in a newspaper of general circulation in the City;
2. Notice shall be sent by first class mail to any person who has filed a written request therefore;
3. Notice shall be sent by first class mail to property owners within 300 feet of the exterior boundary of the project parcel;
4. Notice shall be sent by first class mail to occupants of residences, including apartments, on or within 100 feet of the affected parcel;
5. Notice shall be sent by first class mail to the Coastal Commission; and
6. In addition to the required methods of notice above, the Community Development Department may provide for supplemental noticing methods including, but not limited to, posted notice on the project site. However, the failure to receive notice pursuant to any supplemental noticing method shall not constitute a basis for invalidating any action taken on the coastal development permit application.

B. CONTENT. The written notice of the public hearing shall contain all of the following information:

1. A statement that the development is within the coastal zone;
2. The date of filing of the application and the name of the applicant;
3. The permit number assigned to the application;
4. A description of the development and its proposed location;
5. The date, time and place at which the application will be heard by the Planning Commission or the Staff Hearing Officer;
6. A brief description of the general procedure of the Planning Commission or the Staff Hearing Officer concerning the conduct of hearings, submission of public comment either in writing or orally, and local action; and
7. The system for City and Coastal Commission appeals. (Ord. 5417, 2007.)

28.44.140 Notice when Hearing is Continued.

If a public hearing regarding an application for a coastal development permit is continued by the Planning Commission or the Staff Hearing Officer to a date which is neither (1) previously stated in the notice provided pursuant to Section 28.44.130, nor (2) announced at the public hearing as being continued to a date certain, the Community Development Department shall provide notice of the continued hearing in the same manner, and within the same time limits as established in Section 28.44.130. (Ord. 5417, 2007.)

28.44.150 Findings.

In order to approve a coastal development permit, all of the following findings shall be made:

A. The project is consistent with the policies of the California Coastal Act; and

B. The project is consistent with all applicable policies of the City's Local Coastal Plan, all applicable implementing guidelines, and all applicable provisions of the Code. (Ord. 5417, 2007.)

28.44.160 Suspensions and Appeals.

A. FROM THE STAFF HEARING OFFICER.

1. Suspensions. The Chairperson, Vice Chairperson or other designated member of the Planning Commission may take action to suspend any decision of the Staff Hearing Officer and to schedule a public hearing before the Planning Commission to review said decision. The notice of suspension must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision. The Community Development Department shall prepare a report to the Planning Commission with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer.

2. Appeals. The decisions of the Staff Hearing Officer may be appealed to the Planning Commission by the applicant, an aggrieved person or any two (2) members of the Coastal Commission. The appeal must be filed with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision unless a longer appeal period is allowed for other actions taken concurrently with the decision on the application for a coastal development permit, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal wherein the decision of the Staff Hearing Officer is not in accord with the provisions of this Chapter or wherein it is claimed that there was an error or an abuse of discretion by the Staff Hearing Officer. The Community Development Department shall prepare a report to the Planning Commission with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Staff Hearing Officer's decision. The Planning Commission shall affirm, reverse, or modify the decision of the Staff Hearing Officer after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Staff Hearing Officer; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant.

B. FROM THE PLANNING COMMISSION. The decisions of the Planning Commission, including decisions on suspensions or appeals from decisions of the Staff Hearing Officer, may be appealed to the City Council by the applicant, an aggrieved person or any two (2) members of the Coastal Commission. The appeal must be filed with the City Clerk within ten (10) calendar days of the date of the Planning Commission's decision unless a longer appeal period is allowed for other actions taken concurrently with the decision on the coastal development permit, in which case the longer appeal period shall prevail. The appellant shall state specifically in the appeal wherein the decision of the Planning Commission is not in accord with the provisions of this Section or wherein it is claimed that there was an error or an abuse of discretion by the Planning Commission. Prior to the hearing on said appeal, the City Clerk shall inform the Community Development Department that an appeal has been filed whereon said Department shall prepare a report to the City Council with Staff recommendations, including all maps and data and a statement of findings setting forth the reasons for the Planning Commission's decision. The City Council shall affirm, reverse, or modify the decision of the Planning Commission after conducting a public hearing. Notice of the time and place of the public hearing shall be given in accordance with the notice required for the public hearing before the Planning Commission; however, in addition to any other required notice, written notice shall be sent by first-class mail to the appellant. (Ord. 5417, 2007.)

28.44.170 Finality of City Action.

A local decision on an application for a coastal development permit shall be deemed final when:

A. The local decision on the application has been made and all required findings have been adopted, including specific factual findings supporting the legal conclusions that the proposed development is or is not in conformity with the certified Local Coastal Program and, where applicable, with the public access and recreation policies of Chapter 3 of the California Coastal Act, Public Resources Code; and

B. When all local rights of appeal have been exhausted as defined in Section 28.44.160. (Ord. 5417, 2007.)

28.44.180 Notice of Final Action by the City.

Within seven (7) calendar days of a final City decision on an application for a coastal development permit, the Community Development Department shall provide notice of the action by first class mail to the Coastal Commission and to any persons who specifically requested such notice and provided a self-addressed, stamped envelope. Such notice shall include conditions of approval, written findings and the procedures for appeal of the City decision to the Coastal Commission. (Ord. 5417, 2007.)

28.44.190 Effective Date of City Final Action on Appealable Items.

A final decision of the City on an application for an appealable development shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired unless any of the following occur:

A. An appeal is filed in accordance with Section 28.44.200; or

B. The notice of final City action has not been given pursuant to Section 28.44.180.

When either of the above circumstances occurs, the Coastal Commission shall, within five (5) working days of receiving notice of that circumstance, notify the City and the applicant that the effective date of the City action has been suspended. (Ord. 5417, 2007.)

28.44.200 Appeals to the Coastal Commission.

For those actions taken by the City on applications for coastal development permits that are approved for development defined as "appealable" under California Public Resources Code, Section 30603(a) and Subsection 28.44.030.C, an appeal may be filed with the Coastal Commission by an aggrieved party, the applicant, or two (2) members of the Coastal Commission. Such appeals must be filed in the office of the Coastal Commission not later than 5:00 p.m. of the tenth working day following the Commission's receipt of sufficient notice of the final local governmental action. In the case of an appeal by an applicant or aggrieved party, the appellant must have first pursued appeal to the City Council, as established in Section 28.44.160, to be considered an aggrieved party. (Ord. 5417, 2007.)

28.44.220 Development Within Coastal Commission Permit Jurisdiction.

Notwithstanding other permit and appeal provisions of this Chapter, development proposals which are located on lands identified as tidelands, submerged lands or public trust lands as identified on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara, adopted by the Coastal Commission, shall, pursuant to the requirements of California Public Resources Code Section 30519(b), require a coastal permit from the Coastal Commission. Upon submittal to the City of an application for a coastal development permit, the Community Development Department shall determine if the development may be located on land identified as tidelands, submerged lands and/or public trust lands. Such determination shall be based upon maps and other descriptive information identifying such lands which the Coastal Commission and/or State Lands Commission may supply. Upon a determination that the proposed coastal development involves such lands, the Community Development Department shall notify the applicant and the Coastal Commission of the determination that a State coastal permit is required for the development. In conjunction with the City's review and decision on the development in accordance with the requirements of this Chapter and other City codes, the City shall also make a recommendation to the Coastal Commission regarding the development's conformance with the certified Local Coastal Program, including this Chapter. The City's determination of development conformance with the objectives and requirements of the Local Coastal Program shall be advisory only and not a final action under this Chapter. Development shall not proceed until the Coastal Commission grants a coastal permit for such a development.

A. PLANNING COMMISSION RECOMMENDATION. If proposed development within the permit jurisdiction of the Coastal Commission requires discretionary review by the Planning Commission under any other provision of this Code, the Planning Commission shall conduct a public hearing regarding the development's conformance with the certified Local Coastal Program including this Chapter. The public hearing shall be held concurrently with any other required public hearing or hearings for any other applications regarding the proposed development. Following approval of the development by the City, the Community Development Department shall forward the City approval, the application, supporting file documents and the City's recommendation regarding the issuance of the coastal development permit to the Coastal Commission for its action on the coastal development permit application.

B. STAFF HEARING OFFICER RECOMMENDATION. If proposed development within the permit jurisdiction of the Coastal Commission requires discretionary review by the Staff Hearing Officer under any other provision of this Code, the Staff Hearing Officer shall conduct a public hearing regarding development's conformance with the certified Local Coastal Program including this Chapter. The public hearing shall be held concurrently with any other required public hearing or hearings for any other applications regarding the proposed development. Following approval of the development by the City, the Community Development Department shall forward the City approval, the application, supporting file documents and the City's recommendation regarding the issuance of the coastal development permit to the Coastal Commission for its action on the coastal development permit application.

C. COMMUNITY DEVELOPMENT DEPARTMENT RECOMMENDATION. If the proposed development within the permit jurisdiction of the Coastal Commission does not require discretionary review by the Planning Commission or the Staff Hearing Officer under any other provision of this Code, the Community Development Department shall review the proposed development's conformance with the certified Local Coastal Program including this Chapter and shall forward the application, supporting file documents and the Community Development Department's recommendation regarding the issuance of the coastal development permit to the Coastal Commission for its action on the coastal development permit application. (Ord. 5417, 2007.)

28.44.230 Time for Commencement of Approved Development; Extensions.

A. TIME FOR COMMENCEMENT OF APPROVED DEVELOPMENT. The time for commencement of the approved development shall be two years from the date of the final action upon the application, unless a different time is specified in the conditions of approval for the coastal development permit.

B. EXTENSIONS. Prior to the time that commencement of development must occur under the terms of the coastal development permit or Subsection A, the applicant may apply to the Community Development Director for an extension of time not to exceed an additional one-year period. Such an extension of time may be granted no more than three (3) times, and under no circumstances shall the time for commencement of development be more than five (5) years after the date of the final action on the application. Extensions of time may be granted by the Community Development Director upon findings that the development continues to be in conformance with the certified Local Coastal Program, that the applicant 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 the certified Local Coastal Program, the General Plan and applicable City ordinances, resolutions and other laws. (Ord. 5417, 2007.)

28.44.240 Amendments to Coastal Development Permits.

On the request of an applicant, a coastal development permit may be amended in the same manner specified for the initial review of an application for a coastal development permit. (Ord. 5417, 2007.)

28.44.250 General Provisions.

A. CONFLICTING PERMITS AND LICENSES TO BE VOIDED. All departments, officials, and public employees of the City vested with the duty and authority to issue permits or licenses shall conform to the provisions of this zone and shall issue no permits or licenses for uses, buildings, or any purpose in conflict with the provisions of this Section. Any such permit or license issued in conflict with this Section shall be null and void.

B. CONFLICT WITH OTHER REGULATIONS. Where conflicts occur between the regulations contained in this Section and the California Building Code as adopted and amended by the City, other sections of Title 28 of this Code, or other regulations effective within the City, the more restrictive of such laws, codes or regulations shall apply.

It is not intended that this Section shall interfere with, abrogate or annul any easement, covenant, or other agreement now in effect; provided, however, that where this Section imposes a greater restriction upon the use of buildings or land or upon new construction than are imposed or required by other ordinances, rules, or regulations, or by easements, covenants, or agreements, the provisions of this Section shall apply.

Nothing contained in this Section shall be deemed to repeal or amend any regulation of the City requiring a permit, license, and/or approval, for any business, trade, or occupation, nor shall anything in this Section be deemed to repeal or amend the building code. If provisions of this Section overlap or conflict, the most protective provision relating to coastal resources shall apply.

C. FAILURE TO ACT NOTICE.

1. Notification by Applicant: If the City has failed to act on an application within the time limits set forth in Article 5 ("Approval of Development Permits") of Title 7, Division I, Chapter 4.5 of the Government Code, commencing with 65950, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Section 65950 et seq. shall notify, in writing, the City and the Coastal Commission of the claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.

2. Notification by City. Upon determination that the time limits established pursuant to Government Code Section 65950 et seq. have expired, the Community Development Department shall, within five (5) working days of such determination, notify those persons entitled to receive notice that it has taken final action by operation of law pursuant to Government Code Section 65956. The appeal period for projects approved by operation of law shall begin only upon receipt of the City's notice in the office of the Coastal Commission.

D. AMENDMENTS TO A CERTIFIED LOCAL COASTAL PROGRAM. The purpose of this Subsection is to provide for changes in the land use and/or zoning designation on properties where such change is warranted by consideration of location, surrounding development and timing of development; to provide for text amendments to this Section and/or the City's Local Coastal Plan as the City may deem necessary or desirable; and to provide for amendments to any ordinances or implementation measures carrying out the provisions of the City's Local Coastal Plan. The intent of this Subsection is to provide the mechanism, consistent with the Coastal Act, for amending the City's certified Local Coastal Program.

1. Initiation. An amendment to the certified Local Coastal Program may be initiated by any member of the public, the Planning Commission or the City Council. All amendments proposed to the Commission for final certification must be initiated by resolution of the City Council.

2. City Review and Processing. Processing of amendments to the certified Local Coastal Program shall proceed in the same manner as that required for an amendment to the:

a. General Plan, if that amendment is intended to amend the text or map of the City's Coastal Plan.

b. Municipal Code or Zoning Map, if that amendment is intended to amend the Municipal Code or Zoning Map.

3. Noticing. Notice of the hearing shall be given at least ten (10) calendar days before the hearing.

a. For any amendment, notice shall be:

(1) Published in a newspaper of general circulation in the City.

(2) Mailed to any person who has filed a written request therefore and has supplied the City with self-addressed, stamped envelopes.

(3) Mailed to the Coastal Commission.

b. In addition, for a proposed rezoning or change of land use designation, notices shall be mailed:

(1) To the owners of the affected property and also the owners of all property within 300 feet of the exterior boundaries of the affected property, using for this purpose the name and address of such owners shown on the tax rolls of Santa Barbara County.

(2) To occupants of residences, including apartments on or within 100 feet of the affected property.

(3) In the event that the rezoning or change of land use designation affects a portion of the City which has an area equivalent to more than four (4) square City blocks, the City may, instead, provide notice by placing a display advertisement in a newspaper of general circulation, published and circulated in the City.

E. COASTAL COMMISSION CERTIFICATION. Any proposed amendment to the Local Coastal Program shall not take effect until it has been certified by the Coastal Commission. Therefore, any approval by the City of such a proposed amendment to the Local Coastal Program shall be submitted to the Coastal Commission within fourteen (14) days of the final approval by the City Council in accordance with Sections 30512 and 30513 of the Coastal Act.

F. DEVELOPMENT POTENTIAL. Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989, unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85.

G. DEVELOPMENT WITHIN THE GOLETA SLOUGH. Any development within the Goleta Slough Reserve Zone is required to obtain a Goleta Slough Coastal Development Permit pursuant to the provisions of Chapter 29.25 unless specifically exempted.

H. HAZARDOUS WASTE MANAGEMENT FACILITIES. Approval for construction or use of any off-site hazardous waste management facilities, as defined in Section 28.04.370 of this Title, shall require preparation and approval of an amendment to the Local Coastal Program by the City Council and the California Coastal Commission. Such facilities shall also require approval of a change in zone to the HWMF Overlay Zone and any other required permits in accordance with Chapter 28.75 of this Title. (Ord. 5609, 2013; Ord. 5459, Section 3, 2008; Ord. 5451, Section 5, 2008; Ord. 5417, 2007.)

Chapter 28.45

S-D SPECIAL DISTRICT ZONE

Sections:

28.45.001 In General.
28.45.005 Legislative Intent.
28.45.006 S-D Zone Standards Not Less Restrictive.
28.45.007 S-D-1 Zone Designation.
28.45.008 S-D-2 Zone Designation.

28.45.001 In General.

Land classified in an S-D Zone shall also be classified in a basic zone and the following regulations shall apply in the S-D Special District Zone unless otherwise provided in this chapter. (Ord. 3710, 1974; Ord. 3559, 1972.)

28.45.005 Legislative Intent.

These regulations are designed and intended to provide a method of increasing particular zoning standards in a certain area or neighborhood in the community wherein the Planning Commission finds that the standards contained in the basic zone or zones in which the land is classified are not sufficiently restrictive to assure appropriate development in that area or to protect the residents therein against inappropriate land uses or activities otherwise permitted in the basic zone category. These regulations are further designed and intended to be used only in circumstances where the standards to be affected by the special district zone are a minor portion of the total standards applicable to the basic zone so that rezoning of the area to another basic zone category to achieve the desired results would introduce other inappropriate standards. (Ord. 3710, 1974; Ord. 3559, 1972.)

28.45.006 S-D Zone Standards Not Less Restrictive.

The standards required by any S-D Zone shall in no case be less restrictive than the comparable standard required in the basic zone in which the land is classified. In the event that there be no comparable standard in the basic zone, the Planning Commission shall find that the S-D Zone standard in no way permits development or use of land which is in any way more intense than that permitted by the basic zone.

Each special district zone hereafter created shall be designated by the letters S-D followed by a number for the purpose of identifying the particular standards required in each S-D Zone. These special standards shall be contained in separate sections of this chapter. (Ord. 3710, 1974; Ord. 3559, 1972.)

28.45.007 S-D-1 Zone Designation.

A. LOCATION. The S-D-1 Zone is applied to the San Roque Park Subdivision, which is located northerly of State Street between San Roque Road and Ontare Road.

B. LEGISLATIVE INTENT. It is the purpose of the S-D-1 Zone to require front setbacks greater than those required in the base zones in which lots in the San Roque Park Subdivision are classified. The San Roque Park Subdivision was created in 1926, at which time a deed restriction was imposed requiring that buildings be set back at least forty feet (40') from the front property line. This restriction was in effect until 1941, at which time it expired. Development since 1941 has largely respected this increased front setback, in spite of the fact that the Zoning Ordinance requirements are less restrictive. A majority of the property owners in the San Roque Park Subdivision have expressed the desire for the City, through zoning, to increase the front setback requirement in this area to conform with the original deed restrictions.

C. S-D-1 STANDARDS.

1. FRONT SETBACK. There shall be a front setback of not less than forty feet (40') in depth, with the following exceptions:

a. For front yards abutting San Roque Road or Ontare Road, or any front yard abutting that portion of Canon Drive where land on both sides of the streets is not classified in the S-D-1 Zone category, the front setback shall be as provided in the base zone.

b. Any front yard abutting Madrona Drive shall provide a front setback of not less than thirty feet (30') in depth.

2. INTERIOR SETBACK. The interior setback requirement shall be as provided in the base zone. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3578, 1973.)

28.45.008 S-D-2 Zone Designation.

A. LOCATION. The S-D-2 zone is applied to the "Upper State Street Area" which is defined as the area bounded by Alamar Avenue, U.S. Highway 101, Foothill Road and State Highway 154.

B. LEGISLATIVE INTENT. It is the purpose of the S-D-2 Zone to impose certain traffic related restrictions greater than those provided in the base zones in which lots in the "Upper State Street Area" are classified. State Street is the only major east-west surface street serving the Upper State Street Area and it is one of the most heavily traveled streets in the City. In order to prevent the volumes of traffic on State Street from exceeding acceptable limits and to limit increased air pollution, due to vehicular traffic, it is necessary to impose the traffic related restrictions contained in this section on new developments in the area. In order to ensure the appropriateness of developments in said area, and the mitigation of traffic impacts where possible, it is necessary that development plans for said developments be reviewed.

C. DEVELOPMENT POTENTIAL. Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85.

D. STANDARDS. The following standards shall apply to all projects in the S-D-2 Zone:

1. Parking Requirements. Off-street parking shall be provided as required in Chapter 28.90 of this Title.

2. Drive-through Facilities. No building or structure hereafter erected, reconstructed, structurally altered or enlarged in the S-D-2 Zone shall be designed or used, in whole or in part, as a motor vehicle drive-through facility. As used herein, "motor vehicle drive-through facility" means a commercial building or structure or portion thereof which is designed or used to provide goods or services to the occupants of motor vehicles. Such term shall include, but not be limited to, banks and other financial institutions, fast food establishments, and film deposit/pick-up establishments, but shall not include drive-in movies, gasoline stations, or car wash operations.

3. Building Height. Three (3) stories not exceeding forty-five (45) feet and not exceeding the total floor area of a two (2) story building (thirty (30) feet) which could be constructed on the lot in compliance with all applicable regulations.

4. Front Setbacks. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings and structures on the lot as follows:

a. One-story building or structure not exceeding fifteen feet (15’) of building height: 10 feet

b. Two- or three-story building or structure or any one story building or structure in excess of fifteen feet (15’) of building height: 20 feet (Ord. 5609, 2013; Ord. 5459, 2008; Ord. 4896, 1994; Ord. 4696, 1991; Ord. 4670, 1991; Ord. 4361, 1985; Ord. 4015, 1979; Ord. 3989, 1979; Ord. 3979, 1979.)

Chapter 28.46

SP-5 ZONE

Sections:

28.46.005 Legislative Intent.
28.46.010 Uses Permitted.
28.46.020 Conditions, Restrictions and Modifications.
28.46.025 Building Height.
28.46.035 Front and Interior Setback Requirements.
28.46.040 Residential Lot Area Requirements for Parcels in the Zone.
28.46.045 Off-Street Parking.
28.46.050 Street Requirements.
28.46.055 Restrictions on Usage of Signs.
28.46.060 Architectural Review Requirements for Development.
28.46.065 Allowable Density of Development and Maximum Number of Dwelling Units Allowed.
28.46.070 Requirements for Construction Phasing.
28.46.075 Affordability Requirement for Residential Units.
28.46.080 Open Space and Landscaping.
28.46.085 Mitigation Monitoring Program.

28.46.005 Legislative Intent.

It is the purpose of the SP-5 Zone to establish a single residential unit district where affordability of the housing is ensured and where specific development standards are established to protect the natural environment and neighborhood values on property adjacent to Westmont College. (Ord. 4900, 1995.)

28.46.010 Uses Permitted.

The uses permitted in the SP-5 Zone in the SP-5 Land Use Map depicted on Map A shall be as follows:

Land Use A - Single Residential Units: Uses permitted in Area A are:
1. Single Residential units;
2. Recreational uses including, but not limited to, spas, jacuzzis, and children's play areas;
3. Private open space including, but not limited to, patios, decks, and yards for the private use of the residents of individual homes; and
4. Uses, buildings, and structures incidental, accessory and subordinate to the permitted uses.

Land Use B - Dedicated Open Space: This area is to be maintained in a natural state to pre-serve the creek habitat, protect the steep slopes from erosion, and maintain the scenic quality of these areas. Uses permitted in Area B are:
1. Installation of storm drain systems;
2. Flood control projects; and
3. Brush removal, not including trees, for fire protection purposes, subject to Municipal Code provisions for vegetation removal.

Land Use C - Common Passive Open Space: This area is to be used for passive recreation. Uses permitted in Area C are:
1. Walking trails;
2. Bicycle paths; and
3. Utilities, storm drains, flood control and other infrastructures as approved by the City.

Land Use D - Private Active Recreation: This area is to be used as common recreation for the residents. Uses permitted in Area D are:
1. One recreation building not to exceed 1,500 square feet for the exclusive use of residents and their guests for private social functions;
2. Outdoor decks and picnic areas, barbecue, volleyball court, active recreation lawn area, playground equipment, parking and other incidental amenities appropriate to this use;
3. Landscaped areas for common use; and
4. Drainage detention areas and related facilities.

Land Use E - Neighborhood Recreation: This area is to be developed as a common recreation facility available for use by residents of adjoining neighborhood. Uses permitted in Area E are:

1. Playground equipment, picnic areas, active recreation lawn areas, and other incidental amenities appropriate to this use;
2. Landscaped areas for common use;
3. Open areas required for the protection of scenic, habitat or other resources; and
4. Storm drainage improvements and detention areas and related facilities.

Land Use F - Circulation: This area is to be used for roads and on-street parking. Uses permitted in Area F are:

1. Roads;
2. Sidewalks; and
3. On-street parking areas.

(Ord. 4900, 1995.)

28.46.020 Conditions, Restrictions and Modifications.

The Planning Commission may impose such appropriate and reasonable conditions and restrictions as it may deem necessary for the protection of property in the neighborhood or in the interest of public health, safety and welfare in order to carry out the purposes and intent of this chapter. However, no variance, modification, or other approval shall be granted for building height, maximum number of residential dwelling units, or maximum residential dwelling units per acre. (Ord. 4900, 1995.)

28.46.025 Building Height.

No building in this zone shall exceed a height of thirty feet (30') nor exceed the height limitations imposed for the protection and enhancement of solar access by Chapter 28.11 of this Title. (Ord. 4900, 1995.)

28.46.035 Front and Interior Setback Requirements.

Residential lots fronting a public or private street shall have a front setback from curb face of the roadway of not less than twenty-five feet (25'). Residential lots fronting common open space or driveways shall have a front setback of not less than ten feet (10'). There shall be interior setbacks of not less than ten feet (10'). (Ord. 5459, 2008; Ord. 4900, 1995.)

28.46.040 Residential Lot Area Requirements for Parcels in the Zone.

Residential lots shall have no less than 6,500 square feet. (Ord. 4900, 1995.)

28.46.045 Off-Street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this Title. Notwithstanding Chapter 28.90, no more than five spaces shall adjoin each other without intervening landscaping areas. It is the intent of this Chapter that parking areas shall not dominate open space and landscaping areas. (Ord. 4900, 1995.)

28.46.050 Street Requirements.

If necessary to preserve natural terrain features and open space, the Planning Commission may grant modifications of City street design standards as may be deemed necessary to assure that the intent of this Chapter is observed and the public welfare and safety secured. (Ord. 4900, 1995.)

28.46.055 Restrictions on Usage of Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance, Chapter 22.70 of this Title. (Ord. 4900, 1995.)

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 Single Family Design Board. (Ord. 5416, 2007; Ord. 4900, 1995.)

28.46.065 Allowable Density of Development and Maximum Number of Dwelling Units Allowed.

The maximum density shall be no greater than 1.4 residential units per gross acre. The maximum number of residential units in this zone shall be no greater than 41 units. (Ord. 4900, 1995.)

28.46.070 Requirements for Construction Phasing.

Phasing of development is permitted consistent with an approved Tentative Subdivision Map. If the sequence of construction of residential portions of the development is to occur in stages (phases) then the open space and/or recreational facilities shall be developed in proportion to the number of residential units intended to be developed during any given stage of construction as approved by the Planning Commission. (Ord. 4900, 1995.)

28.46.075 Affordability Requirement for Residential Units.

All residential units shall be affordable to moderate income households as defined by the City of Santa Barbara Housing Program or its successor. Affordability requirements for every residential unit shall be subject to the review and approval of the Community Development Director. The maximum household income level shall not exceed the moderate income level as determined by the Community Development Director. (Ord. 4900, 1995.)

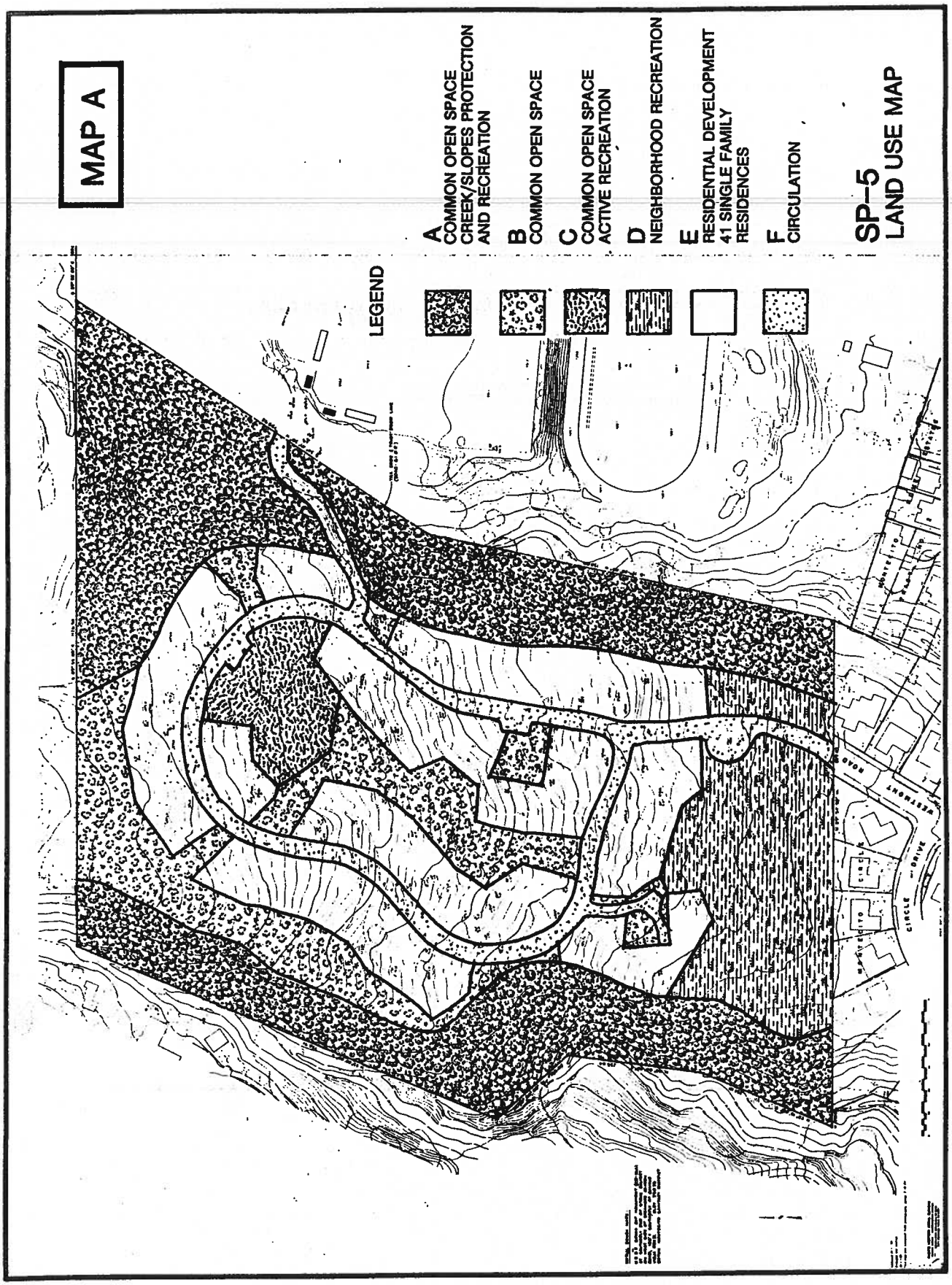
28.46.080 Open Space and Landscaping.

Not less than 50 percent of the gross area of the property in this zone shall be a combination of Dedicated Open Space, Common Open Space, Private Active Recreation and Neighborhood Recreation, as defined in the land uses permitted section (28.46.010), Land Uses B, C, D and E. Open space and landscaped areas shall dominate the site development. Such open space and landscaped areas shall include substantial useable areas for passive and/or active recreational use. Further, from public view, the development should present an open space and landscaped effect so that parking areas and building masses shall not dominate the scene. (Ord. 4900, 1995.)

28.46.085 Mitigation Monitoring Program.

Prior to the approval of any development on the property, a Mitigation Monitoring Program consistent with the California Environ-mental Quality Act shall be approved by the Planning Commission. (Ord. 4900, 1995.)

Ord. 4900, 1995.



Chapter 28.47

RIVIERA CAMPUS SPECIFIC PLAN
SP-7 ZONE

Sections:

28.47.010 Permitted Land Uses.
28.47.020 Uses Permitted Upon the Granting of a Conditional Use Permit.
28.47.030 Operating Standards.
28.47.040 Site Area Standards.
28.47.050 Building Height.
28.47.060 Front and Interior Setback Requirements.
28.47.070 Site Coverage.
28.47.080 Limited Special Events for Outside Entities.
28.47.090 Parking Requirements.
28.47.100 Architectural Control.
28.47.110 Street Frontage Requirements.
28.47.120 Construction and Maintenance of Site and Buildings.
28.47.130 Area Map.

28.47.010 Permitted Land Uses.

The following land uses are permitted in the Riviera Campus Specific Plan Zone:

A. Research and development establishments and related administrative operations, provided that no manufacturing is permitted, and further provided that such uses or operations are not hazardous, offensive or obnoxious by reason of the emission of odor, dust, heat, glare, gas fumes, smoke, vibrations, electromagnetic or other radiation resulting in radio or television interference, or by reason of the storage or disposal of waste materials or other products of such operations.

For the purposes of this Section, the word manufacturing shall mean the fabrication, assembly or production of articles other than prototypes or models used for experimentation or research. The word prototype is hereby defined as an original or model or pattern from which manufactured, fabricated or assembled products are developed or copied. No prototype, model or pattern shall be built, erected or constructed to a scale exceeding the ceiling height of the building in which it or they are erected, constructed or developed, and the erection, fabrication or assembly thereof shall be confined to the interior of the building. Product storage related to the research and development business shall be incidental to the research and development use.

B. Administrative offices, provided that such offices are not open to or visited by the general public for the purpose of receiving or disbursing goods, services, information, payments or other such routine or frequent activities. Offices performing personnel employment activities shall be limited to those involving persons actually working at the site and not the general public.

C. Classes or training program activities shall be incidental to the administrative office use of the premises. The number of persons attending such classes shall not exceed ten percent (10%) of the total number of employees regularly (daily) present at the site.

D. Product storage related to the business shall be incidental to the office use only.

E. Movie Theater limited to 6,665 square feet (approximately 453 seats).

F. Professional Offices, including those of an architect, engineer or therapist, provided that no activity is carried on catering to retail trade with the general public and there is no stock of goods for sale to customers (e.g. architect, engineer, counselor).

G. Arts-Related Uses, including, but not limited to, photography studio, artist studio, film development/ production, music recording/editing. Product or raw material storage shall be incidental to the arts-related use. (Ord. 5319, 2004.)

28.47.020 Uses Permitted Upon the Granting of a Conditional Use Permit.

Only the following uses shall be allowed in the Riviera Campus Specific Plan Area subject to the issuance of a Conditional Use Permit, provided that the Planning Commission has made the findings stated in 28.94.020 for such use.

A. Educational facilities.

B. Child care center.

C. Up to three (3) manager/caretaker residential units within or attached to an existing nonresidential structure. (Ord. 5319, 2004.)

28.47.030 Operating Standards.

Any use in the Riviera Campus Specific Plan Area ("SP-7") shall comply with the following standards of performance and operation:

A. **Fire and Explosion Hazards**. There shall be provided and maintained in good workable condition adequate and sufficient safety and fire suppression equipment and devices in such locations on the premises as may be necessary to prevent and suppress fire and explosion hazards wherever inflammable or explosive materials are used or stored.

B. **Incineration**. There shall be no rubbish or refuse incineration on the premises.

C. **Radiation**. All devices emitting radio frequency energy shall be operated in such a manner as to cause no interference with any activity carried on beyond the boundary of the premises of such establishment, including, but not limited to, radio and television interference. Radio frequency energy is electromagnetic energy at any frequency in the radio spectrum between ten (10) kilocycles and three (3) million megacycles.

D. **Noise**. Noise shall be restricted in accordance with Chapter 9.16 of the Santa Barbara Municipal Code.

E. **Vibration**. No equipment, machinery or facility in such establishment shall be operated so as to produce or generate vibration which is perceptible without the aid of instruments to a person of ordinary sensibilities at or beyond the boundary line of the premises.

F. **Emission of Dust, Heat and Glare**. No such establishment shall be operated in a manner resulting in the emission of dust or other substances susceptible of being transmitted through the air, or heat or glare to an extent or degree permitting such emission or emissions to extend beyond the boundary line of the premises.

G. **Outdoor Storage and Waste Disposal**. All fuel, raw materials, equipment and products used outside the building of such establishment shall be enclosed by a fence, wall or shrubbery planting adequate to conceal such facility from adjacent or nearby residential property. The removal or transference from the premises of such establishment of any such fuel, raw materials or products by natural forces or causes shall be prevented. Suitable closed containers shall be provided and used for the storage of any materials or water products which by their nature are combustible, volatile, dust or odor producing or edible or attractive to rodents, vermin or insects. (Ord. 5319, 2004.)

28.47.040 Site Area Standards.

The Riviera Campus Specific Plan Area ("SP-7") shall consist of a lot or lots for the uses allowed by this Specific Plan, and in the aggregate the Area shall have a minimum lot area of not less than two (2) acres. (Ord. 5319, 2004.)

28.47.050 Building Height.

No building in the Riviera Campus Specific Plan Area shall exceed 35 feet in height with exception of the following structures that are allowed to be maintained or repaired at the heights indicated:

A. Furse Hall/Administration building (51.5 feet).
B. Brooks Hall/Men's Gymnasium (44 feet).
C. Quadrangle Building (39 feet).
D. Ebbets Hall (49 feet).

In the event that the nonconforming buildings are destroyed by a natural casualty, reconstruction of the Area buildings shall be carried out in accordance with the provisions contained within 28.87.030.D and 28.87.038. Any additions to such structures shall adhere to the standards of this zone. (Ord. 5319, 2004.)

28.47.060 Front and Interior Setback Requirements.

All structures within the Riviera Campus Specific Plan Area shall have a front setback of not less than 35 feet and an interior setback of not less than 25 feet. Pine Hall, the Cafeteria/Music building, and Ebbets Hall shall be considered nonconforming to the front setback requirement. Furse Hall (Administration building) shall be considered nonconforming to the interior setback requirement. Structures designed to replace these demolished or destroyed structures on substantially the same footprint may meet or be consistent with the existing structure setback, and additions to the structures shall not be closer than the line of the existing building parallel to the front property line at any point. Any approved additions to these buildings should generally be consistent with current requirements. (Ord. 5459, 2008; Ord. 5319, 2004.)

28.47.070 Site Coverage.

Not more than twenty-five percent (25%) of the net site area of the Riviera Campus Specific Plan Area shall be covered with buildings and structures. Not more than thirty-five percent (35%) of the net site shall be used for open vehicle access, parking, loading and delivery. A minimum of 40% of the Riviera Campus Specific Plan Area shall be preserved in open space (including landscaped areas, landscape features, and public walkways). (Ord. 5319, 2004.)

28.47.080 Limited Special Events for Outside Entities.

Activities on the campus of the Riviera Campus which are sponsored or conducted by entities other than tenants of Riviera Campus shall be limited as indicated below:

A. **Weddings**. No more than 12 per year with a maximum of 250 attendees at each wedding. The wedding event shall end no later than ½ hour after sunset (dusk) or 8:30 p.m., whichever is earlier.

B. **Non-Profit Benefit Events**. Benefit events shall be conducted by or to support non-profit community organizations. No more than four such events per year shall be allowed, with a maximum of 400 attendees per event. Each event shall end no later than ½ hour after sunset (dusk) or 8:30 p.m., whichever is earlier.

C. **Additional Events**. Up to two additional special events beyond those outlined above may be approved by the Community Development Director upon a showing that adequate parking will be provided and a community benefit will result. These special events shall be subject to the same operating standards and limitations as outlined for Non-Profit Benefit Events. (Ord. 5319, 2004.)

28.47.090 Parking Requirements.

Off-street parking for uses within the Riviera Campus Specific Plan Area shall be provided as required in Chapter 28.90 of this Title. (Ord. 5319, 2004.)

28.47.100 Architectural Control.

The plans and elevations for all buildings and structures to be erected and all exterior alterations as defined in Chapter 22.22 of this Code for buildings or structures within the Riviera Campus Specific Plan Area shall be subject to review and approval by the Historic Landmarks Commission. (Ord. 5319, 2004.)

28.47.110 Street Frontage Requirements.

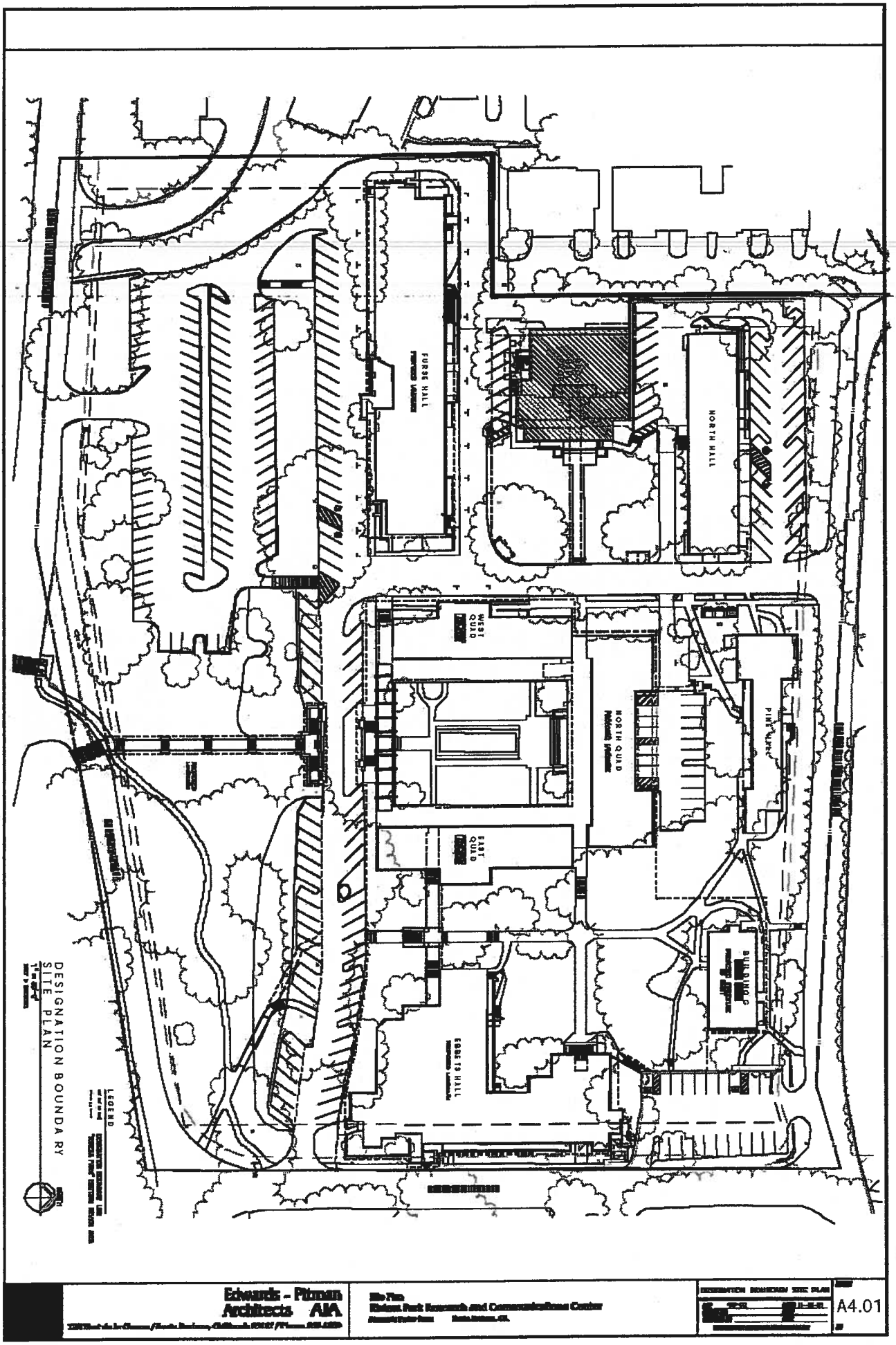
All parcels in the Riviera Campus Specific Plan (SP–7) Area shall have street frontage and single side dimensions of not less than one hundred fifty feet (150') each. (Ord. 5319, 2004.)

28.47.120 Construction and Maintenance of Site and Buildings.

The owner or developer of the Riviera Campus (SP-7) Plan site shall construct buildings and install landscaping in strict accordance with approved plans and without substantial deviation therefrom. In addition, all buildings and landscaping shall be maintained in a clean and orderly condition. (Ord. 5319, 2004.)

28.47.130 Area Map.

The map attached hereto and labeled the “Riviera Campus Specific Plan Area” is hereby approved and incorporated in this Chapter by this reference. (Ord. 5319, 2004.)



RIVIERA CAMPUS SPECIFIC PLAN AREA

Chapter 28.48

R-O RESTRICTED OFFICE ZONE

Sections:

28.48.001 In General.
28.48.030 Uses Permitted.
28.48.032 Uses Permitted Upon the Issuance of a Conditional Use Permit.
28.48.050 Building Height.
28.48.060 Setbacks.
28.48.080 Lot Area and Frontage Requirements.
28.48.081 Outdoor Living Space.
28.48.100 Parking Requirements.
28.48.110 Signs.
28.48.115 Architectural Treatment.
28.48.130 Development Plan Approval.
28.48.131 Development Potential.

28.48.001 In General.

This is a restricted zone which, because of its proximity to major commercial zones and/or public uses, is a transitional zone between such uses and residential zones and is deemed suitable for use either for offices or residences under the following regulations. This zone also strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities.

Land classified in an R-O Zone may also be classified in another zone and the following regulations shall apply in the R-O Restricted Office Zone, unless otherwise provided in this chapter. (Ord. 4005 §1, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.48.030 Uses Permitted.

A. Any use permitted in the R-3 Limited Multiple-family Residence Zone except as otherwise provided in Subsection B. herein.

B. When land classified in an R-O Zone is also classified in another zone, as provided by Section 28.48.001, the following uses shall be permitted:

1. Any use permitted in the other zone in which the land is classified and when so used subject to the restrictions and limitations contained therein.

2. Any use permitted in the following subsections and subject to the restrictions and limitations contained in this Chapter.

C. Office buildings in which no activity is carried on catering to retail trade with the general public and no stock of goods is maintained for sale to customers, for the following office uses: accountant, architect, attorney, branch bank, dentist, engineer, insurance broker, physician, real estate broker or stock broker.

D. Research and development establishments and related administrative operations, subject to provisions and definitions contained in Section 28.60.005, 28.60.030 and 28.60.040 of this Title.

E. Community care facilities, residential care facilities for the elderly and hospices serving 7 to 12 individuals.

F. State-licensed Large Family Day Care Homes. (Ord. 4858, 1994; Ord. 3710, 1974; Ord. 3120, 1966.)

28.48.032 Uses Permitted Upon the Issuance of a Conditional Use Permit.

As provided in Chapter 28.94 of this Title. (Ord. 4414, 1986.)

28.48.050 Building Height.

Three (3) stories and not to exceed forty-five feet (45'). Building height immediately adjacent to a residential zone(s) shall not exceed that allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of twenty-three (23) feet or one-half (1/2) the height of the proposed structure, whichever is less. (Ord. 4005 §2, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.48.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures, and parking on the lot as follows:

1. One- or two-story building or structure or uncovered parking: 10 feet

2. Three-story building or structure: 15 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the front setback shall be reduced as follows:

a. Ground floor portions: 10 feet
b. Second story portions: 10 feet
c. Third story portions: 20 feet

3. Covered parking: the setback applicable to the building in which the parking is provided as specified in A.1 or A.2 above.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially zoned parcel and all buildings, structures, and parking on the lot as follows:

1. One- or two-story building or structure or uncovered parking: 6 feet
2. Three-story building or structure: 10 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the interior setback shall be reduced as follows:
   a. Ground floor portions: 6 feet
   b. Second story portions: 6 feet
   c. Third story portions: 10 feet
3. Covered parking: the setback applicable to the building in which the parking is provided as specified in B.1 or B.2 above.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. Any building, structure or covered parking: 10 feet or ½ of the building height, whichever is greater.
2. Driveways to parking areas serving exclusively residential uses: R-3/R-4 interior setback requirements.
3. Driveways and uncovered parking areas serving nonresidential uses: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.48.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used for dwelling purposes shall comply with the provisions of the R-3 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.48.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.48.100 Parking Requirements.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 3272, 1968.)

28.48.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3272, 1968.)

28.48.115 Architectural Treatment.

All office buildings shall be so designed as to be compatible with existing and possible future adjacent residential uses, to the satisfaction of the Architectural Board of Review, or the 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. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 3272, 1968.)

28.48.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982; Ord. 3710, 1974; Ord. 3272, 1968.)

28.48.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991)

Chapter 28.49

SP-8 HOSPITAL ZONE

Sections:

28.49.010 Permitted Land Uses.
28.49.020 Building Height.
28.49.030 Front and Interior Setback Requirements.
28.49.040 Off-Street Parking.
28.49.050 Development Plan Approval.

28.49.010 Permitted Land Uses.

The land uses permitted in the SP-8 Zone with respect to the three zone areas shown, as depicted on the SP-8 Land Use Map/Site Plan (dated as of April 26, 2005) on file with the City Clerk of the City, shall be as follows:

A. Land Use Area A – General Acute Care Hospital Facility.

The principal intended uses and structures allowed in Land Use Area A are as follows:

1. General acute care hospital facility licensed by the State of California providing medical, surgical, psychiatric and obstetrical care primarily for inpatients.
2. Emergency medical services and clinical care for outpatient treatment and diagnosis.
3. Uses which are customarily associated with a general acute care hospital, including, but not limited to, the following:
   a. Offices for hospital administrators and hospital employees, including physicians who work for or are under contract with the hospital;
   b. Hospital support facilities, such as medical laboratories, diagnostic testing centers, physical therapy and inpatient pharmaceutical facilities;
   c. Storage facilities for medical equipment and supplies;
   d. Hospital operations, such as food service and laundry facilities;
   e. Maintenance facilities, such as housekeeping and maintenance storage areas;
   f. Extended care facilities;
   g. Overnight accommodations for on-duty hospital employees and medical residents;
   h. Overnight accommodations within the patients' room for patients' families;
   i. Medical libraries, research and educational facilities;
   j. Cogeneration, incineration, water, electrical and heating and cooling equipment facilities;
   k. Cafeteria facilities for hospital employees, medical residents, physicians and patients' visitors;
   l. Off-street parking facilities;
   m. Helicopter landing site for the reception and transport of emergency and trauma patients;
   n. Pharmacies, gift stores, ATM facilities, restaurants and retail or personal service shops, provided that primary access is only from within the hospital building;
   o. Child-care centers and associated recreational facilities;
   p. Chapels and places of worship;
   q. Auditoriums;
   r. Telecommunications facilities;
   s. Employee services, such as credit unions; and,
   t. Office uses customary and ancillary to an acute care hospital facility.
4. Those permitted uses provided for in the C-O Medical Office Zone, specifically Section 28.51.030, subsections B through H, as codified at the time of the adoption of the ordinance creating this Chapter.

B. Land Use Area B – Parking Structure, Medical Office Building.

The uses and structures allowed in Land Use Area B are as follows:

1. Open parking lots, single or multi-story parking structures;
2. Uses customary and ancillary to medical office buildings, including, but not limited to, medical laboratories and prescription pharmacies;
3. Office uses customary and ancillary to an acute care hospital facility; and,
4. Pharmacies, gift stores, ATM facilities, restaurants and retail or personal service shops.
5. Those permitted uses provided for in the C-O Medical Office Zone, specifically Section 28.51.030, as codified at the time of the adoption of the Ordinance creating this Chapter.

C. Land Use Area C – Parking Structure; Child Care Facility.

The uses and structures allowed in Land Use Area C are:

1. Child Care Facilities; and,
2. Open parking lots, single or multi-story parking structures.
3. Those permitted uses provided for in the C-O Medical Office Zone, specifically Section 28.51.030, as codified at the time of the adoption of the Ordinance creating this Chapter.

(Ord. 5359, 2005.)

28.49.020 Building Height.

A. In Land Use Area A, no new building shall exceed 60 feet in height. Existing buildings in Land Use Area A which exceed 60 feet in height ("Nonconforming Buildings") are allowed to be maintained or repaired at their existing heights as permitted in accordance with this Code. In the event that the Nonconforming Buildings are damaged or destroyed, reconstruction shall be carried out in accordance with the provisions contained in Sections 28.87.030.D and 28.87.038 of this Title.

B. In Land Use Areas B and C, no building shall exceed 45 feet in height.

C. Building elements that do not add floor area to the acute care hospital building, such as vents, elevator penthouses, helipads, chimneys, mechanical equipment, antennae and towers are not considered a part of the height of the building. (Ord. 5359, 2005.)

28.49.030 Front and Interior Setback Requirements.

There shall be a front setback and interior setbacks of not less than ten (10) feet for all buildings and parking structures in Land Use Areas A, B & C. Notwithstanding the foregoing, however, for a parking structure in Land Use Area C there shall be interior setbacks of no less than ten (10) feet provided that, if the area of the building that encroaches into the interior setback is compensated for by having an equal or greater unobstructed area outside the interior setback, the ten (10) foot setback may be reduced to 4.5 feet for a distance of up to 80 lineal feet. (Ord. 5459, 2008; Ord. 5359, 2005.)

28.49.040 Off-Street Parking.

Notwithstanding Chapter 28.90, the parking needs for development within the SP-8 zone shall be evaluated on a project-specific site and use basis. Parking shall be provided to meet parking needs as justified through a written parking analysis and evaluation prepared by a transportation engineer and subject to review and approval by the Planning Commission or Transportation and Parking Manager as appropriate.

The parking evaluation shall consider both peak and non-peak parking demands considering the number of employees, doctors and nursing staff, patients, visitors and other relevant data, including parking and transportation demand management practices. Parking for development projects shall be provided in parking structures or parking lots within the SP-8 zone.

Parking may be provided within the SP-8 zone for other real properties outside the SP-8 zone so long as such parking is consistent with a parking and transportation management plan which has been reviewed and approved by the Planning Commission or City Transportation and Parking Manager, as deemed appropriate by the Community Development Director. (Ord. 5359, 2005.)

28.49.050 Development Plan Approval.

All new development proposed in this zone shall be subject to Development Plan review and approval in the manner and as required by Chapter 28.85 of this Code. At the time such development projects are reviewed, the Planning Commission may impose such appropriate and reasonable conditions and restrictions as it may deem necessary for the protection of property in the neighborhood or in the interest of public health, safety and welfare, in order to carry out the purposes and intent of this Chapter. The Planning Commission shall approve any new development for the uses enumerated in Section 28.49.010 upon a finding that the appearance of the developed site in terms of the arrangement, height, scale, and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the existing SP-8 area and the neighborhood. (Ord. 5609, 2013; Ord. 5359, 2005.)

Chapter 28.50

SP-9 ZONE – VERONICA MEADOWS SPECIFIC PLAN

Sections:

28.50.005 Legislative Intent.
28.50.030 Uses Permitted.
28.50.035 Uses Permitted Upon the Granting of a Conditional Use Permit.
28.50.040 Conditions, Restrictions and Modifications.
28.50.045 Prohibition of Shiny Roofing and Siding.
28.50.050 Building Height.
28.50.060 Setback and Open Yard Requirements.
28.50.065 Reduction in Setback Requirements.
28.50.070 Distance Between Buildings.
28.50.080 Lot Area and Frontage Requirements.
28.50.085 Allowable Density of Development.
28.50.090 Open Space and Landscaping.
28.50.095 Street Requirements.
28.50.100 Off-Street Parking.
28.50.105 Garages and Accessory Buildings.
28.50.110 Home Size and Development Restrictions.
28.50.115 Architectural Control.
28.50.120 Exemption from SBMC Chapter 28.43.
28.50.130 Affordable Housing Provision.
28.50.140 Fencing.
28.50.150 Area Map.

28.50.005 Legislative Intent.

It is the purpose of the SP-9 Zone to establish a single-family residence district where specific development standards are established to cluster development, maintain a semi-rural setting, restore a section of degraded creek and riparian corridor, and protect the natural environment. (Ord. 5456, 2008.)

28.50.030 Uses Permitted.

The uses permitted in the SP-9 Zone as depicted on attached Map A (attached as an exhibit to the Chapter and dated as of June 24, 2008) shall be as follows:

A. Area A – Residential Development: Uses permitted in Area A (as depicted on Map A) are:

1. A single residential unit occupying a single lot.
2. Uses, buildings, and structures typically allowed by the City incidental, accessory and subordinate to the permitted residential uses.
3. A Home Occupation.
4. A State-licensed Small Family Day Care Home.
5. A State-licensed Large Family Day Care Home, subject to the provisions in Chapter 28.93 of this Title.
6. State authorized, licensed or certified uses to the extent such a use is required by state law.
7. Creek stabilization, habitat restoration, and related maintenance.
8. Private open space including, but not limited to, patios, decks, and yards for the private use of the residents of individual homes.
9. Common open space and passive recreational areas.
10. Public trails as approved by the City.
11. Brush removal, not including trees, for fire protection purposes, subject to Municipal Code provisions for vegetation removal.
12. Utilities, storm drain system, flood control projects or other infrastructures as approved by the City.
13. The gazebo structure required by the Environmental Impact Report as mitigation for potentially significant impacts to cultural resources.

B. Area B – Open Space: Area B (as depicted on Map A) shall be maintained in its natural state to preserve the steep slopes from erosion or landslide, preserve the creek environment, and maintain the scenic quality of the area. Uses permitted in Area B are the following:

1. Public trails along the Arroyo Burro Creek corridor.
2. Brush removal, not including trees, for fire protection purposes, subject to Municipal Code provisions for vegetation removal.
3. Subsurface utilities, flood control projects or other infrastructure as approved by the City.

(Ord. 5456, 2008.)

28.50.035 Uses Permitted Upon the Granting of a Conditional Use Permit.

The uses allowed by conditional use permit shall be as provided in Chapter 28.94 of this Title. However, no development is permitted in Area B under any circumstances. (Ord. 5456, 2008.)

28.50.040 Conditions, Restrictions and Modifications.

In connection with any development approval required to be issued by the City, the City may impose such appropriate and reasonable conditions and restrictions as it may deem necessary for the protection of property in the neighborhood or in the interest of public health, safety and welfare, in order to carry out the purposes and intent of this Chapter. While the provisions of Chapter 28.92 (Variances, Modifications and Zone Changes) shall be applicable within this zone, it is the intent of this Specific Plan that no variance, modification, or other approval shall be granted that would result in a number of residential units within Area A that exceeds the maximum number of residential dwelling units originally specified in Section 28.50.085, and that Area B be permanently maintained in its natural state. (Ord. 5456, 2008.)

28.50.045 Prohibition of Shiny Roofing and Siding.

The materials used for roofing and siding on any building shall be of a non-reflective nature, and any shiny, mirror-like or glossy metallic finish for such materials is prohibited. (Ord. 5456, 2008.)

28.50.050 Building Height.

No building in this zone shall exceed a height of thirty feet (30') nor exceed the height limitation imposed for the protection and enhancement of solar access by Chapter 28.11 of this Title. (Ord. 5456, 2008.)

28.50.060 Setback and Open Yard Requirements.

A. **FRONT SETBACK.** Each lot shall provide a front setback of not less than twenty feet (20'), except as permitted by Section 28.50.065.

B. **INTERIOR SETBACKS.** Each lot shall provide interior setbacks of not less than six feet (6'), except as permitted by Section 28.50.065.

C. **REAR YARD SETBACKS.** Each lot shall provide a rear setback of not less than six feet (6'), except that those lots abutting the open space drainage (identified as Lot 31 in Figure 4-7 of the 2008 Final Revised EIR) may be permitted to have a zero setback.

D. **OPEN YARD:**

1. Minimum Size: One area of 1,250 square feet
2. Minimum Dimensions: 20 feet by 10 feet
3. Maximum Slope: None
4. Location and Configuration:

a. Open yard may consist of any combination of ground level areas such as: patios, ground floor decks, pathways, landscaped areas, natural areas, flat areas, or hillsides, so long as the overall size and dimensions of the open yard meet the requirements described in Section 28.50.060.D.1 and 2 above, and it is not located in any of the following areas:

(1) A portion of the front yard; or

(2) Any areas designed for use by motor vehicles, including, but not limited to, driveways and parking areas; or

(3) On decks, patios, terraces or similar improvements, where the average height above grade is greater than 36". Average height shall be calculated by measuring the height of each corner of the deck, adding those heights together, and dividing by the number of corners.

b. If the open yard is provided on a slope greater than 20%, the open yard shall contain a flat area as follows:

(1) Minimum size: 160 square feet

(2) Minimum dimensions: 10 feet by 10 feet

(3) Maximum slope: 2%

(4) The flat area may be provided at grade, or on decks pursuant to Section 28.50.060.D.4.a.

c. Lots with multiple frontages shall have a primary front yard designated by the property owner and agreed to in writing by the Community Development Director. All other front yards shall be designated as secondary front yards. Ground level open yard may be provided in the secondary front yard, up to ten feet (10') from the front property line, provided that it is unobstructed and meets all other requirements.

d. On lots of less than 7,000 square feet and an average slope of 20% or less, the following is required:

(1) The open yard may be provided in one area, or in separate areas of not less than 400 square feet each (minimum dimensions of 20 feet by 10 feet required), and

(2) Up to 850 square feet of the open yard may be provided in the remaining front yard, provided that it is unobstructed and meets the minimum dimensions required. (Ord. 5456, 2008.)

28.50.065 Reduction in Setback Requirements.

A. **FRONT SETBACK REDUCTION.** The required front setback may be reduced to 15 feet when:

1. The lot is less than 7,000 square feet and the required parking is provided in a detached garage in the rear yard; or
2. The lot is a triangular lot of less than 7,000 square feet; or
3. The subject lot abuts a private street.

B. **ATTACHED MAIN BUILDINGS.** Main buildings may be constructed on an interior property line when attached to another main building on an adjacent property, as follows:

1. The buildings are attached by not less than eight feet (8') in length of one of the walls or roof, or not less than one hundred percent (100%) of any wall less than eight feet (8') in length; and
2. Said configuration shall be allowed for no more than four (4) lots within the zone, resulting in no more than two buildings containing two dwelling units.

C. **ACCESSORY BUILDINGS.** Interior setbacks are not required for detached accessory buildings, screened trash areas, or attached porte cocheres not exceeding 14 feet wide by 18 feet long where three of the four sides are open, as approved by the City's Single Family Design Board. (Ord. 5456, 2008.)

28.50.070 Distance Between Buildings.

No main building shall be closer than twenty feet (20') to any other main building on the same lot. (Ord. 5456, 2008.)

28.50.080 Lot Area and Frontage Requirements.

Each single-family dwelling with its accessory buildings hereafter erected shall be located upon a lot having the following:

A. A net area, excluding street rights-of-way and other publicly dedicated improvements, of not less than 5,000 square feet, provided that a minimum average net lot area of 7,000 square feet shall be provided for all residential lots in Area A.

B. Not less than 60 feet of frontage on a public or private street, except as the Planning Commission or City Council may allow by subdivision map approval at the Alan Road cul-de-sac, or by Modification. (Ord. 5456, 2008.)

28.50.085 Allowable Density of Development.

The maximum number of residential units in this zone shall be twenty-three (23). However, if at least two affordable units are provided, the maximum number of residential units in this zone may be increased to twenty-five (25) units. (Ord. 5456, 2008.)

28.50.090 Open Space and Landscaping.

Not less than 50 percent (50%) of the gross acreage of Area A shall be common open space devoted to planting, walkways, natural drainage features (e.g., bioswales, retention basins), riparian corridor, public agency access and passive recreational areas. (Ord. 5456, 2008.)

28.50.095 Street Requirements.

In order to maintain a semi-rural ambiance, and where necessary to preserve natural terrain features or open space, the Planning Commission or City Council may grant exceptions to City street design standards as may be deemed necessary to assure that the intent of this Chapter is observed, that adequate public parking is provided, and the public welfare and safety secured. (Ord. 5456, 2008.)

28.50.100 Off-Street Parking.

Off-street parking shall be provided as required in Chapter 28.90 of this Title. (Ord. 5456, 2008.)

28.50.105 Garages and Accessory Buildings.

A. Detached accessory buildings shall not exceed two (2) stories or thirty feet (30') in height.

B. Accessory buildings, excluding garages, shall not have a total aggregate square footage in excess of 500 square feet.

C. Garages shall not have a total aggregate square footage in excess of 600 square feet. (Ord. 5456, 2008.)

28.50.110 Home Size and Development Restrictions.

A. Notwithstanding any other provision of this Code, residential structures in this zone, except as provided by Section 28.50.110.B below, shall not exceed a total net square footage of 3,800 square feet, excluding garages and accessory structures.

B. Notwithstanding any other provision of this Code, residential structures in this zone located adjacent to and with access from Alan Road shall not exceed a total net square footage of 2,500 square feet, excluding garages and accessory structures. Home size in this area shall be massed and designed to provide an appropriate transition to existing adjacent homes along Alan Road as determined appropriate by the Single Family Design Board.

C. All residential structures shall be located within the "Grading and Landscaping" envelope shown on the Conceptual Site Plan exhibit as approved by the City in connection with the subdivision of this real property.

D. All residential structures shall be located a minimum of one-hundred feet (100') from the top of creek bank, which is defined as the Adjusted Top of Bank in Figure 4-4 of the certified Final Revised Environmental Impact Report for the Veronica Meadows Specific Plan, dated May 2008.

E. For the purposes of this Chapter, the term "net square footage" shall be defined and calculated in the manner which that term is used and calculated pursuant to SBMC Section 28.15.083. (Ord. 5456, 2008.)

28.50.115 Architectural Control.

All development within the SP-9 Zone shall be subject to the review and approval of the Single Family Design Board for consistency with the City's Single Family Design Guidelines; however, home sizes shall not be subject to height or size limitations beyond those identified in Sections 28.50.050, 28.50.105 and 28.50.110, and no Floor Area Ratio maximums shall apply to the homes initially constructed within Area A, but shall apply thereafter. The grades of individual lots and roads shall blend with the natural topography of the site, minimize site grading, and balance on-site earthwork to the maximum extent feasible. Where the Single Family Design Guidelines conflict with this Chapter, this Chapter shall govern proposed development, with emphasis on the Legislative Intent of the Zone (Section 28.50.005). (Ord. 5456, 2008.)

28.50.120 Exemption from SBMC Chapter 28.43.

Development within the SP-9 Zone shall be exempt from the Inclusionary Housing requirements of SBMC Chapter 28.43 – the "City of Santa Barbara Inclusionary Housing Ordinance." (Ord. 5456, 2008.)

28.50.130 Affordable Housing Provision.

If Affordable Housing units are provided, the lots on which they are located shall be no less than 3,000 square feet in size. Said lots and associated development shall comply with the provisions of this Zone in all other aspects, unless said provisions are reduced through a Modification, pursuant to Chapter 28.92 of this Title. (Ord. 5456, 2008.)

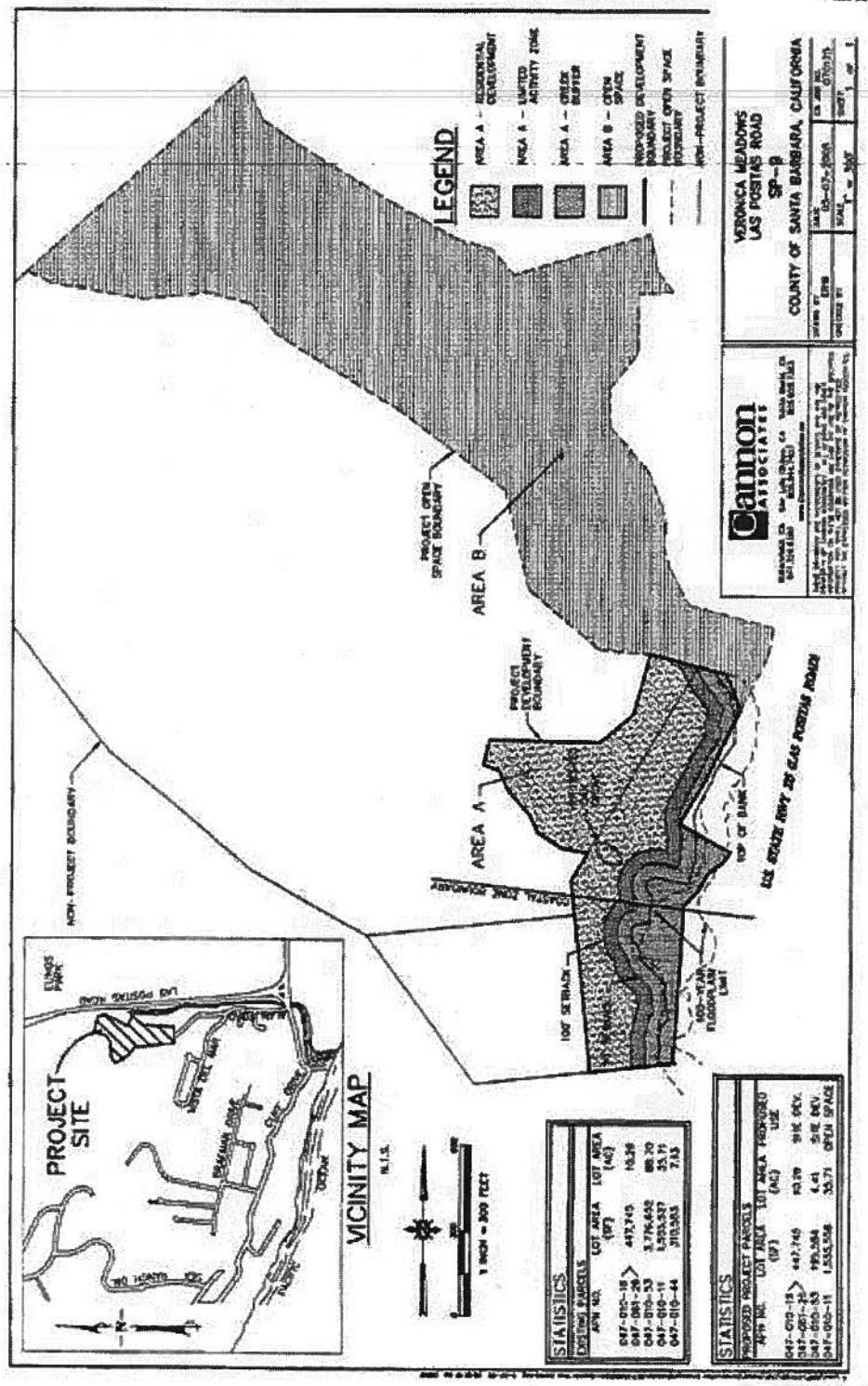
28.50.140 Fencing.

Fencing within fifty feet (50') of the top of creek bank, which is defined as the Adjusted Top of Bank in the certified Final Environmental Impact Report for the Veronica Meadows Specific Plan dated May 2008, shall be approved by the Community Development Director after being reviewed for comments only by the Single Family Design Board. Fencing abutting the open space drainage (identified as Lot 31 in Figure 4-7 of the Final Revised EIR) shall be open. All other fencing shall be subject to the provisions of Section 28.87.170 of this Title.
(Ord. 5456, 2008.)

28.50.150 Area Map.

The map attached hereto as Exhibit A (dated as of June 24, 2008) and labeled "Veronica Meadows Specific Plan Area" is hereby approved and incorporated in this Chapter by this reference. (Ord. 5456, 2008.)

EXHIBIT A



Veronica Meadows Specific Plan Area

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Chapter 28.51

C-O MEDICAL OFFICE ZONE

Sections:

28.51.001 In General.
28.51.030 Uses Permitted.
28.51.050 Building Heights.
28.51.060 Setbacks.
28.51.065 Area Requirements.
28.51.081 Outdoor Living Space.
28.51.100 Parking Requirements.
28.51.110 Signs.
28.51.115 Architectural Treatment.
28.51.130 Development Plan Approval.
28.51.131 Development Potential.

28.51.001 In General.

This is a zone which, because of its proximity to a major medical facility and its conformity with the General Plan, is deemed suitable for use for medical, dental and related professional offices as well as residences, under the following regulations. This zone also strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities. (Ord. 4005 § 4, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.51.030 Uses Permitted.

A. Any residential use permitted in the R-3 Limited Multiple-family Residence Zone.
B. Professional offices offering medical and related services, including the following: chiropodists, chiropractors, clinics, dentists, opticians, optometrists, osteopaths, physicians, surgeons and other similar medical offices as approved by the Planning Commission.
C. Hospitals, skilled nursing facilities and other similar buildings and facilities for the treatment of human ailments where facilities are provided for the keeping of patients overnight or longer, subject to the issuance of a conditional use permit and subject to the special procedural provisions prescribed in Chapter 28.94 of this Code.
D. Accessory buildings and accessory uses such as medical laboratories and prescription pharmacies.
E. Medical equipment and supply stores of no more than 3,000 square feet of net floor area. Medical equipment and supply stores of more than 3,000 square feet of net floor area are subject to the issuance of a Conditional Use Permit under Chapter 28.94 of this Code.
F. Banks of no more than 1,000 square feet of net floor area. Banks of more than 1,000 square feet of net floor area are subject to the issuance of a Conditional Use Permit issued under Chapter 28.94 of this Code.
G. Community care facilities, residential care facilities for the elderly, and hospices serving up to 12 individuals.
H. State-licensed Large Family Day Care Homes.
I. Birth Centers.
J. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines. (Ord. 5459, 2008; Ord. 4858, 1994; Ord. 3943, 1978; Ord. 3882, 1977; 3413, 1970; Ord. 3398, 1970; Ord. 2868, 1962; Ord. 2585, 1957.)

28.51.050 Building Heights.

Three (3) stories and not to exceed forty-five feet (45'). Building height immediately adjacent to a residential zone(s) shall not exceed that allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of twenty-three (23) feet or one-half (1/2) the height of the proposed structure, whichever is less. (Ord. 4005 §5, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.51.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:
A. FRONT SETBACK. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures, and parking on the lot as follows:
1. One- or two-story building or structure or uncovered parking: 10 feet
2. Three-story building or structure: 15 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the front setback shall be reduced as follows:
a. Ground floor portions: 10 feet
b. Second story portions: 10 feet
c. Third story portions: 20 feet
3. Covered parking: the setback applicable to the building in which the parking is provided as specified in A.1 or A.2 above.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially zoned parcel and all buildings, structures, and parking on the lot as follows:

1. One- or two-story building or structure or uncovered parking: 6 feet
2. Three-story building or structure: 10 feet; however, if the net floor area of the third floor is less than fifty percent (50%) of the net floor area of the first floor building footprint, the interior setback shall be reduced as follows:
    a. Ground floor portions: 6 feet
    b. Second story portions: 6 feet
    c. Third story portions: 10 feet
3. Covered parking: the setback applicable to the building in which the parking is provided as specified in B.1 or B.2 above.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. Any building, structure or covered parking: 10 feet or ½ of the building height, whichever is greater.
2. Driveways to parking areas serving exclusively residential uses: R-3/R-4 interior setback requirements.
3. Driveways and parking areas serving nonresidential uses: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.51.065 Area Requirements.

None, except that all buildings or portions thereof used for dwelling purposes shall comply with the provisions of the R-3 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.51.081 Outdoor Living Space.

Any building in this zone developed exclusively for residential use or any mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.51.100 Parking Requirements.

Off-street parking shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 3413, 1970.)

28.51.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3413, 1970.)

28.51.115 Architectural Treatment.

All buildings shall be designed to be compatible with the adjacent residential uses, to the satisfaction of the Architectural Board of Review, or the 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. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.51.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982; Ord 3413, 1970.)

28.51.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.54

C-P RESTRICTED COMMERCIAL ZONE

Sections:

28.54.001	**In General.**	**28.54.081**	**Outdoor Living Space.**
28.54.030	**Uses Permitted in the C-P Zone.**	**28.54.100**	**Parking Requirements.**
28.54.050	**Building Height.**	**28.54.110**	**Signs.**
28.54.060	**Setbacks.**	**28.54.115**	**Architectural Control.**
28.54.070	**Distance Between Buildings on the Same Lot.**	**28.54.120**	**Development Plan Approval for Larger Buildings and Structures.**
28.54.080	**Lot Area and Frontage Requirements.**	**28.54.130**	**Development Plan Approval.**
		28.54.131	**Development Potential.**

28.54.001 In General.

The following regulations shall apply in the C-P Restricted Commercial Zone unless otherwise provided in this chapter. The zone strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities.

Land classified in a C-P Zone may also be classified in another zone and the following regulations shall apply in the C-P Restricted Commercial Zone unless otherwise provided in this chapter. (Ord. 4005 §7, 1979; Ord. 3710, 1974; Ord. 3499, 1972.)

28.54.030 Uses Permitted in the C-P Zone.

A. Any use permitted in the R-4, R-O and C-O Zones and subject to the use restrictions and limitations contained in the respective zone and in Section 28.54.130.

B. Any of the following uses:

1. Art school.
2. Automobile parking areas.
3. Automobile service station or automobile service station/mini-market containing not more than six (6) pumps and limited to incidental tire and tube repairing, battery servicing, automobile lubrication and other minor automotive service and repair with a conditional use permit issued pursuant to Subsection 28.94.030.U of this Code.
4. Bakery employing not more than ten (10) persons.
5. Bank.
6. Barber shop.
7. Beauty shop.
8. Billiard parlor.
9. Bookstore.
10. Bowling alley.
11. Caterer.
12. Child care center.
13. Confectionery store.
14. Dancing school.
15. Dressmaking or millinery shop.
16. Drugstore.
17. Dry cleaning, pressing and laundry agency.
18. Dry goods or notion store.
19. Florist shop.
20. Garden nursery.
21. Gift shop.
22. Grocery, fruit and vegetable store.
23. Hardware store.
24. Household appliance store and repair.
25. Ice storage house of not more than five (5) ton capacity.
26. Jewelry store.
27. Liquor store.
28. Meat market or delicatessen.
29. Music and vocal schools.
30. Pet shop.
31. Photographic shop.
32. Restaurant, bar, tearoom or cafe.

33. Self-service laundry or dry cleaning.
34. Shoe store or shoe repair shop.
35. Stationery store.
36. Tailor, clothing or wearing apparel shop.
37. Television, radio store and repair.
38. Veterinary hospital for small animals provided;
    a. That no animals are to be boarded overnight except for medical reasons.
    b. That the building shall be designed so as to prevent the escape of all obnoxious odors and noises.
39. Wig shop.
40. Household hazardous waste collection facility, as defined in Section 28.04.405.
41. Accessory buildings and accessory uses, including a storage garage for the exclusive use of the patrons of the above stores or businesses.
42. Automobile rental, restricted to passenger vehicles, not including trailers, campers, trucks, recreational vehicles, etc., with the specific location subject to approval by the Planning Commission.
43. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

C. The above specified stores, shops or businesses, to the extent that they sell merchandise shall sell only at retail, shall sell only new merchandise, except for the resale of used merchandise acquired incidentally in the sale of new merchandise, and shall be permitted only under the following conditions:

1. Such store, shop or business, except automobile service station and nursery shall be conducted entirely within an enclosed building.
2. Products made incidental to a permitted use shall be sold at retail on the premises. (Ord. 5459, 2008; Ord. 5380, 2005; Ord. 5040, 1998; Ord. 4858, 1994; Ord. 4825, 1993; Ord. 4033 §4, 1980; Ord. 3727, 1975.)

28.54.050 Building Height.

Three (3) stories and not exceeding forty-five feet (45'). Building height immediately adjacent to a residential zone(s) shall not exceed that allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of twenty-three (23) feet or one-half (1/2) the height of the proposed structure, whichever is less. (Ord. 4005 §8, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.54.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than ten (10) feet shall be provided between the front lot line and all buildings, structures and parking on the lot.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.54.070 Distance Between Buildings on the Same Lot.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.54.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.54.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.54.100 Parking Requirements.

Off-street parking and loading space shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.54.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.54.115 Architectural Control.

The architectural and general appearance of all buildings and grounds shall be substantially in accordance with the actions of the Architectural Board of Review, or the 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. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 3529, 1972; Ord. 2585, 1957.)

28.54.120 Development Plan Approval for Larger Buildings and Structures.

A. **C-P Zone Development Plan Approval.** Prior to the permitting and construction of any building or structure of 10,000 square feet or more of total floor area within the C-P Zone, a Development Plan shall be submitted for approval by the Planning Commission pursuant to the procedural and public noticing requirements of Santa Barbara Municipal Code Section 28.85.030.

B. **C-P Development Plan Submittal Requirements.** A Development Plan submitted pursuant to this Section shall, at a minimum, show the proposed building location on the site, the size, setbacks, floor area, floor plan and elevations, proposed parking lot design, footprints of adjacent structures, landscaping plan, and other information as prescribed by the Community Development Director, provided that such information is reasonably related to meeting the requirements of this Chapter.

C. **Planning Commission Review.** The Planning Commission may limit the allowed uses and the permissible building height for buildings and structures approved pursuant to this Section, and may impose additional setbacks requirements, where deemed necessary by the Planning Commission in order to secure an appropriate development and as deemed necessary to mitigate adverse impacts upon neighboring residential uses.

D. **Required Findings.** The Planning Commission, or City Council on appeal, shall make the following findings and impose conditions necessary to secure and perpetuate the basis for such findings, in order to approve a Development Plan submitted pursuant to this Section:

1. The proposed development complies with all of the provisions of this Title; and
2. The proposed development is consistent with the General Plan and the principles of sound community planning; and
3. The total area of the site and the setbacks of all facilities from the property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that major detrimental impact on surrounding properties is avoided to the greatest extent possible; and
4. The design and operation of the project and its components, including outdoor lighting and noise-generating equipment, will not be a nuisance to the use of property in the area, particularly residential use; and
5. Adequate access and off-street parking is provided in a manner and amount so that the demands of the development are met without altering the character of the public streets in the area; and
6. The appearance of the developed site in terms of the arrangement, height, size, bulk, scale and architectural style of the buildings, location of the parking areas, landscaping, and other features is compatible with the character of the area and of the City.

E. **Appeals.** A decision by the Planning Commission pursuant to this Section may be appealed in the manner provided for such appeals in Santa Barbara Municipal Code Section 28.85.070.

F. **Expiration of Development Plans.** The provisions of Santa Barbara Municipal Code Section 28.85.090 shall be applicable to Development Plans approved pursuant to this Section. (Ord. 5609, 2013; Ord. 5040, 1998.)

28.54.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982; Ord. 3529, 1972.)

28.54.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.57

C-L LIMITED COMMERCIAL ZONE

Sections:

28.57.001	**In General.**	**28.57.080**	**Lot Area and Frontage Requirements.**
28.57.005	**Legislative Intent.**	**28.57.081**	**Outdoor Living Space.**
28.57.030	**Uses Permitted in the C-L Zone.**	**28.57.100**	**Parking Requirements.**
28.57.050	**Building Height.**	**28.57.110**	**Signs.**
28.57.060	**Setbacks.**	**28.57.130**	**Development Plan Approval.**
28.57.070	**Distance Between Buildings on the Same Lot.**	**28.57.131**	**Development Potential.**

28.57.001 In General.

The following regulations shall apply in the C-L Limited Commercial Zone unless otherwise provided in this chapter. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.005 Legislative Intent.

The C-L Limited Commercial Zone is designed to be applied to a particular area of the City because of that area's unique characteristics and its relation to other zones and activities in the community. The land classified in this zone is located on State Street, which is described by the General Plan as being the principal street in the community reflecting the character of Santa Barbara and requiring, therefore, special treatment. State Street connects the Shoreline and Harbor areas, the Central Business District and Civic Center and the northside commercial and residential district.

The particular section of State Street for which this zone is designed is located above and adjacent to the Central Business District in close proximity to residential areas. General office, hotel and related commercial uses are appropriate and the General Plan so indicates. Also, certain commercial activities of a low intensity nature may be compatible in the commercial community established by this zone.

In all developments in this area, however, the City must exercise sufficient design, construction and operation controls to assure that the desirable characteristics of State Street in this area are maintained and enhanced and that the adjacent residential environment is protected and preserved, especially in terms of light, air and existing visual amenities. (Ord. 4005 §10, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.030 Uses Permitted in the C-L Zone.

A. Any use permitted in the R-O, C-O and R-4 Zones and subject to the use restrictions and limitations contained in the respective zone, except that any such use specifically mentioned hereafter shall be subject to the use restrictions of the C-L Zone.

B. Any of the following uses:

1. Antique shop.
2. Bank.
3. Barber, beauty shop, including hair stylist.
4. Candy, ice cream, pastry shop.
5. Caterer.
6. Child Care Center.
7. Delicatessen and specialty food store, including convenience grocery items.
8. Drug store and pharmacy, limited to stores carrying primarily drugs, personal care and health products.
9. Florist shop.
10. Funeral parlor.
11. Gift shop.
12. Household hazardous waste collection facility, as defined in Section 28.04.405 of this Title.
13. Interior decorating shop.

14. Jewelry store.
15. Liquor, wine store.
16. Photographic studio.
17. Restaurant.
18. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

C. The above-specified stores, shops or businesses shall be permitted only under the following conditions:
1. Merchandise shall be sold only at retail;
2. Except for restaurants and child care centers, all activities shall be conducted entirely within an enclosed building;
3. Products made incidental to a permitted use shall be sold at retail on the premises.

D. Accessory buildings and uses. (Ord. 5459, 2008; Ord. 4825, 1993; Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.050 Building Height.

Three (3) stories and not exceeding forty-five feet (45'). Building height immediately adjacent to a residential zone(s) shall not exceed that allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of twenty-three (23) feet or one-half (1/2) the height of the proposed structure, whichever is less. (Ord. 4005 §11, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than ten (10) feet shall be provided between the front lot line and all buildings, structures and parking on the lot.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:
1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:
1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.57.070 Distance Between Buildings on the Same Lot.

All buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.57.100 Parking Requirements.

Off-street parking and loading space shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.57.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3531, 1972; Ord. 2585, 1957.)

28.57.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982; Ord. 3710, 1974; Ord. 3531, 1972.)

28.57.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.60

C-X RESEARCH AND DEVELOPMENT AND ADMINISTRATIVE OFFICE ZONE

Sections:

28.60.001 In General.
28.60.005 Legislative Intent.
28.60.030 Uses Permitted.
28.60.040 Operating Standards.
28.60.045 Site Area Standards.
28.60.050 Building Height.
28.60.060 Setbacks.
28.60.063 Maximum Site Coverage.
28.60.100 Parking Requirements.
28.60.115 Architectural Control.
28.60.120 Street Frontage Requirements.
28.60.130 Development Plan.
28.60.131 Development Potential.
28.60.140 Construction and Maintenance of Site and Buildings.
28.60.150 Description of Operation and Number of Employees.
28.60.200 Landscaping Requirements.

28.60.001 In General.

Land classified in a C-X Zone shall also be classified in another zone and the following regulations shall apply to the C-X Zone unless otherwise provided in this chapter; provided, however, that any area classified as a C-X Zone prior to May 11, 1967, shall remain so classified until an underlying zone shall have been applied to such previously existing C-X Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.005 Legislative Intent.

It is the intent of this chapter to permit uses in the C-X Zone of the type described below at which the level and intensity of activity is commensurate with that of the surrounding residential area and the basic zone in which the site is located. The intensity of activity of a C-X facility may be considered to be directly related to the number of persons and vehicles traveling to and from the site during a given period of time. The appropriate maximum level of activity for a C-X site will vary considerably depending upon the location of the site, the basic zone category, access to appropriate collector and arterial streets and other similar factors. It is intended that the Planning Commission shall make the determination that the level of activity proposed for a C-X site is appropriate. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.030 Uses Permitted.

1. Research and development establishments and related administrative operations; provided that no manufacturing is permitted in a C-X Zone and further provided that such uses or operations are not hazardous, offensive or obnoxious by reason of the emission of odor, dust, heat, glare, gas fumes, smoke, vibrations, electromagnetic or other radiation resulting in radio or television interference, or by reason of the storage or disposal of waste materials or other products of such operations.

The word manufacturing as used herein shall mean the fabrication, assembly or production of articles other than prototypes or models used for experimentation or research. The word prototype is hereby defined as an original or model or pattern from which manufactured, fabricated or assembled products are developed or copied. No prototype, model or pattern shall be built, erected or constructed in a C-X Zone to a scale exceeding the ceiling height of the building in which it or they are erected, constructed or developed, and the erection, fabrication or assembly thereof shall be confined to the interior of the building.

2. Administrative offices, provided that:

a. Such offices are not open to or visited by the general public for the purpose of receiving or disbursing goods, services, information, payments or other such routine or frequent activities.

b. Personnel employment activities shall be limited to those involving personnel to be working at the C-X site.

c. Classes or training program activities shall be incidental to the administrative use of the premises. The number of persons shall not exceed ten percent (10%) of the total number of employees regularly (daily) present at the site.

3. Radio and television transmitting and broadcasting stations, provided that:

a. The height of any antenna or similar device exceeding the maximum allowable height established in Section 28.87.260 shall require a Conditional Use Permit (CUP) pursuant to Municipal Code Chapter 28.94. It is the intent of these administrative office provisions and restrictions to prohibit the conduct of retail, wholesale, service, professional or other business with the general public. These are activities which would cause a large increase in traffic to and from the facility. Necessary visits by service personnel and tradesmen, business calls and other activities normal to a strictly administrative function are intended to be allowed. (Ord. 4891, 1994; Ord. 3710, 1974; Ord. 3703, 1974; Ord. 2808, 1961.)

28.60.040 Operating Standards.

Any research and development or administrative office establishment situated in a C-X Zone shall comply with the following standards of performance and operation:

1. FIRE AND EXPLOSION HAZARDS. There shall be provided and maintained in a good and workable condition adequate and sufficient safety and fire suppression equipment and devices in such locations on the premises as may be necessary to prevent and suppress fire and explosion hazards wherever inflammable or explosive materials are used or stored.

2. INCINERATION. There shall be no rubbish or refuse incineration on the premises.

3. RADIATION. All devices emitting radio frequency energy shall be operated in such a manner as to cause no interference with any activity carried on beyond the boundary of the premises of such establishment including but not limited to radio and television interference. Radio frequency energy is electromagnetic energy at any frequency in the radio spectrum between ten (10) kilocycles and three (3) million megacycles.

4. NOISE. See Chapter 9.16 of this Code for noise standards.

5. VIBRATION. No equipment, machinery or facility in such establishment shall be operated so as to produce or generate vibration which is perceptible without the aid or instruments to a person of ordinary sensibilities at or beyond the boundary line of the premises.

6. EMISSION OF DUST, HEAT AND GLARE. No such establishment shall be operated in a manner resulting in the emission of dust or other substances susceptible of being transmitted through the air, or heat or glare to an extent or degree permitting such emission or emissions to extend beyond the boundary line of the premises.

7. OUTDOOR STORAGE AND WASTE DISPOSAL. All fuel, raw materials, equipment and products used outside the building of such establishment shall be enclosed by a fence, wall or shrubbery planting adequate to conceal such facility from adjacent or nearby residential property. The removal or transference from the premises of such establishment of any such fuel, raw materials or products by natural forces or causes shall be prevented. Suitable closed containers shall be provided and used for the storage of any materials or water products which by their nature are combustible, volatile, dust or odor producing or edible or attractive to rodents, vermin or insects. (Ord. 4159, 1982; Ord. 3710, 1974; Ord. 3409, 1970; Ord. 2808, 1961.)

28.60.045 Site Area Standards.

A C-X site shall consist of a lot or lots for the location of a single C-X establishment and in the aggregate such site shall consist of not less than two (2) acres in area, provided that in the event topographic features involving steep slopes, gullies or ravines render such two (2) acre minimum size inadequate for the restrictive purposes of this article, the Planning Commission may recommend and the City Council may require additional area to be included in the site as may be reasonably necessary to effect the purpose and intent of this chapter. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.050 Building Height.

No building in a C-X Zone shall exceed one (1) story or twenty feet (20') in height. (Ord. 3710, 1974; Ord. 2808, 1961; Ord. 2585, 1957.)

28.60.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than thirty five (35) feet shall be provided between the front lot line and all buildings, structures and parking on the lot.

B. INTERIOR SETBACK. An interior setback of not less than twenty five (25) feet shall be provided between the interior lot line and all buildings, structures and parking on the lot. (Ord. 5459, 2008.)

28.60.063 Maximum Site Coverage.

Not more than twenty-five percent (25%) of the total area comprising the site of a C-X establishment shall be covered with buildings or structures and not more than thirty percent (30%) of such area shall be used for open parking, loading or delivery uses. (Ord. 3710, 1974; Ord. 2808, 1961; 2585, 1957.)

28.60.100 Parking Requirements.

Off-street parking shall be provided as required in Chapter 28.90 of this ordinance. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.115 Architectural Control.

The plans and elevations for all buildings and structures to be erected in a C-X Zone shall be reviewed by the Architectural Board of Review, or the 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, and alterations are proposed. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.120 Street Frontage Requirements.

Each C-X site shall have street frontage and single side dimensions of not less than one hundred fifty feet (150') each. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.60.130 Development Plan.

Before any building or structure is hereafter erected on a C-X site a development plan of said site shall be prepared and submitted by the owner or developer, drawn to a scale of not less than one inch (1") to equal thirty feet (30'), and showing the proposed development of such site. Such development plan shall show the following information:

1. All buildings existing and proposed, together with the elevation thereof, and showing the outline of exterior walls and roof overhang, including covered walkways.
2. All outside walkways, driveways, service areas and other developments existing and proposed to the centerline of any adjoining street.
3. Parking lot layout, showing detail of stalls and landscaping.
4. Site grading, showing detail of slope treatment including but not limited to planting and erosion control, provided that said grading plan and layout may be submitted on a separate plan.
5. Said plan shall be submitted for approval to the Planning Commission. (Ord. 4361, 1986; 3710, 1974; Ord. 3538, 1972; Ord. 2808, 1961.)

28.60.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

28.60.140 Construction and Maintenance of Site and Buildings.

Following approval of the foregoing required development plan and landscaping plan as aforesaid, the owner or developer of such C-X site shall construct said buildings and install such landscaping in strict accordance with said plans and without material or substantial deviation therefrom, and said buildings and landscaping shall be thereafter maintained in a clean and orderly condition. In order that said premises or establishment, or any part thereof, shall not become offensive or obnoxious to persons occupying residential properties in sight thereof. (Ord. 4361, 1986; Ord. 3710, 1974; Ord. 2808, 1961.)

28.60.150 Description of Operation and Number of Employees.

Before a C-X site or portion thereof is occupied for any purpose permitted by this chapter, the owner or his agent shall submit to the Division of Land Use Controls a description of the operation proposed for the site together with a statement of the maximum number of employees to be present at the site. The Planning Commission shall review these submissions for conformance with the intent of this chapter and may approve, approve with conditions or disapprove the occupancy as described. Following any such approval by the Planning Commission, the premises shall only be occupied in a manner substantially in accordance with such approval and, specifically, at no time shall the number of employees at the site exceed the maximum number approved. (Ord. 3710, 1974; Ord. 3409, 1970.)

28.60.200 Landscaping Requirements.

The portion of the C-X establishment site area not covered by buildings or structures, parking, driveways or walkways, shall be landscaped according to a plan for such landscaping approved by the City Park and Recreation Commission, as hereinafter provided. There shall also be prepared and submitted by the owner or developer, a landscaping plan and layout prepared by a licensed landscape architect or a licensed landscape contractor, and such plan shall cover all of the site not used for buildings, parking or service areas. The landscaping plan shall be submitted to the Planning Commission with the site development plan, and to the Board of Park and Recreation Commissioners for the recommendation of each of such commissions to the City Council. (Ord. 3710, 1974; Ord. 2585, 1957.)

Chapter 28.63

C-1 LIMITED COMMERCIAL ZONE

Sections:

28.63.001 In General.
28.63.030 Uses Permitted in the C-1 Zone.
28.63.050 Building Height.
28.63.060 Setbacks.
28.63.070 Distance Between Buildings on the Same Lot.
28.63.080 Lot Area and Frontage Requirements.
28.63.081 Outdoor Living Space.
28.63.100 Parking Requirements.
28.63.110 Signs.
28.63.115 Architectural Control.
28.63.130 Development Plan Approval.
28.63.131 Development Potential.

28.63.001 In General.

The following regulations shall apply in the C-1 Limited Commercial Zone unless otherwise provided in this chapter. This zone strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities.

Land classified in a C-1 Zone may also be classified in another zone and the following regulations shall apply in the C-1 Zone, unless otherwise provided in this chapter. (Ord. 4005 §13, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.030 Uses Permitted in the C-1 Zone.

A. Any use permitted in the R-4, R-O and C-O Zones and subject to the use restrictions and limitations contained in the respective zone and in Section 28.63.130, except as otherwise provided in Subsection B. herein.

B. When land classified in a C-1 Zone is also classified in another zone, as provided in Section 28.63.001, uses shall be limited to the following:

1. Any use permitted in Subsection C. herein;
2. Any use permitted in the other zone in which the land is classified and when so used subject to the restrictions and limitations contained therein.

C. Any of the following uses:

1. Antique shop.
2. Automobile service station or automobile service station/mini-market, and accessory uses, limited to incidental tire and tube repairing, battery servicing, automobile lubrication and other minor automotive service within the building not including auto body repair with a conditional use permit issued pursuant to Subsection 28.94.030.U of this Code.
3. Bakery employing not more than ten (10) persons.
4. Bank.
5. Barber shop.
6. Beauty shop.
7. Billiard parlor.
8. Bookstore.
9. Caterer.
10. Child Care Center.
11. Clothing store.
12. Club or lodge.
13. Confectionery store.
14. Dressmaking or millinery shop.
15. Drugstore.
16. Dry cleaning, pressing and laundry agency.
17. Dry goods or notion store.
18. Florist.
19. Garden nursery.
20. Gift shop.
21. Grocery, fruit and vegetable store.
22. Hardware store.
23. Hotel.
24. Household appliance store and repair.
25. Household hazardous waste collection facility, as defined in Section 28.04.405 of this Title.
26. Ice storage house of not more than five (5) ton capacity.
27. Interior decorator.
28. Jewelry store.

29. Liquor store.
30. Meat market or delicatessen store.
31. Offices: general, administrative, business, professional, public.
32. Pet store.
33. Photographer.
34. Photographic store.
35. Research and development.
36. Restaurant and bar.
37. Self-service laundry and dry cleaning.
38. Shoe store, shoe repair.
39. Stationery store.
40. Tailor.
41. Television and radio store and repair.
42. Veterinary hospital for small animals, provided:
    a. That no animals are to be boarded overnight except for medical reasons.
    b. The building shall be designed so as to prevent the escape of all obnoxious odors and noises.
43. Wig shop.
44. Accessory buildings and accessory uses, including a storage garage for the exclusive use of the patrons of the above stores or businesses.
45. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

D. The above-specified stores, shops or businesses shall be permitted only under the following conditions:

1. Such stores, shops or businesses, except automobile service stations, child care centers, and nurseries, shall be conducted entirely within an enclosed building.
2. Products made incidental to a permitted use shall be sold at retail on the premises. (Ord. 5459, 2008; Ord. 5380, 2005; Ord. 4825, 1993; Ord. 4033 §5, 1980; Ord. 3710, 1974; Ord. 3461, 1970; Ord. 3421, 1970; Ord. 3398, 1970.)

28.63.050 Building Height.

Three (3) stories and not exceeding forty-five feet (45'). Building height immediately adjacent to a residential zone(s) shall not exceed that allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of twenty-three (23) feet or one-half (1/2) the height of the proposed structure, whichever is less. (Ord. 4005 §14, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than ten (10) feet shall be provided between the front lot line and all buildings, structures and parking on the lot.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.63.070 Distance Between Buildings on the Same Lot.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.63.100 Parking Requirements.

Off-street parking and loading space shall be provided as required in Chapter 28.90 of this title. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.110 Signs.

Signs shall be permitted in this zone only as provided in the Sign Ordinance of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3531, 1972.)

28.63.115 Architectural Control.

The architectural and general appearance of all buildings and grounds shall be in accordance with the action of the Architectural Board of Review, or the 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. (Ord. 4851, 1994; Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982; Ord. 3710, 1974; Ord. 2585, 1957.)

28.63.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.66

C-2 COMMERCIAL ZONE

Sections:

28.66.001 In General.
28.66.030 Uses Permitted.
28.66.050 Building Height.
28.66.060 Setbacks.
28.66.070 Distance Between Buildings on the Same Lot.
28.66.080 Lot Area and Frontage Requirements.
28.66.081 Outdoor Living Space.
28.66.130 Development Plan Approval.
28.66.131 Development Potential.

28.66.001 In General.

The following regulations shall apply in the C-2 Commercial Zone unless otherwise provided in this chapter. This zone strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities. (Ord. 4005 §16, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.66.030 Uses Permitted.

A. Any use permitted in the C-P Zone and subject to the use restrictions and limitations contained in that zone, except that any such use specifically mentioned hereafter shall be subject to the restrictions of the C-2 Zone.

B. Such use shall not be inimical to the public health, welfare, safety or morals by reason of the offering to distribute, or distributing or exhibition to members of the public of any obscene matter as defined in Section 311 of the Penal Code of the State of California.

C. Any of the following uses:

1. Retail, wholesale or service store or business provided that there shall be no manufacturing, assembly, processing or compounding or products other than such as are customarily incidental or essential to such establishments and provided further that there shall be not more than ten (10) persons engaged in any such manufacture, processing or treatment of products, and not more than fifty percent (50%) of the floor area of the building is used in the treatment, manufacture or processing of products, and that such operations are not objectionable due to noise, odor, dust, smoke, vibration or other similar causes.
2. Advertising sign board or structure.
3. Automobile parking area.
4. Automobile super service station or automobile service station/mini-market including automobile laundry or car wash and auto steam cleaning establishment provided that all tire and tube repairing, battery, servicing and steam cleaning shall be conducted wholly within a building with a conditional use permit issued pursuant to Subsection 28.94.030.U of this Code.
5. Bakery employing not more than twenty (20) persons on premises.
6. Bath, Turkish and the like.
7. Billiard or pool hall or bowling alley.
8. Blueprinting and photostating shop.
9. Church.
10. Cleaning and pressing establishment using non-inflammable and non-explosive cleaning fluid.
11. Conservatory of music.
12. Contractor - no outside storage or storage of heavy equipment.
13. Department store.
14. Educational facility.
15. Electric distributing substation.
16. Funeral parlor.
17. Furniture warehouse for storing personal household goods.
18. Health club, spa, gymnasium.
19. Hospital, clinic or skilled nursing facility.
20. Interior decorating shop.
21. Medical laboratory.
22. Parking garage, public.
23. Pest control.
24. Plumbing shop.
25. Printing, lithographing or publishing establishment.
26. Public parking area.
27. Radio and television store.
28. Refrigerated locker.
29. Restaurant, tea room or cafe.
30. Skating rink.
31. Storage garage, including repairing and servicing.
32. Studio.
33. Taxidermist.
34. Telephone exchange.
35. Theater or auditorium (except drive-in theater).
36. Trade school, not objectionable due to noise, odor, dust, smoke, vibration or other similar causes.
37. Trailer and equipment sales and rental - non-industrial use.
38. Upholstery shop.
39. Used car sales area, provided that no repair or reconditioning of automobiles shall be permitted, except when enclosed in a building.
40. Wedding chapel.
41. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

D. Accessory buildings and accessory uses. (Ord. 5459, 2008; Ord. 5380, 2005; Ord. 4858, 1994; Ord. 4033 §6, 1980; Ord. 3710, 1974; Ord. 3461, 1970; Ord. 3421, 1970; Ord. 3398, 1970; Ord. 2763, 1960.)

28.66.050 Building Height.

A. Maximum Building Height. No building in this zone shall exceed a height of four (4) stories, nor shall any building exceed a height of sixty feet (60').

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter shall exceed a height of forty five feet (45') unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project, and the Planning Commission expressly makes all of the following findings:

1. Demonstrated Need. The applicant has adequately demonstrated a need for the project to exceed 45 feet in building height that is related to the project's benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;

2. Architecture and Design. The project will be exemplary in its design;

3. Livability. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City-designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less, provided, however, a project which qualifies as a Community Benefit Project or a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Theater Additions. Notwithstanding the provisions of SBMC Section 28.04.140, a stage addition to a live performance theater shall not be considered as part of the height of the building under the following circumstances: 1. the stage addition is devoted solely to rigging fly systems, 2. the addition is made to a theater that existed as of December 31, 2003, and 3. the stage addition does not exceed the height of the theater as such theater existed on December 31, 2003.

E. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of a land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team (DART) and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code. (Ord. 5630, 2013; Ord. 5459, Section 3, 2008; Ord. 5341, 2004; Ord. 4005, 1979; Ord. 3710, 1974; Ord. 3587, 1973.)

28.66.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings, structures and parking: No setback required.
2. Exclusively residential buildings, structures and parking: R-3/R-4 front setback requirement.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.66.070 Distance Between Buildings on the Same Lot.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.66.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.66.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.66.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982.)

28.66.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.69

C-M COMMERCIAL MANUFACTURING ZONE

Sections:

28.69.001 In General.
28.69.030 Uses Permitted.
28.69.050 Building Height.
28.69.060 Setbacks.
28.69.070 Distance Between Buildings on the Same Lot.
28.69.080 Lot Area and Frontage Requirements.
28.69.081 Outdoor Living Space.
28.69.130 Development Plan Approval.
28.69.131 Development Potential.

28.69.001 In General.

The following regulations shall apply in the C-M Commercial Manufacturing Zone unless otherwise provided in this chapter. This zone strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities. (Ord. 4005 §19, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.69.030 Uses Permitted.

A. Any use permitted in the C-2 Zone and subject to the use restrictions and limitations contained in that zone, except that any such use specifically mentioned hereafter shall be subject to the restrictions of the C-M Zone.

B. Any of the following uses, provided that such operations, manufacturing, processing or treatment of products are not obnoxious or offensive by reason of emission of odor, dust, gas, fumes, smoke, liquids, wastes, noise, vibrations, disturbances or other similar causes which may impose hazard to life or property:

1. Automobile body shop.
2. Automobile paint shop.
3. Bakery goods manufacturing.
4. Boat building and repairing and machine shop.
5. Building contractor and material storage.
6. Cabinet shop.
7. Canvas and canvas products manufacturing.
8. Car wash.
9. Cement products manufacturing.
10. Cleaning and dyeing.
11. Clothing products manufacturing.
12. Draying and truck yard or terminal.
13. Electronics products manufacturing.
14. Emergency Shelters in compliance with Chapter 28.79.
15. Equipment and trailer rental and storage.
16. Food products manufacturing.
17. House moving.
18. Laundry.
19. Lumber yard.
20. Machine shop.
21. Plating works.
22. Produce warehouse.
23. Research and development establishment and related administrative operations.
24. Rug cleaning.
25. Sheet metal shop.
26. Sign manufacturing.
27. Storage warehouse.
28. Tire retreading.
29. Veterinary hospital.
30. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

C. Accessory buildings and accessory uses. (Ord. 5662, 2014; Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3398, 1970; Ord. 3120, 1966.)

28.69.050 Building Height.

A. Maximum Building Height. No building in this zone shall exceed a height of four (4) stories, nor shall any building exceed a height of sixty feet (60').

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter shall exceed a height of forty five feet (45’) unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project, and the Planning Commission expressly makes all of the following findings:

1. Demonstrated Need. The applicant has adequately demonstrated a need for the project to exceed 45 feet in building height that is related to the project’s benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;

2. Architecture and Design. The project will be exemplary in its design;

3. Livability. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City-designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less, provided, however, a project which qualifies as a Community Benefit Project or a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of a land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team (DART) and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code. (Ord. 5630, 2013; Ord. 4005 §20, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.69.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings, structures and parking: No setback required.
2. Exclusively residential buildings, structures and parking: R-3/R-4 front setback requirement.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.69.070 Distance Between Buildings on the Same Lot.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.69.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.69.081 Outdoor Living Space.

Any lot in this zone developed exclusively for residential use or developed with a mixed use development shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Code. (Ord. 5459, 2008.)

28.69.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982.)

28.69.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.70

HC - HARBOR COMMERCIAL ZONE

Sections:

28.70.001	**In General.**	**28.70.050**	**Building Height Standards.**
28.70.030	**Uses Permitted in the Harbor and Shoreline Area.**	**28.70.090**	**Coastal Zone Review.**
		28.70.131	**Development Potential.**

28.70.001 In General.

The regulations contained in this Chapter shall apply in the Harbor Commercial Zone unless otherwise provided in this Title. The Zone strives to assure that the harbor will remain primarily a working harbor with visitor-serving and ocean-related uses secondary to ocean-dependent uses, and that Stearns Wharf will consist of a mixture of visitor-serving, and ocean-dependent and ocean-related uses. In addition, this zone is intended to provide a desirable environment by preserving and protecting surrounding land uses in terms of light, air and existing visual amenities. (Ord. 4428, 1986; Ord. 4170, 1982.)

28.70.030 Uses Permitted in the Harbor and Shoreline Area.

In all areas of the Harbor Commercial Zone the following uses are permitted provided that such operations, manufacturing, processing or treatment of products are not obnoxious or offensive by reason of emission of odor, dust, gas, fumes, smoke, liquids, waste, noise, vibrations, disturbances or other similar causes which may impose a hazard to life and property. Within the Harbor Commercial Zone the primary uses listed below shall be the predominant uses for the harbor and shoreline area.

A. Primary harbor uses:
   1. Marinas, boat moorings, marine service stations, boat yard/repair facilities and related activities.
   2. Marine-oriented government facilities.
   3. Seafood processing.
   4. Services necessary for commercial fishing activities, including such facilities as net repair areas, hoists and ice machines and storage areas.
   5. Other ocean-dependent uses as deemed appropriate by the Planning Commission.

B. Secondary harbor uses:
   1. Museums and other cultural displays relating to the ocean.
   2. Bait and tackle shops.
   3. Boat sales, storage, construction and/or repair.
   4. Diving gear, boat, surfing and other ocean-related equipment rental.
   5. Fast food restaurants, other restaurants, and restaurants with entertainment and meeting facilities used in conjunction with the restaurant.
   6. Marine equipment and accessories sales and/or repair.
   7. Marine storage.
   8. Marine surveyor.
   9. Offices of businesses or persons engaged exclusively in ocean-related activities.
   10. Public parking lots.
   11. Sail manufacturing and/or repair.
   12. Seafood sales and processing.
   13. Marine oriented specialty and gift shops.
   14. Stores which sell liquor, groceries and food which do not exceed 2,500 square feet in gross floor area.
   15. Household hazardous waste collection facilities as defined in Section 28.04.405 of this Title and exclusively serving the area within the H-C Zone.
   16. Other ocean-related uses as deemed appropriate by the Planning Commission.

C. Stearns Wharf uses:
   1. Art galleries.
   2. Bait and tackle shops.
   3. Boat sales, storage, construction and/or repair.
   4. Diving gear, boat, surfing and other ocean-related equipment rental.
   5. Fast food restaurants, other restaurants and restaurants with entertainment facilities used in conjunction with the restaurant.
   6. Marine equipment and accessories sales and/or repair.
   7. Marine service stations.
   8. Marine storage.

9. Marine surveyors.
10. Museums and other cultural displays relating to the ocean.
11. Offices of businesses or persons engaged in ocean-related activities.
12. Sail manufacturing and/or repair.
13. Seafood sales and processing.
14. Specialty and gift shops.
15. Stores which sell liquor, groceries and food which do not exceed 2,500 square feet in gross floor area.
16. Other ocean-dependent, ocean-related and visitor-serving uses as deemed appropriate by the Planning Commission.

D. Five year review of uses:

At least once every five (5) years from March 30, 1993, the Board of Harbor Commissioners shall review the extent and nature of the uses existing in the Harbor and shoreline area of the HC Zone and make a recommendation to the Planning Commission regarding the adequacy of ocean-dependent uses (Harbor primary uses) in relation to ocean-related and visitor-serving uses (Harbor secondary uses) in order to assure that the harbor remains a working harbor. A review of the mix of uses may occur at any other time at the direction of the Board of Harbor Commissioners or Planning Commission. Subsequent reviews shall be at five (5) year intervals thereafter. The Coastal Commission shall receive a copy of the recommendation and accompanying background materials associated with each review. (Ord. 5459, Section 3, 2008; Ord. 4825, 1993; Ord. 4808, 1993; Ord. 4428, 1986; Ord. 4170, 1982.)

28.70.050 Building Height Standards.

Two (2) stories not to exceed thirty (30) feet. (Ord. 4428, 1986; Ord. 4170, 1982.)

28.70.090 Coastal Zone Review.

All development in the Coastal Overlay Zone S-D-3, is subject to review pursuant to Chapter 28.44 of this Code. (Ord. 5417, 2007; Ord. 4428, 1986; Ord. 4170, 1982.)

28.70.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

Chapter 28.71

OC Ocean-Oriented Commercial Zone

Sections:

28.71.010 In General.
28.71.020 Uses Permitted.
28.71.030 Uses Permitted Upon the Issuance of a Conditional Use Permit.
28.71.040 Coastal Zone Review.
28.71.050 Development Potential.
28.71.060 Building Height Standards.
28.71.070 Lot Area, Frontage, and Outdoor Living Space Requirements.
28.71.080 Parking Requirements.

28.71.010 In General.

The regulations contained in this Chapter shall apply in the OC Zone unless otherwise provided in this Title. This zone strives to achieve balanced use of the City's Waterfront and maintain the small scale, local character that is unique to the Waterfront area. Land uses shall be encouraged in this zone that maintain and enhance the desirability of the Waterfront as a place to work, visit, and live. This zone is intended to foster a vital, mixed use neighborhood and preserve and protect the coastal environment in terms of light, air, and visual amenities.

Land classified in the OC zone may also be classified in the HRC-2 (Hotel and Related Commerce 2) zone and those land uses authorized within the HRC-2 zone are also allowed uses within the dual OC/HRC-2 zone. (Ord. 5343, 2005.)

28.71.020 Uses Permitted.

Any of the following uses are permitted, provided that such operations, manufacturing, processing, or treatment of products are not obnoxious or offensive by reason of emission of odor, dust, gas, fumes, smoke, liquids, wastes, noise, vibrations, disturbances, or other similar causes which may impose hazard to life or property:

1. Ocean-dependent and ocean-oriented uses such as:
   a. Aquaculture facilities.
   b. Boat and boat trailer rental.
   c. Marine equipment and accessories manufacturing, sales, repair, storage, or rental.
   d. Marine-oriented government facilities.
   e. Marine research and development facilities.
   f. Offices of businesses engaged in ocean-related activities.
   g. Boat and sail manufacturing and repair.
   h. Seafood processing, wholesaling, storage, and related activities.
   i. Services necessary for commercial fishing activities, including such facilities as net repair areas, ice machines, and storage areas.
   j. Ocean-oriented educational facilities.
2. Commercial recreational uses such as:
   a. Bicycle, roller skating, moped, dive gear, boating, surfing, and other recreational equipment rental, sales, manufacturing, and repair.
   b. Public or private parks or recreational facilities.
3. Arts related uses such as:
   a. Art galleries (may include sales).
   b. Art schools.
   c. Art studios/workspaces (may include sales).
   d. Blueprinting, photostatting, printing, lithographing, or publishing establishments.
   e. Industrial arts and crafts uses, including, but not limited to, framing, jewelry making, metallurgy, pottery, sculpture, specialty sewing/monogramming, and weaving (industrial arts and crafts uses may include sales).

   For the purposes of this Chapter, the term "art" shall be defined as the creative application of a specific skill, the purpose of which is to create objects of form or beauty.
4. Restaurants.
5. Residential Uses.
   a. Generally. Any use permitted in the R-3 zone is allowed in the area bounded by Helena Avenue on the west, the existing railroad right-of-way on the south, Garden Street on the east and Highway 101 on the north, subject to the restrictions and limitations contained in this Chapter so long as the R-3 use is constructed as a project providing a mix of allowed nonresidential and residential use where the residential use will not exceed 70 percent of the total building floor area of the development project.

   Any parcel of 5500 square feet or less in size which exist as of the date of the adoption of the ordinance codifying this amendment to Chapter 28.71 and which is not contiguous to another adjacent parcel(s) which is held in common ownership with the first parcel shall be exempt from the above-described mixed-use requirements.

   b. Affordable Housing Projects. Development projects comprised exclusively of units affordable to very low, low, or moderate income households (as evidenced by the recordation of long-term affordability covenants consistent with the City's Affordable Housing Policies and Procedures) shall be exempt from the above-stated mixed-use requirements for this zone.

   c. Existing Residential Buildings. Residential buildings which exist at the time of the adoption of the Ordinance enacting this Chapter (as established by the existence of a valid certificate of occupancy issued by the City), shall not be deemed non-conforming to the requirements of this Chapter and such buildings may be rehabilitated or remodeled (but not demolished) and expanded so long as any such permitted expansion (or expansions in total) does not exceed twenty percent (20%) of the floor area of the existing dwelling unit with the floor area and percentage calculated as of the date of the adoption of the Ordinance enacting this Chapter.
6. Small Stores. Stores that sell liquor, groceries, or food that do not exceed 2,500 square feet in gross floor area.
7. OC Uses Found Consistent. Other ocean-dependent, ocean-oriented, commercial recreational, or arts-related uses that are found to be consistent with the intent of the OC zone by the Planning Commission. (Ord. 5343, 2005.)

28.71.030 Uses Permitted Upon the Issuance of a Conditional Use Permit.

A. Automobile Related Uses. In the OC Zone, automobile rentals and parking lots shall be permitted with a conditional use permit issued in accordance with the provisions of Chapter 28.94 of this Code.

B. Small Hotels. In the OC zone, small hotels shall be permitted upon the issuance of a conditional use permit in the OC zone area designated for "small hotel" on the map attached to this Chapter as Exhibit A subject to the following express limitations:

1. A small hotel may not have more than six (6) guest rooms;

2. The size of each hotel guest room shall be limited to a maximum of 300 square feet of floor area (including hallways, closets, baths, interior circulation and other similar floor area) and the room may not include an individual kitchen area;

3. A common kitchen / dining / lobby area is allowed but may not be located within a guest room;

4. A manager's residential unit is allowed with a maximum of 600 square feet of floor area provided that the manager's unit is located adjacent to, or with immediate access to, the common or lobby area and provided that it not have a separate access from outside the common area.

C. Findings Required for Small Hotels. Planning Commission approval of small hotels in the area of the OC zone for which they are authorized by subsection B hereof shall be subject to all of the following CUP findings:

That the small hotel:

1. will support the goals of the Local Coastal Plan and OC zone to promote a vital, mixed use neighborhood in the Waterfront comprised of a diversity of land uses;

2. is part of a mixed use project and in a mixed use setting within a property having pre-existing legal uses or permitted OC uses;

3. is compatible with the surrounding land uses and OC uses;

4. may include a manager's unit if it is necessary to support the hotel or other improvements on the site;

5. will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved;

6. has a sufficient area for the site and has a design for the facilities of an appropriate magnitude in view of the character of the land and in view of the proposed development that significant detrimental impact on surrounding properties is avoided;

7. will provide adequate access and off-street parking in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time; and

8. will have an appearance (in terms of its arrangement, height, scale, and architectural style of the buildings, location of parking areas, landscaping, and other features) which is compatible with the character of the area. (Ord. 5343, 2005.)

28.71.040 Coastal Zone Review.

All development in the Coastal Overlay Zone (S-D-3) is subject to review pursuant to Chapter 28.44 of this Code. (Ord. 5417, 2007; Ord. 5343, 2005.)

28.71.050 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 5343, 2005.)

28.71.060 Building Height Standards.

No building or structure in the OC zone shall exceed three (3) stories nor exceed forty-five (45) feet in height. (Ord. 5343, 2005.)

28.71.070 Lot Area, Frontage, and Outdoor Living Space Requirements.

A. Lot Area and Frontage Requirements. All buildings or portions thereof used for dwelling purposes shall comply with the lot area and frontage provisions of the R-3 Zone.

B. Outdoor Living Space. All buildings or portions thereof used for dwelling purposes shall comply with the outdoor living space provisions of the R-3 zone. (Ord. 5343, 2005.)

28.71.080 Parking Requirements.

Off-street parking and loading space shall be provided as required in Chapter 28.90 of this title. (Ord. 5343, 2005.)

Chapter 28.72

M-1 LIGHT MANUFACTURING ZONE

Sections:

28.72.001 In General.
28.72.030 Uses Permitted.
28.72.050 Building Height.
28.72.060 Setbacks.
28.72.070 Distance Between Buildings on the Same Lot.
28.72.080 Lot Area and Frontage Requirements.
28.72.130 Development Plan Approval.
28.72.131 Development Potential.

28.72.001 In General.

The following regulations shall apply in the M-1 Light Manufacturing Zone unless otherwise provided in this chapter. This zone strives to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities. (Ord. 4005 §22, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.72.030 Uses Permitted.

A. Any use permitted in the C-M Zone subject to the use restrictions and limitations contained in that zone, except that any such use specifically mentioned hereafter shall be subject to the restrictions of the M-1 Zone. Furthermore, no building or any portion of a building shall be erected or used as a dwelling except for a caretaker or night watchperson's residence of no more than four hundred (400) square feet of net floor area.

B. Any of the following uses are permitted provided that such operations, manufacturing, processing or treatment of products are not obnoxious or offensive by reason of emission of odor, dust, gas, fumes, smoke, liquids, wastes, noise, vibrations, disturbances or other similar causes which may impose a hazard to life or property:

1. Agricultural equipment rental.
2. Alcohol and alcoholic beverages manufacture.
3. Assembly plant.
4. Automobile body and fender works, painting and upholstery and automobile laundry.
5. Awning manufacturing.
6. Bag manufacturing.
7. Battery manufacturing and rebuilding.
8. Bedspring manufacturing.
9. Bookbinding.
10. Bottling plant.
11. Brewery.
12. Brush manufacturing.
13. Building materials, new and used.
14. Candle manufacturing.
15. Candy manufacturing.
16. Cannery (except fish and meat products).
17. Cellophane products manufacturing.
18. Cement products manufacturing.
19. Cesspool - pumping, draining, cleaning.
20. Church.
21. Cigar and cigarette manufacturing.
22. Cleaning and dyeing, wholesale.
23. Clock factory.
24. Clothing manufacturing.
25. Coffee roasting.
26. Cold storage plant.
27. Contractor, farming equipment.
28. Cork products manufacturing.
29. Cornice works.
30. Cosmetics manufacturing.
31. Cotton storage.
32. Covenant or monastery, subject to the issuance of a Conditional Use Permit issued under Chapter 28.94 of this Code.
33. Creamery.
34. Dextrine manufacturing.

35. Distribution plant.
36. Dog kennel, boarding, breeding or training.
37. Draying and truck yard or terminal.
38. Drug manufacturing.
39. Educational facility, subject to the issuance of a Conditional Use Permit issued under Chapter 28.94 of this Code.
40. Electrical appliance and equipment manufacturing.
41. Electric utility warehouse and service yard or electric transmission substation.
42. Electronic instruments and devices manufacturing.
43. Feather products, manufacturing or renovation.
44. Felt products manufacturing.
45. Fiber products manufacturing.
46. Fixture manufacturing, gas, electric.
47. Fumigating contractor.
48. Furniture manufacturing.
49. Hay barn.
50. Horn products manufacturing.
51. Ice manufacturing and storage.
52. Ink manufacturing.
53. Insecticides manufacturing.
54. Iron works, ornamental (no casting).
55. Knitting mill.
56. Laboratory for research, testing and experimental purposes.
57. Leather products manufacturing (no tanning).
58. Machinery, farm and repair.
59. Malt products manufacturing.
60. Medicine manufacturing.
61. Metal spinning.
62. Milk pasteurization.
63. Millinery manufacturing.
64. Novelty manufacturing.
65. Packing plant, fruit and vegetables.
66. Paint mixing (no boiling).
67. Paper products manufacturing.
68. Perfume manufacturing.
69. Phonograph manufacturing.
70. Plastic products manufacturing.
71. Plating.
72. Pottery and statuary manufacturing.
73. Produce yard or terminal.
74. Pumping plant.
75. Refrigerating plant.
76. Rope plant.
77. Rubber products manufacturing.
78. Rug manufacturing.
79. Sandpaper manufacturing.
80. Sea shell products manufacturing.
81. Sheet metal products.
82. Starch mixing and bottling.
83. Stone grinding, cutting and dressing.
84. Tool manufacturing (no drop hammer or punch presses).
85. Toy manufacturing.
86. Venetian blind manufacturing.
87. Wood products manufacturing.
88. Other businesses and occupations that are substantially similar to the uses enumerated above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

C. Accessory buildings and accessory uses. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3398, 1957.)

28.72.050 Building Height.

A. Maximum Building Height. Four (4) stories and not to exceed sixty feet (60').

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter shall exceed a height of forty five feet (45') unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project, and the Planning Commission expressly makes all of the following findings:

1. Demonstrated Need. The applicant has adequately demonstrated a need for the project to exceed 45 feet in building height that is related to the project's benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;

2. Architecture and Design. The project will be exemplary in its design;

3. Livability. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City-designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less, provided, however, a project which qualifies as a Community Benefit Project or a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of a land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team (DART) and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code. (Ord. 5630, 2013; Ord. 4005 §23, 1979; Ord. 3710, 1974; Ord. 2585, 1957.)

28.72.060 Setbacks.

The following setback requirements shall be observed on all lots within this zone:

A. FRONT SETBACK. A front setback of not less than the indicated distance shall be provided between the front lot line and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings, structures and parking: No setback required.
2. Exclusively residential buildings, structures and parking: R-3/R-4 front setback requirement.

B. INTERIOR SETBACK ADJACENT TO NONRESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a nonresidentially-zoned parcel and all buildings, structures and parking on the lot as follows:

1. Nonresidential or mixed use buildings or structures: No setback required.
2. Exclusively residential buildings or structures: R-3/R-4 interior setback requirement.
3. All parking and driveways: No setback required.

C. INTERIOR SETBACK ADJACENT TO RESIDENTIAL ZONE. An interior setback of not less than the indicated distance shall be provided between an interior lot line that abuts a residentially-zoned parcel and all buildings, structures, and parking on the lot as follows:

1. All buildings and structures: 10 feet or ½ the building height, whichever is greater.
2. Residential parking and driveways: R-3/R-4 interior setback requirements.
3. Nonresidential or mixed use parking and driveways: 5 feet, landscaped. In addition, a minimum six (6) foot high solid fence or decorative wall shall be provided along the property line abutting a residentially-zoned parcel, except where such fence or wall will interfere with traffic safety or would be inconsistent with the provisions of Section 28.87.170 of this Code. However, the requirement for a fence or wall may be reduced or waived by the design review body that reviews the project. (Ord. 5459, 2008.)

28.72.070 Distance Between Buildings on the Same Lot.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.72.080 Lot Area and Frontage Requirements.

None, except all buildings or portions thereof used exclusively for dwelling purposes shall comply with the provisions of the R-4 Zone. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.72.130 Development Plan Approval.

Development plan review and approval by the Planning Commission are sometimes required by Chapter 28.85 of this Code. (Ord. 5609, 2013; Ord. 4140, 1982.)

28.72.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991)

Chapter 28.73

OM-1 OCEAN-ORIENTED LIGHT MANUFACTURING

Sections:

28.73.010 In General.
28.73.030 Uses Permitted in the OM-1 Zone.
28.73.050 Building Height.
28.73.060 Setbacks.
28.73.070 Distance Between Buildings on the Same Lot.
28.73.080 Lot Area and Frontage Requirements.
28.73.090 Coastal Zone Review.
28.73.131 Development Potential.

28.73.010 In General.

The regulations contained in this Chapter shall apply in the OM-1 Ocean-Oriented Light Manufacturing Zone unless otherwise provided in this Title. This zone strives to provide for appropriate ocean-dependent and-related industrial uses in close proximity to the Harbor/Wharf Complex. The City, while recognizing that buildings existing at the time this Chapter was adopted are allowed to maintain M-1 uses, encourages the establishment of ocean-oriented uses in such buildings in keeping with the policies of the California Coastal Act and the City's Coastal Plan. In addition, this zone is intended to provide a desirable living environment by preserving and protecting surrounding residential land uses in terms of light, air and existing visual amenities. (Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.030 Uses Permitted in the OM-1 Zone.

A. Any of the following uses provided that such operations, manufacturing, processing or treatment of products are not obnoxious or offensive by reason of emission of odor, dust, gas, fumes, smoke, liquids, wastes, noise, vibrations, disturbances or other similar causes which may impose a hazard to life or property:

1. Boat sales, storage, construction and/or repair;
2. Marine storage;
3. Public parking lots;
4. Sail manufacturing and repair;
5. Seafood processing and wholesaling;
6. Household hazardous waste collection facility as defined in Section 28.04.405 of this Title.
7. Other ocean-related uses deemed appropriate by the Planning Commission.

B. Any use other than those permitted in Subsection 28.73.030.A above and permitted in the M-1 Zone subject to the restrictions and limitations contained therein and issuance of a Conditional Use Permit. A Conditional Use Permit may be granted by the Planning Commission or City Council on appeal, for such uses in the OM-1 Zone in accordance with the provisions of Chapter 28.94 of this Code, subject to the following additional findings:

1. The use is compatible with ocean-dependent or ocean-related uses; and

2. The property would have no feasible economic value if limited to ocean-dependent or ocean-related uses. This finding shall be substantiated by competent evidence determined by the Planning Commission to be objective which includes no present or future demand for ocean-dependent or ocean-related uses.

C. Structures in existence or developments which have a valid and unexpired approval from the Coastal Commission on the effective date of this Sub-section may be used for all uses permitted in the M-1 Zone.

D. Wastewater/sanitation treatment facilities and other essential public service facilities owned and operated by the City of Santa Barbara. (Ord. 5459, Section 3, 2008; Ord. 4825, 1993; Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.050 Building Height.

A. Maximum Building Height. No building in this zone shall exceed a height of four (4) stories, nor shall any building exceed a height of sixty feet (60').

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter shall exceed a height of forty five feet (45') unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project, and the Planning Commission expressly makes all of the following findings:

1. Demonstrated Need. The applicant has adequately demonstrated a need for the project to exceed 45 feet in building height that is related to the project's benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;

2. Architecture and Design. The project will be exemplary in its design;

3. Livability. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City-designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less, provided, however, a project which qualifies as a Community Benefit Project or, a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of a land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team (DART) and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code. (Ord. 5630, 2013; Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.060 Setbacks.

Setback requirements shall be the same as those provided for the M-1 Zone, Chapter 28.72 of this Code. (Ord. 5459, 2008; Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.070 Distance Between Buildings on the Same Lot.

Restrictions shall be the same as those provided for the M-1 Zone, Chapter 28.72 of this Code. (Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.080 Lot Area and Frontage Requirements.

Restrictions shall be the same as those provided for the M-1 Zone, Chapter 28.72 of this Code. (Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.090 Coastal Zone Review.

All development in the Coastal Overlay Zone is subject to review pursuant to Chapter 28.44 of this Code. (Ord. 5417, 2007; Ord. 4429, 1986; Ord. 4171, 1982.)

28.73.131 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

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Chapter 28.75

HWMF HAZARDOUS WASTE MANAGEMENT FACILITY OVERLAY ZONE

Sections:

28.75.001	**In General.**	**28.75.050**	**Building Height.**
28.75.005	**Legislative Intent.**	**28.75.060**	**Setbacks.**
28.75.010	**Procedures.**	**28.75.070**	**Distance Between Buildings on the Same Lot.**
28.75.013	**Findings.**	**28.75.100**	**Parking Requirements.**
28.75.025	**Action.**	**28.75.128**	**Termination of HWMF Overlay Zone Classification.**
28.75.030	**Uses Permitted in the HWMF Overlay Zone.**	**28.75.130**	**Development Potential.**
28.75.045	**Project Development Standards.**		

28.75.001 In General.

Land classified in a HWMF Overlay Zone shall also be classified in a C-M, M-1, or OM-1 Zone and the following regulations shall apply in the HWMF Overlay Zone unless otherwise provided in this Chapter.

Land areas approved for Hazardous Waste Management Facilities in accordance with this Chapter shall be shown on the Official Zoning Map by the symbol "HWMF". (Ord. 4825, 1993.)

28.75.005 Legislative Intent.

The purpose and intent of this overlay zone is to provide a mechanism for the siting of specified off-site hazardous waste management facilities and to ensure that such facilities are sited consistent with the requirements of the Hazardous Waste Management Plan adopted by Chapter 22.05 of Title 22 of this Code, the base zone over which the HWMF Overlay Zone is applied and the existing and future uses in the area surrounding such facilities. (Ord. 4825, 1993.)

28.75.010 Procedures.

A. The procedure for establishing a Hazardous Waste Management Facility Overlay Zone in combination with one of the underlying zones listed in Section 28.75.001 of this Chapter shall be the same as set forth under Zone Changes in Chapter 28.92 of this Title, except as otherwise outlined in this Chapter.

B. If a development plan is required for a hazardous waste management facility, it shall be processed as outlined in Chapter 28.85, concurrently with the request for the HWMF Overlay Zone as required above. In addition, a Conditional Use Permit in accordance with the provisions of Title 28, Chapter 28.94, shall be required and shall be processed concurrently with the request for the HWMF Overlay Zone change as required above.

C. In addition to the application requirements for a zone change, development plan, conditional use permit and any other necessary applications for land use permits, an application for uses in the HWMF Overlay Zone shall include:

1. An evaluation of the consistency of the proposed project with the siting criteria for offsite hazardous waste management facilities set forth in the Hazardous Waste Management Plan.
2. An evaluation of alternative sites for the project.
3. Map(s) showing the area within a half-mile radius of the project site which indicate:
   a. All dwelling units and other sensitive land uses such as schools, hospitals, convalescent hospitals, rest homes, day care facilities, libraries, parks, etc.;
   b. Other buildings and structures;
   c. Environmentally sensitive areas;
   d. Location of major highways and access routes;
   e. Available emergency services; and
   f. All significant topographic features.
4. Map(s) showing the area within a quarter-mile radius of the project site which indicate:
   a. All sanitary sewer systems;
   b. All storm drains; and
   c. The prevailing wind direction.
5. Information on the types and maximum and average expected quantities of wastes proposed to be stored, treated or transferred by the facility and the physical and chemical characteristics of those wastes.
6. A Risk Assessment that estimates the level of risk to human health and the environment. Sufficient detail shall be provided so that decision-makers have an adequate basis from which to consider alternatives. The Risk Assessment shall include, but not be limited to, the following items:
   a. The use of worst case incident scenarios;

b. The identification of the maximum volumes expected of different classes or types of hazardous materials or wastes;

c. The identification of physical and chemical characteristics of the wastes that will be handled;

d. A discussion of the size and composition of any residential or populated areas nearby and the potential for impacting these areas;

e. An evaluation of potential impacts to air quality, water resources, crops, vegetation and wildlife;

f. An evaluation of the project's effect on immobile populations;

g. An analysis of emergency response capabilities;

h. An evaluation of emissions from routine operations;

i. The evaluation of different transportation options; and

j. A discussion of the proposed detection and monitoring systems, auditing and inspection programs and other risk reduction controls with regard to protection of human health and the environment.

7. A preliminary Risk Management Prevention Plan (RMPP) if such RMPP is required by reason of Section 65850.2 of the Government Code.

8. A preliminary emergency response plan that addresses the potential actions to be taken in the event of a release or a threatened release of a hazardous waste.

9. Measures or plans to ensure site security.

10. Analysis of depth to groundwater.

11. Data needed to evaluate need for the hazardous waste management facility as identified by Policy 2-1 of the Hazardous Waste Management Plan, including but not limited to, data from the state manifest records, data from the Santa Barbara County Department of Environmental Health Services, other current data and any intergovernmental agreements into which the County of Santa Barbara has entered.

12. A site characterization and geotechnical investigation which evaluates geologic hazards and other disaster potential. This shall include, but not be limited to, assessment of soils, faults, slopes, landslide potential, ground and surface waters and floods.

13. Traffic, circulation and parking demand study.

14. Architectural and visual analysis which shows how the project will be designed to protect public views and to be compatible with the neighborhood.

15. An assessment of the project's expected demand for water, sewer and energy including availability of the required resources and any conservation measures incorporated into the project design.

16. A closure and post-closure plan detailing measures to be taken to restore, evaluate and monitor conditions at the site at the time the applicant or successor owners/operators cease operation of the hazardous waste management facility, to ensure the elimination of any adverse environmental condition related to the operation of the facility or any condition which could pose a hazard to human health, affect community welfare, or which could affect existing or potential development in the vicinity. The plan will include demonstration of binding commitments to guarantee implementation of the plan. The adequacy of the plan will be determined by the Director of the Community Development Department.

17. An analysis of the project's potential fiscal impact on the City and any other affected jurisdictions along with financial assurances that show that the operator has included a funding system that will cover the costs of construction, operation, emergency, closure and post-closure cleanup and monitoring.

18. Any other information that the Community Development Department deems necessary to evaluate and process the application.

(Ord. 5609, 2013; Ord. 4825, 1993.)

28.75.013 Findings.

In addition to the findings required for the approval of rezones, development plans, conditional use permits and any other necessary approvals, no rezone to the HWMF Overlay Zone shall be approved unless the City Council, upon the recommendation of the Planning Commission, also makes the following findings:

A. The hazardous waste management facility is consistent with the Hazardous Waste Management Plan.

B. There is a need for the offsite treatment, storage or transfer hazardous waste management facility as determined pursuant to Policy 2-1 of the Hazardous Waste Management Plan.

C. The rezone and/or proposed facility is consistent with the siting criteria for offsite hazardous waste management facilities set forth in the Hazardous Waste Management Plan and with the development standards set forth in Section 28.75.045 below.

D. A risk assessment has been prepared for the rezone and/or development plan which adequately evaluates the risks to human health and safety and the environment under both routine operations and upset conditions.

E. The risks to human health and the environment have been minimized to the maximum extent feasible and the remaining risks are considered acceptable.

F. The facility will be operated using the best feasible hazardous waste management technologies.

G. The significant environmental impacts have been addressed as required under the provisions of the California Environmental Quality Act of 1970, as amended from time to time.

H. The proposed facility is consistent with the City General Plan in that the facility is in an area designated by the General Plan and zoned for industrial use and the area is substantially developed with other industrial facilities which are served by the same transportation routes as the proposed facility. In addition, the land uses authorized in the General Plan and by zoning in the vicinity of the project are compatible with the project.

I. The proposed facility is within reasonable proximity to industrial facilities which produce or treat hazardous waste on-site as outlined in the Hazardous Waste Management Plan.

J. The alternative locations for the proposed facility, as identified in the environmental impact report for the project and in the Hazardous Waste Management Plan, have been adequately considered in determining the location chosen for the facility.

K. A closure and post-closure plan has been submitted which adequately describes and guarantees implementation of measures to be taken to restore, evaluate and monitor conditions at the site upon cessation of operations, to ensure elimination of adverse environmental conditions and potential hazards to human health and other effects.

L. The project will not create a financial burden for the City or the County.

M. The proposed facility operator has demonstrated financial responsibility for the operation, monitoring, closure and post-closure requirements of the facility. (Ord. 4825, 1993.)

28.75.025 Action.

In addition to the application and public hearing process required by this Title for any change of zone, conditional use permit, development plan or other land use permit, offsite hazardous waste management facilities are subject to the procedures outlined in Article 8.7 (commencing with Section 25199.1) of the California Health and Safety Code, including, but not limited to, the following:

A. NOTICE OF INTENT. At least 90 days before filing an application for the addition of a HWMF Overlay Zone to a property and for a Conditional Use Permit for an offsite hazardous waste management facility and, if necessary, a coastal development permit and/or development plan approval with the City, the applicant shall file a Notice of Intent to make such application with the Office of Permit Assistance in the Governor's Office of Planning and Research and with the City of Santa Barbara. The Community Development Department shall publish a notice in a newspaper of general circulation in the City, shall post notices in the location where the proposed project is located and shall notify, by direct mailing, the owners of all property within four hundred and fifty (450) feet of the proposed project, as shown on the latest equalized assessment roll. The Notice of Intent is not transferable to a location other than the location specified in the notice and shall remain in effect for one (1) year from the date it is filed with the City or until it is withdrawn by the applicant, whichever is earlier. The Notice of Intent filed with the City shall include the following:

1. A complete description of the nature, function and scope of the project.

2. Labels containing the names, addresses and assessor's parcel numbers of all property owners within four hundred and fifty (450) feet of the affected parcel, as shown in the latest equalized assessment roll.

3. A fee to cover the costs of processing the Notice of Intent and carrying out the required notification procedures, as adopted by a resolution of the City Council.

B. PUBLIC INFORMATION MEETING. Within ninety (90) days of filing a Notice of Intent with the Office of Permit Assistance, the Office shall convene a public meeting in the City of Santa Barbara in order to inform the public of the nature, function and scope of the proposed offsite hazardous waste management facility project and the procedures that are required for approving applications for such projects.

C. SELECTION AND COSTS OF LOCAL ASSESSMENT COMMITTEE. The City Council shall appoint a seven (7) member Local Assessment Committee to advise it in considering an application for an offsite hazardous waste management facility, subject to the following requirements:

1. The Local Assessment Committee shall be appointed not later than thirty (30) days after the application for an offsite hazardous waste management facility is accepted as complete by the Community Development Department.

2. A fee adequate to cover the costs of establishing and convening the Local Assessment Committee, as adopted by a resolution of the City Council, shall be paid by the applicant at the time the application is submitted.

3. The committee shall be broadly constituted to reflect the makeup of the community and shall include three (3) representatives of the community at large, two (2) representatives of environmental or public interest groups and two (2) representatives of affected businesses or industries. Members of the committee shall have no direct financial interest, as defined in Section 87103 of the Government Code, in the proposed offsite hazardous waste management facility.

D. DUTIES OF LOCAL ASSESSMENT COMMITTEE. The Local Assessment Committee shall, as its primary function, advise the City Council of the terms and conditions under which the proposed offsite hazardous waste management facility project may be acceptable to the community. To carry out this function, the Committee shall do all of the following:

1. Enter into a dialogue with the applicant to reach an understanding with the applicant on both of the following:

a. The measures that should be taken by the applicant in connection with the operation of the proposed offsite hazardous waste management facility to protect the public health, safety and welfare and the environment of the City.

b. The special benefits and remuneration the facility applicant will provide the City as compensation for the local costs associated with the facility.

2. Represent generally, in meetings with the project applicant, the interests of the residents of the City and the residents of adjacent communities.

3. Receive and expend any technical assistance grants made available pursuant to Subsection H of this Section.

4. Adopt rules and procedures which are necessary to perform its duties.

5. Advise the Planning Commission and City Council of the terms, provisions and conditions for project approval which have been agreed upon by the Committee and the project applicant, and any other information the Committee deems appropriate. The Planning Commission and City Council may use this advice for their independent consideration of the project.

6. The City Council shall assure that staff resources are provided to assist the Local Assessment Committee in performing its duties.

E. TERM OF THE LOCAL ASSESSMENT COMMITTEE. A Local Assessment Committee established pursuant to this Section shall cease to exist after final administrative action by state and local agencies has been taken on the permit applications for the project for which the Committee was convened.

F. NOTIFICATION OF THE OFFICE OF PERMIT ASSISTANCE AND SCHEDULING OF PUBLIC HEARING. The Community Development Department shall notify the Office of Permit Assistance within ten (10) days after the application for an offsite hazardous waste management facility is accepted as complete by the City. Within sixty (60) days after receiving such notice, the Office of Permit Assistance shall convene a meeting of the lead and responsible agencies for the project, the project applicant, the Local Assessment Committee and the interested public, for the purpose of determining the issues which concern the agencies that are required to approve the project and the issues which concern the public.

G. LOCAL ASSESSMENT COMMITTEE MEET AND CONFER. Following the public hearing required in Subsection F. of this Section, the project applicant and the Local Assessment Committee shall meet and confer on the offsite hazardous waste management facility proposal for the purpose of establishing the terms and conditions under which the project will be acceptable to the community.

H. TECHNICAL ASSISTANCE GRANTS. If the Local Assessment Committee finds that it requires assistance and independent advice to adequately review a proposed offsite hazardous waste management facility project, it may request technical assistance grants from the City Council to enable the Committee to hire a consultant.

1. The Committee may use technical assistance grant funds to hire a consultant to do either, or both, of the following:

a. Assist the Committee in reviewing and evaluating the application for the project, the environmental document prepared for the project and any other documents, materials and information that are required by the City and responsible agencies in connection with the application.

b. Advise the Committee in its meetings and discussions with the facility applicant to seek agreement on the terms and conditions under which the project will be acceptable to the community.

2. The City shall require the applicant for the proposed offsite hazardous waste management facility to pay a fee equal to the amount of any technical assistance grant provided the Committee under Paragraph 1 of this Subsection. The funds received as a result of the imposition of the fee shall be used to make technical assistance grants exclusively for the purposes described in Paragraph 1 of this Subsection.

3. The City shall deposit any fee imposed pursuant to Paragraph 2 of this Subsection in the City treasury, maintain records of all expenditures from the account and return any unused funds and accrued interest to the project applicant upon completion of review of the proposed project.

I. FAILURE TO RESOLVE DIFFERENCES. If the Local Assessment Committee and the project applicant cannot resolve any differences through their meetings, the Office of Permit Assistance may assist in this resolution pursuant to Health and Safety Code Section 25199.4.

J. APPEAL OF DECISION OF CITY COUNCIL. A decision of the City Council to approve or deny an application for an offsite hazardous waste management facility may be appealed to the Governor of the State of California or the Governor's designee pursuant to Health and Safety Code Sections 25199.9, 25199.10, 25199.11 or 25199.13, as appropriate.

(Ord. 4825, 1993.)

28.75.030 Uses Permitted in the HWMF Overlay Zone.

A. Any use permitted in the underlying zone classification, except residential use.
B. Offsite Hazardous Waste Management Facilities including:
1. Hazardous Waste Transfer Station.
2. Hazardous Waste Storage Facility.
3. Hazardous Waste Treatment Facility.
4. Hazardous Waste Recycling Facility.
C. Hazardous Waste Residual Repositories are prohibited within the incorporated limits of the City of Santa Barbara. (Ord. 4825, 1993.)

28.75.045 Project Development Standards.

A. A buffer adequate to protect the public health and safety and environmentally sensitive areas shall be established. The size and location of the buffer shall be based upon a thorough assessment of the risk to human health and the environment.
B. All offsite hazardous waste management facilities shall be designed and constructed so as to contain spills, leaks and other accidental releases of waste. Containment shall provide protection to air quality and surface and groundwater resources and shall be based on a site characterization and geologic report.
C. All offsite hazardous waste management facilities shall use public services.
D. Offsite hazardous waste management facilities shall include measures for adequate site security.
E. Offsite hazardous waste management facilities shall be visually compatible with existing and anticipated surrounding land uses.
F. No noxious odors associated with an offsite hazardous waste management facility shall be detectable at or beyond the property boundary.
G. The level of noise generated by facility operation at the property boundary shall not exceed 65 dB(A).
H. All offsite hazardous waste management facilities shall comply with Santa Barbara County Air Pollution Control District rules and regulations and shall be consistent with the Air Quality Attainment Plan.
I. Project construction shall include mitigation of construction impacts including, but not limited to, dust suppression, emissions controls, sedimentation controls and restricted construction hours.
J. Grading and alteration of natural drainages shall be minimized and adequate provisions shall be made to prevent erosion and flood damage.
K. A monitoring system to measure offsite impacts including, but not limited to, noise, odors, vibration and air and water quality degradation shall be in operation throughout the construction, operation, closure and post-closure of the facility.
L. All outside lighting shall be shielded and no unobstructed beam of light shall shine off the premises. In addition, lighting shall not draw attention to the facility. All lighting shall be of an overall level and type compatible with surrounding uses. (Ord. 4825, 1993.)

28.75.050 Building Height.

Building height shall be subject to the same height limitation as that found in the underlying zone. (Ord. 4825, 1993.)

28.75.060 Setbacks.

Required setbacks shall be subject to the same limitations as those found in the underlying zone, except as outlined by Section 28.75.045 above. (Ord. 5459, 2008; Ord. 4825, 1993.)

28.75.070 Distance Between Buildings on the Same Lot.

Distance between buildings on the same lot shall be subject to the same limitations as those found in the underlying zone, unless a greater distance between buildings is determined to be necessary during review of the project. (Ord. 4825, 1993.)

28.75.100 Parking Requirements.

Parking shall be provided in accordance with Chapter 28.90 of this Code. (Ord. 4825, 1993.)

28.75.128 Termination of HWMF Overlay Zone Classification.

Any ordinance amendment establishing a HWMF Overlay Zone classification under this Chapter shall terminate and the affected property shall automatically revert to the district classification represented by the basic symbol if the conditional use permit, coastal development permit, development plan approval and/or other land use permit expire. (Ord. 4825, 1993.)

28.75.130 Development Potential.

Notwithstanding any provision of law to the contrary, nonresidential construction must comply with Chapter 28.85 and no application for a land use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4825, 1993.)

Chapter 28.78

MOBILEHOME AND PERMANENT RECREATIONAL VEHICLE PARK CONVERSION REGULATIONS

Sections:

28.78.010 Permit Required for Conversion of Mobilehome and Permanent Recreational Vehicle Parks; Conversion Defined.
28.78.020 Issuance of Conversion Permits.
28.78.030 Physical Standards for Conversion of Mobilehome and Permanent Recreational Vehicle Parks to Condominiums or Over-night Recreational Vehicle Parks.
28.78.040 Application Requirements for Conversion Permits.
28.78.050 Acceptance of Reports.
28.78.060 Public Hearing.
28.78.070 Findings - Mobilehome and Permanent Recreational Vehicle Park Conversion Permit.

28.78.010 Permit Required for Conversion of Mobilehome and Permanent Recreational Vehicle Parks; Conversion Defined.

A. PERMIT REQUIRED. No person, firm, corporation, partnership or other entity shall convert the use of any existing mobilehome park or permanent recreational vehicle park without first having said conversion tentatively approved by the Planning Commission, or the City Council on appeal, and having been issued a conversion permit by the Chief of Building and Zoning.

B. CONVERSION DEFINED. For purposes of this Chapter, "conversion" shall mean use of a mobilehome or permanent recreational vehicle park or a portion of a mobilehome or permanent recreational vehicle park for a purpose other than the rental, or the holding out for rent, of two (2) or more mobilehome or recreational vehicle spaces to accommodate mobilehomes or recreational vehicles and shall not mean the adoption, amendment or repeal of a park rule or regulation. "Conversion" may affect an entire park or any portion thereof, and such "conversion" shall include, but is not limited to, a conversion of a park or any portion thereof to a condominium, stock cooperative, residential development, commercial use, office use, manufacturing use or vacant land. Any conversion to condominiums shall be subject to Sections 28.88.050, 28.88.060, 28.88.070, 28.88.080, 28.88.090 and Section 28.88.100 of this Title, in addition to the provisions of this Chapter. For the purposes of this Chapter, condominiums shall be deemed to include community apartments and stock cooperatives. (Ord. 4269, 1984.)

28.78.020 Issuance of Conversion Permits.

A. CRITERIA. The Chief of Building and Zoning shall issue a conversion permit when he determines that:

1. The applicant has complied with all the applicable City, state and federal laws and regulations in effect at the time that the conversion was approved; and
2. The applicant has complied with all of the conditions of approval.

B. REVOCATION. Once issued, the conversion permit may be revoked if the applicant or his successors in interest fails to comply with the conditions of approval or other applicable laws.

C. EXPIRATION. For a conversion involving a subdivision, a tentative conversion approval shall expire when the tentative subdivision map expires. For a conversion not involving a subdivision a tentative approval shall expire after the same period of time as if it were a project requiring a tentative subdivision map. (Ord. 4269, 1984.)

28.78.030 Physical Standards for Conversion of Mobilehome and Permanent Recreational Vehicle Parks to Condominiums or Overnight Recreational Vehicle Parks.

A. STANDARDS. In order to convert the use of a mobilehome or permanent recreational vehicle park to mobilehome or recreational vehicle condominiums, said park shall be brought up to the standards for construction of new mobilehome or permanent recreational vehicle parks as established in Section 28.94.040 and 28.94.045 of this Code. In cases where (i) the applicant can demonstrate that the standards cannot or should not reasonably be met, and (ii) 75% of the current residents of an applicant's park have expressed a written intent to purchase the park from the applicant, said standards may be waived or modified by the Planning Commission.

B. CONVERSION. In order to convert the use of a mobilehome or permanent recreational vehicle park to an overnight recreational vehicle park, said overnight recreational vehicle park shall meet all standards required by Section 28.94.050 of this Code. (Ord. 4269, 1984.)

28.78.040 Application Requirements for Conversion Permits.

In addition to such other application requirements as the Planning Commission may deem necessary, no application for a conversion permit shall be accepted for any purpose unless it includes the following:

A. CONCEPT PLAN. A written statement and concept plan indicating the use the park site is intended to accommodate, including the approximate number of proposed residential units, if any; approximate square footage and use of any buildings proposed; and the probable impacts/benefits to the community created by the proposed project.

B. SITE PLAN. A site plan of the existing mobilehome or permanent recreational vehicle park showing all existing mobilehome and recreational vehicle spaces, identified by number and indicating whether the space is currently occupied.

C. RESIDENTS LIST. A list of the names and addresses of all residents of the mobilehome or permanent recreational vehicle park.

D. IMPACT REPORT. A report on the housing and financial impacts of the removal of the mobilehomes and recreational vehicles upon all displaced residents. The report shall include but not be limited to the following six items except where the applicant can demonstrate that such is not available.

1. Rental rate history for each space for the previous five (5) years;
2. Monthly vacancy rate for each month during the preceding two years;
3. Makeup of existing resident households, including family size, length of residence, age of residents, estimated household income, and whether receiving federal or state rent subsidies;
4. The date of manufacture and size of each mobilehome and recreational vehicle in the park;
5. A list of those mobilehomes or recreational vehicles that cannot qualify for relocation to another park within reasonable proximity to the City; and
6. A statement of availability and location of equivalent replacement space in mobilehome or recreational vehicle parks within reasonable proximity to the City.

E. RELOCATION ASSISTANCE PLAN. A relocation assistance plan shall be prepared by the applicant which states all measures proposed by the applicant to mitigate any identifiable adverse impacts of the conversion on the displaced permanent residents of the mobilehome or permanent recreational vehicle park. Every relocation assistance plan shall provide, at a minimum, that displaced permanent residents will be provided relocation benefits equal to those required by Section 28.88.100 of this Code. A permanent resident (a) is a person (i) for whom the unit he owns is his sole residence, or (ii) who has rented the mobilehome or recreational vehicle for a period of at least nine consecutive months, and (b) does not include a person who has resided in the park for one year or less prior to the date of application for the conversion permit, provided the person was given written notice of the owner's intention to convert prior to agreeing to reside in the park.

F. EVIDENCE OF NOTICE. The applicant shall submit evidence that a notice of intent to convert was delivered to each resident for whom a signed copy of said notice is not submitted.

G. OTHER INFORMATION. Any other information which, in the opinion of the Community Development Department, will assist in determining whether the proposed project will be consistent with the purpose and intent of this Chapter. (Ord. 4269, 1984.)

28.78.050 Acceptance of Reports.

The housing and financial impact report, the relocation assistance plan, the notice of intent to convert, and other documents shall not be deemed filed until approved in writing by the Community Development Department. (Ord. 4269, 1984.)

28.78.060 Public Hearing.

A. NOTICE OF INTENT. A notice of intent to convert the use of the park shall be delivered to each resident's dwelling unit a minimum of sixty (60) days prior to submittal of an application to convert the use. Evidence of delivery shall be submitted with the application for conversion. The form of the notice shall be as approved by the Community Development Department and shall inform the resident of the following:

1. Name and address of current owner;
2. Name and address of the applicant;
3. Approximate date on which the application for the conversion is to be filed;
4. Anticipated date on which the conversion permit is to be issued;
5. Approximate date on which the space is to be vacated by the resident;
6. Provisions for special cases;
7. Each resident will receive notice for each hearing and right to appear and be heard at any such hearing;
8. Each resident will receive a copy of the housing and financial impact report and relocation assistance program; and
9. Other information as may be deemed necessary by the Community Development Department.

B. RESIDENT NOTICE. Prior to the approval, the Planning Commission shall hold a public hearing. Notice of the hearing shall be mailed at least ten (10) days prior to the hearing date to the affected residents and conspicuously posted on the parcel. The public hearing notice shall describe the general nature of the application, and include notice of time and place of the public hearing, and notification of the residents' rights to attend and to be heard.

C. STAFF REPORT. Any report or recommendation on a proposed conversion of a mobilehome or permanent recreational vehicle park by the Staff to the Planning Commission shall be in writing and a copy shall be sent to the applicant and to each resident of the subject park at least three (3) days prior to any hearing or action on such conversion by the Planning Commission.

D. IMPACT REPORT AND RELOCATION ASSISTANCE PLAN. A copy of the housing and financial impact report and relocation assistance plan shall be delivered to each permanent resident, as defined in Section 28.78.040E, of the subject mobilehome or permanent recreational vehicle park by the applicant a minimum of fifteen (15) days prior to the public hearing and evidence of delivery shall be submitted to the Community Development Department. (Ord. 4269, 1984.)

28.78.070 Findings - Mobilehome and Permanent Recreational Vehicle Park Conversion Permit.

The Planning Commission shall not approve an application for the conversion of a mobilehome or permanent recreational vehicle park unless the Planning Commission finds that:

A. All provisions of this Chapter are met and the issuance of the conversion permit will not be detrimental to the health, safety and general welfare of the City. In making this finding, the Planning Commission shall not consider the impact of the conversion on the City's affordable housing stock.

B. With respect to conversions of an existing park to a mobilehome or recreational vehicle subdivision, that the benefits to be derived from providing increased low-to-moderate cost home ownership opportunities outweigh the loss of rental housing opportunities.

C. In the case of conversion to condominiums, the proposed conversion will conform to the Santa Barbara Municipal Code in effect at the time of approval, except as otherwise provided in this Chapter.

D. The park owner has made reasonable efforts to prepare a relocation assistance program which (i) mitigates any significant adverse impact on the ability of displaced permanent mobilehome or permanent recreational vehicle park residents to find adequate space in a mobilehome or permanent recreational vehicle park, or (ii) in the event such a space is not available, provides other reasonable and comparable relocation assistance, and there are sufficient assurances that the measures in the program will be implemented.

E. In a park where the majority of permanent residents have incomes at or below low and moderate levels, as defined by the federal government and as established by the most recently filed federal income tax returns or some other document deemed acceptable by the Community Development Department, the Redevelopment Agency for the City of Santa Barbara has been offered the right to purchase the mobilehome or recreational vehicle park at fair market value, as determined by an independent real property appraiser selected by the Agency, and has declined the offer or has failed to act on the offer within one hundred eighty (180) days of the park owner's mailing to the Agency a "Notice of Intent to Convert". This finding may be waived where the applicant can demonstrate, to the satisfaction of the Planning Commission or City Council on appeal, that the applicant has made reasonable efforts to obtain necessary income information from a majority of the permanent residents in the park and has been unable to do so.

F. The applicant has not engaged in coercive action toward the residents, such as an unreasonable rent increase, after submission of the first application for City review through the date of approval. In making this finding, consideration may be given to:

1. Rent increases at a rate greater than the rate of increase in the Consumer Price Index (Urban Wage Earners and Clerical Workers, Los Angeles-Long Beach-Anaheim Average, all items, as published by U.S. Bureau of Labor Statistics) unless provided for in leases or contracts in existence prior to the submittal of the first application for City review, and

2. Any other action by the applicant which is taken against residents to coerce them to refrain from opposing the issuance of the conversion permit including, but not limited to, any violation of Chapter 26.04 of this Code. An agreement with residents which provides for benefits to the residents after the approval shall not be considered coercive action.

G. That all notice requirements of the City and the state have been met.

H. All permanent buildings shall, on the date of change of use, be in compliance with the exit and occupancy requirements and the height and area requirements for the type of construction and occupancy involved as required by the California Building Code as adopted and amended by the City, and other applicable laws. (Ord. 5451, Section 5, 2008; Ord. 4275, 1984; Ord. 4269, 1984; Ord. 3710, 1974, Ord. 2763, 1960; Ord. 2585, 1957.)

Chapter 28.79

EMERGENCY SHELTER REGULATIONS

Sections:

28.79.010 Use Permitted.

28.79.020 Development and Management Standards.

28.79.010 Use Permitted.

An emergency shelter, as defined in SBMC Section 28.04.273, is a permitted use in the C-M Zone subject to the development and management standards specified in Section 28.79.020. Notwithstanding any other provision within this Title 28, without the approval of a conditional use permit pursuant to Chapter 28.94, an emergency shelter is not a permitted use in any other zone of the City. (Ord. 5662, 2014.)

28.79.020 Development and Management Standards.

In addition to all other development standards generally applicable within the zone in which the emergency shelter is located, an emergency shelter shall comply with the following development and management standards:

A. Capacity. An emergency shelter located within the C-M Zone may provide a maximum of 100 beds and shall serve no more than 100 homeless persons per night.

B. Length of Stay. A resident of an emergency shelter shall not reside in the emergency shelter for more than 180 consecutive nights.

C. Intake/Waiting Area. An emergency shelter shall provide at least 10 square feet of interior intake and waiting space per bed. Intake and waiting areas shall be located within the building.

D. Outdoor Area/Activity. Outdoor gathering areas shall be screened from the public right-of-way and adjacent properties. An emergency shelter shall not allow prospective residents to queue on the public right-of-way or parking areas.

E. Parking. An emergency shelter shall provide the following parking:

1. One parking space for every 8 beds; and
2. One covered and secure bicycle parking space for every 4 beds.
3. Exceptions. An emergency shelter may propose fewer parking spaces if the emergency shelter can demonstrate by a parking study that the proposed parking will satisfy the anticipated parking demand for the project to the satisfaction of the Public Works Transportation Planning Division. In any case, the required parking for an emergency shelter shall not be more than that which is required for similar residential or commercial uses within the zone.

F. Lighting. Subject to compliance with the Lighting Ordinance (SBMC Chapter 22.75), adequate external lighting shall be provided on-site in order to maintain a safe and secure environment.

G. Concentration of Uses. No emergency shelter or homeless shelter shall be permitted within 300 feet of another emergency shelter or homeless shelter. The distance between shelters shall be measured in a straight line without regard to intervening structures or objects from the nearest point on the property line of one shelter to the nearest point on the property line of the other.

H. On-Site Management. On-site management shall be present at all times that the shelter is in operation. A Management Plan for the operation of the emergency shelter must be submitted with the master application and shall be subject to approval by the Community Development Department Director. As appropriate, the Management Plan shall address:

1. Hours of operation
2. On-site management and security procedures
3. Neighborhood relations and communication
4. Cooking and dining facilities (for residents only)
5. Shower and laundry facilities (for residents only)
6. Smoking areas and policies
7. Outdoor gathering areas and policies

I. Ability to Pay. No individual or household may be denied emergency shelter due to an inability to pay. (Ord. 5662, 2014.)

Chapter 28.80

MEDICAL CANNABIS DISPENSARIES

Sections:

28.80.010 Purpose and Intent.
28.80.020 Definitions.
28.80.030 Storefront Collective Dispensary - Permit Required to Operate.
28.80.040 Imposition of Medical Marijuana Storefront Collective Dispensary Permit Fees.
28.80.050 Limitations on the Permitted Location of a Storefront Collective Dispensary.
28.80.060 Storefront Collective Dispensary – Permit Application Requirements.
28.80.070 Criteria for Review of Collective Dispensary Applications by the City Staff Hearing Officer.
28.80.080 Ongoing Management Requirements for Medical Marijuana Storefront Collective Dispensaries.
28.80.090 City Access to and Inspection of Required Storefront Collective Dispensary Records.
28.80.100 Sale, Distribution, or Exchange of Medical Marijuana with a Non-Medical Marijuana Collective Member.
28.80.110 Appeal from Staff Hearing Officer Determination.
28.80.120 Suspension and Revocation by Staff Hearing Officer.
28.80.130 Transfer of Collective Dispensary Permits.
28.80.140 Medical Marijuana Vending Machines.
28.80.150 Business License Tax Liability.

28.80.010 Purpose and Intent.

It is the purpose and intent of this Chapter to regulate the storefront distribution of medical marijuana in order to ensure the health, safety, and welfare of the residents of the City of Santa Barbara. The regulations in this Chapter, in compliance with the State Compassionate Use Act of 1996 and the State Medical Marijuana Program Act ("the SB 420 statutes"), are not intended and do not interfere with a patient's right to use medical marijuana as authorized under the Compassionate Use Act or the SB 420 statutes, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under the Compassionate Use Act. Under the Compassionate Use Act of 1996 and the SB 420 statutes, only qualified patients, persons with identification cards, and primary caregivers may legally cultivate medical marijuana collectively and provide it to qualified patients or persons with identification cards. Therefore, medical marijuana collectives within the City which choose to operate storefront dispensary locations must comply with all provisions of the Santa Barbara Municipal Code ("SBMC") for obtaining a permit for the storefront dispensary as well as complying with the Compassionate Use Act, the SB 420 statutes, and all other applicable local and state laws. Nothing in this Chapter purports to permit activities that are otherwise illegal under federal, state, or local laws. (Ord. 5526, 2010.)

28.80.020 Definitions.

For the purposes of this Chapter, the following words and phrases shall have the following meanings:

A. Applicant. A person who is required to file an application for a Medical Marijuana Storefront Collective Dispensary permit under this Chapter, including an individual owner, managing partner, officer of a corporation, or any other dispensary operator, Management Member, employee, or agent of a Medical Marijuana Storefront Collective Dispensary.

B. Drug Paraphernalia. As defined in California Health and Safety Code Section 11014.5, and as may be amended from time to time.

C. Identification Card. As defined in California Health and Safety Code Section 11362.71, and as may be amended from time to time.

D. Management Member. A Medical Marijuana Collective member with responsibility for the establishment, organization, registration, supervision, or oversight of the operation of a Collective including, but not limited to, members who perform the functions of president, vice president, director, operating officer, financial officer, secretary, treasurer, or manager of the Collective.

E. Medical Marijuana Storefront Collective Dispensary or Storefront Collective Dispensary. An incorporated or unincorporated association which is composed of four (4) or more Qualified Patients and their designated Primary Caregivers who associate at a particular location or Property within the City in order to collectively or cooperatively cultivate marijuana for medical purposes and who, acting through Management Members, distribute the collectively-cultivated medical marijuana to the members of their Collective at a storefront dispensary located within a nonresidential zone of Santa Barbara, all in accordance with the Compassionate Use Act of 1996 (California Health and Safety Code section 11362.5) and Health and Safety Code sections 11362.7 through 11362.9. For the purposes of this Chapter, the term "Medical Marijuana cooperative" (or "cooperative") shall have the same meaning as a "Medical Marijuana collective" (or a "collective"), and the term "cooperative" shall have the definition and formation requirements established for it by state law.

A Storefront Collective Dispensary shall not include the dispensing of medical marijuana by primary caregivers to qualified patients in the following locations so long as the location and operation of the clinic, health care facility, hospice, or residential care facility is otherwise permitted by the Municipal Code and is operated in the manner required by applicable state laws:

1. a clinic licensed pursuant to Chapter 1 of Division 2 of the state Health and Safety Code,
2. a health care facility licensed pursuant to Chapter Two of Division 2 of the state Health and Safety Code,
3. a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the state Health and Safety Code,
4. residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the state Health and Safety Code,
5. a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the state Health and Safety Code,

provided that any such clinic, health care facility, hospice or residential care facility also fully complies with applicable laws including, but not limited to, the Compassionate Use Act of 1996 and the SB 420 statutes.

F. Permittee. The Management Member or Members identified to the City by an Applicant as such, and to whom a City Storefront Collective Dispensary permit has been issued, and someone who also qualifies as a primary caregiver.

G. Person with an Identification Card. A person as described in California Health and Safety Code Section 11362.71 through 11362.76, and as amended from time to time.

H. Physician. A licensed medical doctor, including a doctor of osteopathic medicine as defined in the California Business and Professions Code.

I. Primary Caregiver. A person as defined and described in either subdivision (d) or (e) of California Health and Safety Code Section 11362.7 as it may be amended from time to time.

J. Property. The location or locations within the City at which Medical Marijuana Collective members and Management members associate to collectively or cooperatively cultivate or to distribute Medical Marijuana exclusively to their Collective members.

K. Qualified Patient. A person as defined and described in California Health and Safety Code Section 11362.5 et seq., and as it may be amended from time to time. For the purposes of this Chapter, a Qualified Patient shall also include a Person with an Identification Card.

L. Reasonable Compensation. Compensation commensurate with reasonable wages and benefits paid to employees of federal Internal Revenue Code-qualified nonprofit organizations, which employees have similar job descriptions and duties, as well as a comparable required level of experience and education, similar prior earnings or wage history, and number of hours typically worked per week. The payment of a bonus shall not be considered reasonable compensation.

M. School. An institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle, or junior high school, senior high school, or any special institution of education for persons under the age of eighteen years, whether public or private. (Ord. 5526, 2010.)

28.80.030 Storefront Collective Dispensary - Permit Required to Operate.

It shall be unlawful for any person to engage in, to conduct or carry on (or to permit to be engaged in, conducted or carried on) in or upon his or her Property located within the City, the operation of a Storefront Collective Dispensary unless an Applicant has first obtained and continues to maintain in full force and effect a valid Storefront Collective Dispensary Permit issued by the City for that Property pursuant to this Chapter. (Ord. 5526, 2010.)

28.80.040 Imposition of Medical Marijuana Storefront Collective Dispensary Permit Fees.

Every application for a Storefront Collective Dispensary permit shall be accompanied by an application fee (in an amount established by resolution of the City Council) at an amount calculated to recover the City's full cost of reviewing and issuing the Storefront Collective Dispensary permit) and the filing of a complete required application pursuant to this Chapter. The application fee shall not include the standard City fees for fingerprinting, photographing, and background check costs and shall be in addition to any other business license fee or permit fee imposed by this Code or other governmental agencies. (Ord. 5526, 2010.)

28.80.050 Limitations on the Permitted Location of a Storefront Collective Dispensary.

A. Permissible Zoning for Storefront Collective Dispensaries. Storefront Collective Dispensaries may only be permitted and located on parcels within the City which are zoned for commercial uses and on those street block faces listed in the exhibit to this Chapter designated as "Medical Marijuana Storefront Collective Dispensaries – Allowed Locations," dated as of June 22, 2010.

B. Storefront Locations. Except for those locations shown as allowed within the West Pueblo Medical Area on the exhibit attached to this Chapter which have been specifically approved by the Staff Hearing Officer as non-storefront locations pursuant to this Chapter, a Storefront Collective Dispensary shall only be located in a visible storefront type ground-floor location which provides good public views of the Dispensary entrance, its windows, and the entrance to the Storefront Collective Dispensary premises from a public street.

C. Commercial Areas and Zones Where Storefront Collective Dispensaries Not Permitted. Notwithstanding subparagraph (A) above, a Storefront Collective Dispensary shall not be allowed or permitted on a parcel located within 1000 feet of another permitted or allowed Storefront Collective Dispensary.

D. Locational Measurements. The distance between a Storefront Collective Dispensary and above-listed restrictions shall be calculated as a straight line from any parcel line of the Property on which the Storefront Collective Dispensary is located to the parcel line the real property on which the facility, building, or structure, or portion of the building or structure, in which the above-listed use occurs or is located.

For the purposes of determining compliance with the locational restrictions imposed by this section, the permissibility of a proposed Storefront Collective Dispensary location shall be determined by City staff based on the date the permit application has been deemed complete by the City, with the earliest complete applications deemed to have priority over any subsequent Storefront Collective Dispensary application for any particular permissible location.

E. One Collective Dispensary for Each Area of the City. No more than one Storefront Collective Dispensary may open or operate in each of the areas of the City designated as allowed or permissible Collective Dispensary location areas in the exhibit attached to this Chapter, except for those areas which, at the time of the adoption of the ordinance amending this Chapter, already have more than one Storefront Collective Dispensary on a legal non-conforming basis and which are allowed to continue to operate on a legal non-conforming basis under Section Two of the Ordinance amending this Chapter--in which case a legal non-conforming Dispensary may be allowed to continue to operate in such an area.

F. Maximum Number of Medical Marijuana Storefront Collective Dispensaries Allowed Permits. Notwithstanding the above, the City may not issue a total of more than three (3) Collective Dispensary permits at any one time and, subject to the amortization allowance period contained within the uncodified portions of the City ordinance adopting amendments to this chapter, no more than three (3) permitted or allowed Collective Dispensaries may legally operate within the City, including specifically those dispensaries which are open and operating in a legal nonconforming manner at the time of the adoption of the ordinance amending this Chapter. (Ord. 5526, 2010.)

28.80.060 Storefront Collective Dispensary – Permit Application Requirements.

A. Application Filing. A complete Performance Standard Permit application submittal packet is required for a Storefront Collective Dispensary permit, and it shall be submitted (along with all required fees) and all other information and materials required by this Chapter in order to file a complete application for a Storefront Collective Dispensary Permit for a specific Property. All applications for Storefront Collective Dispensary permits shall be filed with the Community Development Department using forms provided by the City. It is the responsibility of the Applicant to provide all of the information required for approval of the permit. The application shall be signed by a Management Member under penalty of perjury.

B. Eligibility for Filing. If a Storefront Collective Dispensary permit application is filed by a non-owner of the Property, it shall also be accompanied by a written affirmation from the Property owner expressly allowing the Applicant and Management Member to apply for the Permit and acknowledging the Applicant's right to use and occupy the Property for the intended Medical Marijuana Storefront Collective Dispensary use.

C. Filing Date. The filing date of any application shall be the date when the City officially receives the last submission of information or materials required in compliance with the submittal requirements specified herein, and the application has been deemed complete in writing by the City.

D. Effect of Incomplete Filing. Upon notification that an application submittal is incomplete, the Applicant shall be granted an extension of time to submit all materials required to complete the application within thirty (30) days. If the application remains incomplete in excess of thirty (30) days, the application shall be deemed withdrawn and new application submittal shall be required in order to proceed with the subject request.

E. Filing Requirements – Proposed Operational Plan. In connection with a permit application, an Applicant for a Storefront Collective Dispensary permit shall provide a detailed "Operations Plan" for the proposed Dispensary and, upon issuance of the Storefront Collective Dispensary permit by the City, shall operate the Storefront Collective Dispensary in accordance with the Operations Plan, as approved, at all times. A required Operations Plan shall consist of at least the following:

1. Site Plan and Floor Plan. A Storefront Collective Dispensary application shall have a proposed site plan and floor plan which shows a lobby waiting area at the entrance to the Storefront Collective Dispensary used to receive qualified patients or primary caregivers, and a separate and secure designated area for dispensing medical marijuana to qualified patients or designated primary caregiver members of the Collective. The primary entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks or site driveways.

2. Storage. A Storefront Collective Dispensary shall have suitable locked storage on the premises, identified and approved as a part of the operational security plan for the after-hours storage of medical marijuana.

3. Security Plans. A Storefront Collective Dispensary shall provide a plan to provide adequate security on the premises of the Dispensary which shall be maintained in accordance with the Dispensary security plan approved by the Chief of Police and as reviewed by the Staff Hearing Officer. This plan shall include provisions for adequate lighting and alarms in order to ensure the safety of persons and to protect the premises from theft. All security guards used by dispensaries shall be licensed and employed by a state-licensed private-party operator security company retained by the Storefront Collective Dispensary, and each security guard used shall possess a valid state Department of Consumer Affairs "Security Guard Card" at all times. Security guards shall not possess or carry firearms or tazers while working at a Collective Dispensary.

4. Security Cameras. The Security Plan shall show how the Property will be monitored at all times by closed-circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual on or adjacent to the Property. The recordings shall be maintained at the Property for a period of not less than thirty (30) days.

5. Alarm Systems. The Operations Plan shall provide that professionally monitored burglary and fire alarm systems shall be installed, and such systems shall be maintained in good working condition within the Storefront Collective Dispensary at all times.

6. Emergency Contact. An Operations Plan shall provide the Chief of Police with the name, cell phone number, and facsimile number of a Management Member to act as an on-site community relations staff person to whom the City may provide notice of any operating problems associated with the Storefront Collective Dispensary.

7. Public Nuisance. The Operations Plan shall provide for the Management Members of the Collective Dispensary to take all reasonable steps to discourage and correct objectionable conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours, if directly related to the patrons of the subject Storefront Collective Dispensary.

8. Loitering Adjacent to a Dispensary. The Operations Plan shall provide that the Management Members will take all reasonable steps to reduce loitering by Collective members in public areas, sidewalks, alleys and areas surrounding the Property and adjacent premises during the business hours of the Storefront Collective Dispensary.

9. Trash, Litter, Graffiti. The Operations Plan shall provide that the Management Members will keep an area which includes the sidewalks adjoining the Dispensary plus ten (10) feet beyond property lines (as well as any parking lots under the control of the Dispensary) clear of litter, debris, and trash.

10. Removal of Graffiti. The Operations Plan shall provide a method for the Management Members to promptly remove all graffiti from the Property and parking lots under the control of the Collective within 72 hours of its appearance.

F. Filing Requirements – Information Regarding Storefront Collective Dispensary Management. A Storefront Collective Dispensary Applicant shall also provide the following Management Member and Collective information as part of a Storefront Collective Dispensary application:

1. The name, address, telephone number, title and function(s) of each Management Member;

2. For each Management Member, a fully legible copy of one (1) valid government-issued form of photo identification, such as a state driver's license or identification card. Acceptable forms of government-issued identification include, but are not limited to, driver's license or photo identity cards issued by the state Department of Motor Vehicles (or equivalent) that meet REAL ID benchmarks, a passport issued by the United States or by a foreign government, U.S. Military ID cards (active duty or retired military and their dependents) or a Permanent Resident card.

3. Written confirmation as to whether the Collective or a Management Member of the Collective previously operated in this or any other county, city or state under a similar license or permit, and whether the Collective or Management Member Applicant ever had such a license or permit revoked or suspended and the reason(s) therefore.

4. If the Collective is a corporation or a cooperative, a certified copy of the Collective's Secretary of State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information and a copy of the Collective's By Laws;

5. If the Collective is an unincorporated association, a copy of the articles of association;

6. The name and address of the Applicant's or Collective's current designated Agent for Service of Process;

7. A statement dated and signed by each Management Member of the Collective, under penalty of perjury, that the Management Member has personal knowledge of the information contained in the Dispensary Application, that the information contained therein is true and correct, and that the application has been completed under the supervision of the identified Management Member(s);

8. Whether edible medical marijuana products will be prepared and distributed at the proposed Dispensary Property;

9. The Property location or locations where any and all medical marijuana will be collectively cultivated by the Collective members and Management Members. (Ord. 5526, 2010.)

28.80.070 Criteria for Review of Collective Dispensary Applications by the City Staff Hearing Officer.

A. Decision on Application. Upon an application for a Storefront Collective Dispensary permit being deemed complete, the Staff Hearing Officer shall either issue a Storefront Collective Dispensary permit, issue a Storefront Collective Dispensary permit with conditions in accordance with this Chapter, or deny a Storefront Collective Dispensary permit.

B. Criteria for Issuance. The Staff Hearing Officer, or the City Council on appeal, shall consider the following criteria in determining whether to grant or deny a Medical Marijuana Storefront Collective Dispensary permit:

1. That the Collective Dispensary permit and the operation of the proposed Dispensary will be consistent with the intent of the Compassionate Use Act of 1996 and the SB 420 Statutes for providing medical marijuana to qualified patients and primary caregivers, and with the provisions of this Chapter and the Municipal Code, including the application submittal and operating requirements herein.

2. That the proposed location of the Storefront Collective Dispensary is not identified by the City Chief of Police as an area of increased or high crime activity.

3. For those applicants who have operated other Storefront Collective Dispensaries within the City, that there have not been significant numbers of calls for police service, crimes or arrests in the area of the applicant's former location.

4. That issuance of a Collective Dispensary permit for the Collective Dispensary size requested is appropriate to meet needs of the community for access to medical marijuana.

5. That issuance of the Collective Dispensary permit would serve needs of City residents within a proximity to this location.

6. That the location is not prohibited by the provisions of this Chapter or any local or state law, statute, rule, or regulation, and no significant nuisance issues or problems are likely or anticipated, and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished.

7. That the Dispensary's Operations Plan, its site plan, its floor plan, the proposed hours of operation, and a security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises; the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.

8. That all reasonable measures have been incorporated into the Dispensary security plan or consistently taken to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, crowd control inside or outside the premises, traffic control problems, marijuana use in public, or creation of a public or private nuisance, or interference of the operation of another business.

9. That the Storefront Collective Dispensary is likely to have no potentially adverse affect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance, and that the Dispensary will generally not result in repeated nuisance activities including disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

10. That any provision of the Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or state law, regulation, or order, or any condition imposed by permits issued in compliance with those laws, will not be violated.

11. That the Applicant has not made a false statement of material fact or has omitted to state a material fact in the application for a permit.

12. That the Applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business within the City. (Ord. 5526, 2010.)

28.80.080 Ongoing Management Requirements for Medical Marijuana Storefront Collective Dispensaries.

Storefront Collective Dispensary operations shall be maintained and managed on a day-to-day basis only in compliance with the following operational standards and requirements:

A. Criminal History. A Storefront Collective Dispensary permittee, including all Management Members of that permittee, shall not have been convicted of a felony or be on probation or parole for the sale or distribution of a controlled substance and shall remain free of such a conviction or probation during the period of time in which the Storefront Collective Dispensary is being operated.

B. Minors. It shall be unlawful for any Storefront Collective Dispensary permittee, a Management Member of the permittee, or any other person effectively in charge of any Storefront Collective Dispensary to employ any person who is not at least 18 years of age. Persons under the age of eighteen (18) years shall not be allowed on the premises of a Medical Marijuana Collective Dispensary unless they are a qualified patient member of the Collective and they are accompanied by a parent or guardian at all times. The entrance to a Storefront Collective Dispensary shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the premises unless they are a qualified patient member of the Collective and they are in the presence of their parent or guardian.

C. Storefront Collective Dispensary Size and Access. The following access restrictions shall apply to all Storefront Collective Dispensaries permitted by this Chapter:

1. A Storefront Collective Dispensary shall not be enlarged in size (i.e., increased floor area) without prior review and approval of the change from the Staff Hearing Officer and an approved amendment to the existing Storefront Collective Dispensary permit pursuant to the requirements of this Chapter.

2. An expressly designated Management Member or Members shall be responsible for monitoring the Property of the Storefront Collective Dispensary for any nuisance activity (including the adjacent public sidewalk and rights-of-way) which may occur on the block within which the Storefront Collective Dispensary is operating.

3. Only Collective members as primary caregivers or qualified patients shall be permitted within a Storefront Collective Dispensary building for the purposes of cultivating, processing, distributing, or obtaining medical marijuana.

4. A qualified patient or a primary caregiver shall not visit a Storefront Collective Dispensary without first having obtained a valid written recommendation from his or her licensed physician recommending the use of medical marijuana or, in the case of a primary caregiver, without first having been expressly designated a primary caregiver to a qualified patient as required by the Compassionate Use Act.

5. A qualified patient or primary caregiver may not obtain medical marijuana upon their first in-person visit to a Storefront Collective Dispensary and, instead, may only become a member of the Collective at the first visit to a particular Dispensary. Upon joining the Collective, a registered member of a Collective may obtain medical marijuana as a qualified patient or primary caregiver only after an initial waiting period of 24 hours after their initial in-person visit to the Dispensary for the purposes of joining the Collective.

6. Only a primary caregiver and qualified patient members of the Collective Dispensary shall be allowed within the designated marijuana dispensing area of a Storefront Collective Dispensary (as shown on the site plan required by the Application) along with only necessary Management Members.

7. Restrooms within the Storefront Collective Dispensary shall remain locked and under the control of Collective Dispensary Management Members at all times.

D. Medical Marijuana Dispensing Operations. The following medical marijuana distribution restrictions and conditions shall apply to all of the day-to-day medical marijuana dispensing operations which occur within a City-permitted Storefront Collective Dispensary:

1. A Storefront Collective Dispensary shall only dispense to qualified patients or primary caregivers with a currently valid physician's approval or recommendation in compliance with the criteria of the Compassionate Use Act of 1996 and the SB 420 Statutes to those persons who are registered as active members of that Collective, and may do so only during storefront dispensary operating hours of between eight o'clock in the morning (8:00 a.m.) through six o'clock in the evening (6:00 p.m.), Monday through Saturday only. The days and hours of the dispensary's operation shall be posted in a sign located on the street frontage of the dispensary premises in a manner consistent with the City's Sign Ordinance. Storefront Collective Dispensaries shall require such persons receiving medical marijuana to provide valid official identification, such as a Department of Motor Vehicles driver's license or State Identification Card, each time they seek to obtain medical marijuana.

2. Prior to dispensing medical marijuana, a Management Member of the Storefront Collective Dispensary shall obtain a re-verification from the recommending physician's office personnel that the individual requesting medical marijuana is or remains a qualified patient or a primary caregiver.

3. A Storefront Collective Dispensary shall not have a physician on-site to evaluate patients and provide a Compassionate Use Act recommendation for the use of medical marijuana.

4. Every Storefront Collective Dispensary shall display, at all times during its regular business hours, the permit issued pursuant to the provisions of this Chapter for such Collective Dispensary in a conspicuous place so that the same may be readily seen by all persons entering the Storefront Collective Dispensary.

5. No Storefront Collective Dispensary shall hold or maintain a license from the State Division of Alcoholic Beverage Control for the sale of alcoholic beverages, or operate a business on the premises of the Dispensary that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

6. Storefront Collective Dispensaries shall be considered a commercial use relative to the parking requirements imposed by Santa Barbara Municipal Code Section 28.90.100(I).

7. A notice shall be clearly and legibly posted in the Storefront Collective Dispensary indicating that smoking, ingesting, or consuming marijuana on the premises or in the vicinity of the Dispensary is prohibited. Signs on the premises shall not obstruct the entrance or windows. Address identification shall comply with Fire Department illuminated address sign requirements.

8. Business identification signage for Storefront Collective Dispensaries shall comply with the City's Sign Ordinance (SBMC Chapter 22.70) and be limited to that needed for identification only, consisting of a single window sign or wall sign that shall not exceed six square feet in area or 10 percent of the window area, whichever is less.

E. Dispensary Medical Marijuana On-Site Consumption and Re-Distribution Restrictions. The following medical marijuana consumption restrictions shall apply to all permitted Storefront Collective Dispensaries:

1. Medical marijuana shall not be consumed by qualified patients on the Property or on the premises of the Storefront Collective Dispensary.

The term "premises" includes the actual building, as well as any accessory structures, parking lot or parking areas, or other surroundings within 200 feet of the Collective Dispensary's entrance. Collective Dispensary Management Member employees who are qualified patients may consume marijuana within the enclosed building area of the premises, provided such consumption occurs only via oral consumption (i.e., eating only) but not by means of smoking or vaporization.

2. Storefront Collective Dispensary operations shall not result in illegal re-distribution or sale of medical marijuana obtained from the Collective Dispensary, or the use or distribution in any manner which violates state law.

F. Retail Sales of Other Items by a Storefront Collective Dispensary. The retail sales of related marijuana use items at a Storefront Collective Dispensary may be allowed only under the following circumstances:

1. With the approval of the Staff Hearing Officer, a Collective Dispensary may conduct or engage in the commercial sale of specific products, goods, or services (except drug paraphernalia) in addition to the provision of medical marijuana on terms and conditions consistent with this Chapter and applicable law.

2. No Collective Dispensary shall sell or display for sale any drug paraphernalia or any implement that may be used to administer medical marijuana.

G. Storefront Collective Dispensary – Compliance with the Compassionate Use Act of 1996 and SB 420 Statutes.

1. State Law Compliance Warning. Each Collective Dispensary shall have a sign posted in a conspicuous location inside the Storefront Collective Dispensary advising the public of the following:

a. The diversion of marijuana for non-medical purposes is a criminal violation of state law.

b. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.

c. The sale of marijuana and the diversion of marijuana for non-medical purposes are violations of state law.

2. Not-For-Profit Operation of the Storefront Collective Dispensary. No Medical Marijuana Storefront Collective Dispensary shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation for services provided by Management Members and Collective Members toward the Collective's actual expenses for the growth, cultivation, processing, and provision of Medical Marijuana to qualified patients of the Collective shall be allowed, provided that such reimbursements are in strict compliance with the applicable provisions of the SB 420 Statutes. All such cash and in-kind reimbursement amounts and items shall be fully and properly documented in the financial and accounting records of the Collective Dispensary in accordance with and as required by the recordkeeping requirements of this Chapter.

3. Cultivation of Medical Marijuana by the Collective. The collective cultivation of medical marijuana shall be limited to the Collective Members and Management Members. Cultivation of medical marijuana by the Collective Members and the Management Members shall occur exclusively within the boundaries of the counties of Santa Barbara, Ventura, or San Luis Obispo and only at the real property identified for such cultivation on the approved Storefront Collective Dispensary Permit application.

No cultivation of medical marijuana at any Property where the marijuana will be visible with the un-aided eye from any public or other private property, nor shall cultivated medical marijuana or dried medical marijuana be visible from the building exterior on the Property. No cultivation shall occur at the Property of the Collective unless the area devoted to the cultivation is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry.

4. Distribution of Medical Marijuana Within Santa Barbara Only. Distribution of the medical marijuana collectively cultivated by some Collective Members to other Collective Members shall occur exclusively within the boundaries of the city of Santa Barbara and only at the real property identified as the permitted Dispensary location on the approved Storefront Collective Dispensary Permit application.

5. Membership Limited to One Collective. Membership in a Collective which operates a Storefront Collective Dispensary within the City shall be limited to one Collective per qualified patient or primary caregiver. Each Collective shall also consist only of individuals residing within Santa Barbara County, as the term "principal residence" is defined in the federal Internal Revenue Code.

H. Maintenance of Appropriate Collective Records Regarding Cultivation and Compliance with the SB 420 Statutes.

1. Cultivation Records. Every permitted Storefront Collective Dispensary shall maintain on-site (i.e., at the Property designated for the operation of the Storefront Collective Dispensary) the medical marijuana cultivation records of the Collective. These records shall be signed under penalty of perjury by each Management Member responsible for the cultivation and shall identify the location or locations within the counties of Santa Barbara, Ventura, or San Luis Obispo at which the Collective's medical marijuana is being cultivated. Such records shall also record the total number of marijuana plants cultivated or stored at each cultivation location. The Storefront Collective Dispensary shall also maintain an inventory record documenting the dates and amounts of medical marijuana cultivated or stored at the Dispensary Property, if any, as well as the daily amounts of Medical Marijuana distributed from the permitted Dispensary.

2. Membership Records. Every Storefront Collective Dispensary shall maintain full and complete records of the following membership information: a. the full name, date of birth, residential address, and telephone number(s) of each Collective Member and Management Member; b. the date each Collective Member and Management Member joined the Collective; c. the exact nature of each Collective Member's and Management Member's participation in the Collective; and d. the current status of each member and Management Member as a Qualified Patient or Primary Caregiver.

3. Financial Records. The Collective Dispensary shall also maintain a written accounting record or ledger of all cash, receipts, credit card transactions, reimbursements, (including any in-kind contributions), and any and all reasonable compensation for services provided by the Management Members or other members of the Collective, as well as records of all operational expenditures and costs incurred by the Storefront Collective Dispensary in accordance with generally accepted accounting practices and standards typically applicable to business records.

4. Dispensary Record Retention Period. The records required above by subparagraphs (1), (2), and (3) of this subsection shall be maintained by the Medical Marijuana Collective Dispensary for a period of three (3) years and shall be made available to the City upon a written request, subject to the authority set forth in Section 28.80.090. (Ord. 5526, 2010.)

28.80.090 City Access to and Inspection of Required Storefront Collective Dispensary Records.

A duly designated City Police Department or Community Development Department representative may enter and shall be allowed to inspect the premises of every Storefront Collective Dispensary as well as the financial and membership records of the Collective required by this Chapter between the hours of eight o'clock (8:00) A.M. and six o'clock (6:00) P.M., or at any appropriate time to ensure compliance and enforcement of the provisions of this Chapter, except that the inspection and copying of the private medical records of a Collective Member shall be made available to the Police Department only pursuant to a properly executed search warrant or inspection warrant by a court of competent jurisdiction, or a court order for the inspection of such records.

It shall be unlawful for any property owner, landlord, lessee, Medical Marijuana Collective Dispensary Member or Management Member or any other person having any responsibility over the operation of the Storefront Collective Dispensary to refuse to allow, impede, obstruct or interfere with an inspection of the Storefront Collective Dispensary or the required records thereof. (Ord. 5526, 2010.)

28.80.100 Sale, Distribution, or Exchange of Medical Marijuana with a Non-Medical Marijuana Collective Member.

A. Transfers to or from a Non-Collective Member. A Storefront Collective Dispensary, including the Management Member operating the Dispensary, shall not cause or permit the sale, distribution, or exchange of medical marijuana or of any edible medical marijuana product to any non-Collective Member or Management Member. No Storefront Collective Dispensary shall possess medical marijuana that was not collectively cultivated by its Management Members or members either at the Property designated for the cultivation or at its prior location allowed in accordance with this Chapter.

B. Assistance for Edible Marijuana Products. Sales of edible medical marijuana products may be permitted at a Storefront Collective Dispensary and an individual or business within the City which assists a Dispensary in preparing and processing such a product will be deemed by the City as an "individual who provides assistance to a qualified patient or person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to a qualified patient …" as that phrase is used in state Health and Safety Code section 11362.765(b)(3). (Ord. 5526, 2010.)

28.80.110 Appeal from Staff Hearing Officer Determination.

A. Appeal to the Planning Commission and the City Council. An applicant or any interested party who disagrees with the Staff Hearing Officer's decision to issue, issue with conditions, or to deny or revoke a Storefront Collective Dispensary permit may appeal the Staff Hearing Officer's decision to the City Planning Commission in accordance with the appeal provisions of subsection (B) of Santa Barbara Municipal Code section 28.05.020 and, thereafter, to the City Council by filing an appeal pursuant to the requirements of section 1.30.050 of the Municipal Code.

B. Notice of Appeal Hearing. Upon the filing of an appeal pursuant to subparagraph (A) above, the Community Development Director or the City Clerk shall provide public notice of the appeal hearing in accordance with the notice provisions of SBMC Section 28.87.380. (Ord. 5526, 2010.)

28.80.120 Suspension and Revocation by Staff Hearing Officer.

A. Authority to Suspend or Revoke a Storefront Collective Dispensary Permit. Consistent with Section 28.87.360, any Storefront Collective Dispensary permit issued under the terms of this Chapter may be suspended or revoked by the Staff Hearing Officer if it shall appear to that Officer that the Dispensary permittee has violated any of the requirements of this Chapter, or the Dispensary is being operated in a manner which violates the operational requirements or operational plan required by this Chapter, or it is operated in a manner which conflicts with state law.

B. Annual Review of Collective Dispensary Operations. The staff of the Community Development Department and the Police Department are hereby authorized to conduct an annual review of the operation of each permitted Storefront Collective Dispensary within the City for full compliance with the operational and recordkeeping requirements of this Chapter, including specifically, annual verification that all persons employed or volunteering at the Storefront Collective Dispensary have not been convicted of or on probation for a crime related to the possession, sale, or distribution of controlled substances. A fee in an amount established by resolution of the City Council may be established in order to reimburse the City for the time involved in the annual review process. The staff may initiate a permit suspension or revocation process for any Storefront Collective Dispensary which, upon completion of an annual review, is found not to be in compliance with the requirements of this Chapter or which is operating in a manner which constitutes a public nuisance.

C. Suspension or Revocation – Written Notice. Except as otherwise provided in this Chapter, no permit shall be revoked or suspended by the Staff Hearing Officer under the authority of this Chapter until written notice of the intent to consider revocation or suspension of the permit has been served upon a Management Member or the person to whom the permit was granted at least ten (10) days prior to the date set for such review hearing. Such revocation or suspension notice shall state the specific reasons for the proposed suspension or revocation and must have been provided to the permittee in writing prior to the hearing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the permittee, or by depositing such notice in the U.S. mail in a sealed envelope, postage prepaid (via regular mail and return receipt requested), addressed to the person to be notified at his or her address as it appears in his or her application for a Storefront Collective Dispensary permit. (Ord. 5526, 2010.)

28.80.130 Transfer of Collective Dispensary Permits.

A. Permit – Site Specific. A permittee shall not operate a Storefront Collective Dispensary under the authority of a Storefront Collective Dispensary permit at any place other than the address of the Collective Dispensary stated in the application for the permit. All Collective Dispensary permits issued by the City pursuant to this chapter shall be non-transferable to a different location.

B. Transfer of a Permitted Collective Dispensary. A permittee shall not transfer ownership or control of a Storefront Collective Dispensary or attempt to transfer a Collective Dispensary permit to another person unless and until the transferee obtains an amendment to the permit from the Staff Hearing Officer pursuant to the permitting requirements of this Chapter stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Community Development Department in accordance with all provisions of this Chapter accompanied by the required transfer review application fee.

C. Request for Transfer with a Revocation or Suspension Pending. No Storefront Collective Dispensary permit may be transferred (and no permission for a transfer may be issued) when the Community Development Department has notified the permittee in writing that the permit has been or may be suspended or revoked for non-compliance with this Chapter and a notice of such suspension or revocation has been provided.

D. Transfer without Permission. Any attempt to transfer a Storefront Collective Dispensary permit either directly or indirectly in violation of this Chapter is declared void, and the permit shall be deemed revoked. (Ord. 5526, 2010.)

28.80.140 Medical Marijuana Vending Machines.

No person shall maintain, use, or operate a vending machine which dispenses marijuana to a qualified patient or primary caregiver unless such machine is located within the interior of a duly permitted Collective Dispensary. (Ord. 5526, 2010.)

28.80.150 Business License Tax Liability.

An operator of a Storefront Collective Dispensary shall be required to apply for and obtain a Business Tax Certificate pursuant to Chapter 5.04 as a prerequisite to obtaining a Storefront Collective Dispensary permit pursuant to the terms of this Chapter. When and as required by the State Board of Equalization, Storefront Collective Dispensary transactions shall be subject to sales tax in a manner required by state law. (Ord. 5526, 2010.)

EXHIBIT A TO ORDINANCE NO. 5526
MEDICAL MARIJUANA DISPENSARIES
SANTA BARBARA MUNICIPAL CODE CHAPTER 28.80
ALLOWED LOCATION EXHIBIT
DATED AS OF JUNE 22, 2010

1. **Outer State Street Area:**

   a. 3400 - 3900 blocks of State Street
   b. All parcels on south La Cumbre Road
   c. All parcels on south La Cumbre Lane
   d. All parcels on La Cumbre Plaza Lane
   e. 00-100 blocks of south Hope Avenue

2. **Upper De la Vina Area:**

   a. 2600 – 2900 blocks of De la Vina Street

3. **Mission Street Area:**

   a. 1900-2000 blocks of De la Vina Street
   b. 100 block of west Mission Street
   c. 1800 block of State Street
   d. 1400 block of Chapala Street

4. **Milpas Street:**

   a. 00–400 blocks of north Milpas Street

5. **West Pueblo Medical Facility Area:**

   a. 200 block of Nogales
   b. 200-400 blocks of west Pueblo
   c. 2400-2500 blocks of Bath
   d. 2300 block of Castillo
   e. 300 block of west Junipero

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Chapter 28.81

ADULT ENTERTAINMENT FACILITIES

Sections:

28.81.010 Purpose.
28.81.020 Definitions.
28.81.030 Location of Adult Entertainment Businesses.
28.81.040 Design and Performance Standards.
28.81.050 Legally Existing Non-Conforming Uses.
28.81.060 Severance Clause.

28.81.010 Purpose.

It is the purpose of this Chapter to regulate adult entertainment businesses to promote the health, safety and welfare of the citizens of the City of Santa Barbara and to establish reasonable and uniform regulations to prevent the concentration of adult entertainment businesses within the City. In adopting this Chapter, it is recognized that certain types of adult entertainment businesses possess certain characteristics which when concentrated can have a deleterious effect upon adjacent areas. It is also recognized that locating the adult entertainment businesses covered by this chapter in the vicinity of facilities frequented by minors will cause the exposure of minors to adult material which, because of their immaturity, may adversely affect them. Special regulation of these uses is necessary to insure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood and to an adverse effect on minors. The uses subject to these regulations are as follows:

Adult bookstore, adult novelty store, or adult video store;
Adult live entertainment theater;
Adult motion picture or video arcade; and
Adult motion picture theater.

The purpose of this ordinance is not to limit or restrict the content of any communicative materials, including sexually oriented materials, to restrict or deny access by adults to sexually oriented materials protected by the United States or California Constitutions, or to deny access by distributors and exhibitors of sexually oriented materials and entertainment to their intended market. (Ord. 4867, 1994; Ord. 3870, 1976.)

28.81.020 Definitions.

For purposes of this Chapter the following terms shall be defined as follows:

A. **Adult Entertainment Business** shall mean those businesses defined as follows:

1. **Adult Bookstore, Adult Novelty Store, or Adult Video Store** is an establishment with a majority of: a) its floor area devoted to; or b) stock-in-trade consisting of; or c) gross revenues derived from, and offering for sale for any form of consideration, any one or more of the following:

a. Books, magazines, periodicals or other printed matter, photographs, drawings, motion pictures, slides, films, tapes, video cassettes, records, or other visual or audio representations which are characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas."

b. Instruments, devices or paraphernalia which are designed to be used in connection with "specified sexual activities;" or

c. Goods which are replicas of, or which simulate "specified anatomical areas," or goods which are designed to be placed on or in "specified anatomical areas," or to be used in conjunction with "specified sexual activities."

2. **Adult Live Entertainment Theater** means any place, building, enclosure or structure, partially or entirely used for "live adult entertainment" performances or presentations characterized by an emphasis on depicting, exposing, displaying, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

"Live adult entertainment" means any physical human body activity, whether performed or engaged in alone or with other persons, including but not limited to singing, walking, speaking, dancing, acting, posing, simulating, wrestling or pantomiming, in which the performer or performers expose to public view without opaque covering "specified anatomical areas" for entertainment value for any form of consideration.

3. **Adult Motion Picture or Video Arcade** means any business wherein coin, paper note or token operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to four or fewer persons per machine, at any one time, and where the predominant character or theme of the images so displayed is distinguished or characterized by its emphasis on matter depicting, or relating to "specified sexual activities" or "specified anatomical areas."

4. **Adult Motion Picture Theater** means any business, other than a hotel or motel, with the capacity of five or more persons where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions in which the predominant character and theme is distinguished or characterized by its emphasis on matter depicting, or relating to "specified sexual activities" or "specified anatomical areas" as defined in this section. This includes, without limitation, showing any such slides, motion pictures or videos by means of any video tape system which has a display, viewer, screen, or a television set.

5. **Exception to Adult Entertainment Business.** An "Adult entertainment business" shall not include:

a. Bona fide medical establishments operated by properly licensed and registered medical and psychological personnel with appropriate medical or professional credentials for the treatment of patients.

b. Persons depicting "specified anatomical areas" in a modeling class operated:

(1) By a college, junior college, or university supported entirely or partly by public revenue; or

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by public revenue; or

(3) In a structure operated either as a profit or not-for-profit facility:

(a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(b) Where, in order to participate in a class a student must enroll at least three days in advance of the class.

c. The practice of massage in compliance with Chapter 5.76 of this Code.

B. **Employee.**

"Employee" of an adult entertainment business shall mean a person who works or performs in and/or for an adult entertainment business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

C. **Establish.**

"Establish" shall mean and include any of the following:

1. The opening or commencement of any adult entertainment business as defined in this Section; or
2. The conversion of an existing business, whether or not an adult entertainment business, to any adult entertainment business as defined in this Section; or
3. The relocation of any adult entertainment business; or
4. The expansion or enlargement of the premises by 15% or more of the existing floor area as the area legally existed on March 1, 1994.

D. **Operate.**

"Operate" shall mean to own, lease (as lessor or lessee), rent (as landlord or tenant or as agent for the purpose of representing a principal in the management, rental or operation of the property of such principal), manage, conduct, direct, or be employed in an adult entertainment business.

E. **Operator.**

"Operator" shall mean and include the owner, custodian, manager or person in charge of any adult entertainment business.

F. **Person.**

"Person" shall mean an individual, proprietorship, partnership, corporation, association, or other legal entity.

G. **Public Park, Beach or Recreation Area.**

"Public Park, Beach or Recreation Area" shall mean public land which has been designated for park, beach, recreational, or arts activities including but not limited to a park, beach, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the City which is under the control, operation, or management of the City Department of Parks and Recreation. "Recreation area" shall also include the Santa Barbara Zoological Gardens, the Santa Barbara Museum of Art and the Santa Barbara Museum of Natural History.

H. **Religious Institution.**

"Religious Institution" shall mean any church, synagogue, mosque, temple, or building which is used primarily for religious worship, religious education incidental thereto and related religious activities.

I. **Residential Zone.**

"Residential Zone" shall mean property which has a zoning designation of A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3, R-4 or such other residential zones as may be created by ordinance, or a Mobilehome Park or subdivision or Recreational Vehicle Park as defined in this Code.

J. **School.**

"School" shall mean any public or private educational facility primarily attended by minors, including but not limited to, large family day care homes, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, secondary schools, continuation schools and special education schools. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

K. **Sensitive Uses.**

"Sensitive Uses" shall include public parks, beaches or recreation areas, religious institutions, residential zones and schools.

L. **Specified Anatomical Areas.**

"Specified Anatomical Areas" shall include the following:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, and/or the female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

M. Specified Sexual Activities.

"Specified Sexual Activities" shall include the following:

1. Actual or simulated sexual intercourse, oral copulation and intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
2. Clearly depicted human genitals in a state of sexual stimulation, arousal or tumescence; or
3. Human or animal masturbation, sodomy, oral copulation, coitus, ejaculation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or
5. Masochism, erotic or sexually oriented torture, beating or the infliction of pain; or
6. Erotic or lewd touching, lewd fondling or other lewd contact with an animal by a human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation. (Ord. 4867, 1994; Ord. 3870, 1976.)

28.81.030 Location of Adult Entertainment Businesses.

A. GENERAL RESTRICTIONS. No person shall operate or establish an "adult entertainment business," as defined in this Code, in any area of the City of Santa Barbara, except the C-2 zone, C-M zone, or the M-1 zone but excluding the El Pueblo Viejo Landmark District as defined in Section 22.22.100B of the Santa Barbara Municipal Code.

B. VALID PERMITS. No building permit or zoning clearance, business license, or other permit or entitlement for use shall be legally valid if issued to any adult entertainment business proposed to operate or be established in any area of the City except allowed portions of the C-2 zone, C-M zone, or the M-1 zone but excluding those areas of the City within the El Pueblo Viejo Landmark District as defined in Section 22.22.100B of the Santa Barbara Municipal Code.

C. LOCATIONAL RESTRICTIONS. Any adult entertainment business proposed to be operated or established in allowed portions of the C-2 zone, C-M zone, or the M-1 zone shall be subject to the following restrictions:

1. The establishment or operation of an adult entertainment business shall be subject to the locational criteria setting forth minimum distances from sensitive uses and zones as follows:
   a. Residential zone: 500 feet,
   b. Religious institution: 500 feet,
   c. Public park, public beach, recreation area: 500 feet,
   d. School: 500 feet,
   e. Another adult entertainment business: 500 feet.
2. For the purposes of this Chapter, all distances shall be measured in a straight line, without regard for intervening structures, from the nearest exterior wall of the unit or building containing the adult entertainment business to the nearest property line of a sensitive use or zone as listed in this Chapter.
3. For the purposes of this Chapter, the distance between any two adult entertainment businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the unit or structure in which each business is located.
4. An adult entertainment business may not be operated in the same building, structure, or portions thereof containing another adult entertainment business or use as defined in this Chapter. Each business defined in 28.81.020.A.1-4 shall constitute a separate business for purposes of this Chapter. (Ord. 5105, 1999; Ord. 4867, 1994; Ord. 4838, 1993; Ord. 3911, 1977; Ord 3870, 1976.)

28.81.040 Design and Performance Standards.

The establishment or operation of an adult entertainment business shall comply with the applicable site development standards, including, but not limited to, parking, design review, the technical codes adopted pursuant to section 22.04.010 of the Santa Barbara Municipal Code, and as may be amended from time to time, and the California Fire Code adopted pursuant to Chapter 8.04 of the Santa Barbara Municipal Code, and as may be amended from time to time. An adult entertainment business shall comply with the applicable City of Santa Barbara permit and inspection procedures. In addition, adult entertainment businesses shall comply with the following design and performance standards:

A. Signs, advertisements, displays, or other promotional materials depicting or describing "specified anatomical areas" or "specified sexual activities" or displaying instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities" shall not be shown or exhibited so as to be discernible by the public beyond the walls of the building or portion thereof in which the adult entertainment business is conducted.

B. Each adult entertainment business shall have a business entrance separate from any other non-adult business located in the same building.

C. All building openings, entries, and windows for an adult entertainment business shall be located, covered or screened in such a manner as to prevent a view into the interior of an adult entertainment business from any area open to the general public.

D. No adult entertainment business shall be operated in any manner that permits the observation by the public of any material depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" from any public way or from any location beyond the walls of the building or portion thereof in which the adult entertainment business is conducted.

E. The building entrance to the adult entertainment business shall be clearly and legibly posted with a notice indicating that minors are precluded from entering the premises.

F. No loudspeakers or sound equipment shall be used by adult entertainment businesses for amplification of sound to a level discernible by the public beyond the walls of the building or portion thereof in which the adult entertainment business is conducted.

G. Each adult entertainment business shall be provided with a manager's station which shall be used for the purpose of supervising activities within the business. A manager shall be on duty on the premises during all times that the adult entertainment business is open to the public.

H. Off-street parking shall be provided for the adult entertainment business as specified in accordance with the parking provisions of Santa Barbara Municipal Code Chapter 28.90.

I. An on-site security program shall be prepared and implemented including the following items:

1. All off-street parking areas and building entries serving the adult entertainment business shall be illuminated during all hours of operation with a lighting system which provides a minimum maintained horizontal illumination of one (1) footcandle of light on the parking surface and/or walkway.

2. All interior portions of the adult entertainment business, except those areas devoted to mini-motion or motion pictures, shall be illuminated during all hours of operation with lighting system which provides a minimum maintained horizontal illumination of not less than two (2) footcandles of light on the floor surface. (Ord. 4867, 1994.)

28.81.050 Legally Existing Non-Conforming Uses.

Notwithstanding any other provision of this Title, any legally existing adult entertainment business operating on March 1, 1994, not in compliance with the locational requirements in Section 28.81.030 may continue as a non-conforming use. The legally non-conforming status of an adult entertainment business shall terminate if voluntarily discontinued for thirty (30) or more consecutive days. (Ord. 4867, 1994.)

28.81.060 Severance Clause.

If any section, subsection, paragraph, subparagraph or provision of this Chapter or the application thereof to any person, property or circumstance is held invalid, the remainder of the Chapter and the application of such to other persons, properties or circumstances shall not be affected thereby. (Ord. 4867, 1994.)

Chapter 28.82

ESTABLISHING PROCEDURE FOR STREET WIDENING SETBACK LINES

Sections:

28.82.009	**Determining Authority.**	**28.82.024**	**Hearing.**
28.82.022	**Issuing Building Permits During Interim Period.**	**28.82.140**	**Construction Between Street and Setback Lines - Prohibited.**
28.82.023	**Resolution - Notice of Hearing.**	**28.82.142**	**Penalty for Violation.**

28.82.009 Determining Authority.

Whenever the public peace, health, safety, comfort, convenience, interest or welfare may require, the City Council is hereby authorized and empowered to determine the minimum distance back from the street line for the erection of buildings or structures along any portion of any street, public way or place in the City and to order the establishment of a line to be known and designated as a street widening setback line between which line and the street line no building or structure shall be erected or constructed. The street widening setbacks and the procedures relating to street widening setbacks specified in this Chapter 28.82 and Chapters 28.83 and 28.84 are to be distinguished from the general setbacks defined in Chapter 28.04 and established elsewhere in this Title 28. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 1157 §1, 1923.)

28.82.022 Issuing Building Permits During Interim Period.

After the adoption of the Resolution of Intention, and prior to the time the ordinance establishing setback line or lines in such proceedings becomes effective, no building permit shall be issued for the erection of any building or structure between any proposed setback line and the street line and any permit so issued shall be void. (Ord. 3710, 1974; Ord. 2585, 1975; Ord. 1157 §3, 1923.)

28.82.023 Resolution - Notice of Hearing.

Before ordering the establishment of any setback line authorized by Section 28.82.009, the Council shall pass a resolution of intention so to do, designating the distance in from the street, the setback line or lines proposed, shall be established; which resolution shall be published once in a daily newspaper published and circulated in the City, and designated by the City Council for the purpose; and one (1) copy of the resolution shall be posted conspicuously upon the street in front of each block or part of block of any street, public way or place where such setback line is proposed to be established. The resolution shall contain, also, a notice of the day, hour and place when and where any and all persons having any objection to the establishment of the proposed setback line or lines may appear before the Council and present any objection or protest which they may have to the proposed setback line or lines as set forth in the Resolution of Intention. The time of hearing shall not be less than fifteen (15) nor more than forty (40) days from the date of the adoption of the Resolution of Intention; and the publication and posting of the Resolution shall be made at least ten (10) days before the time of the hearing, and shall be deemed to be and shall constitute the only notice to be given of such hearing. (Ord. 3710, 1974; Ord. 2585, 1957; Ord. 1157 §2, 1923.)

28.82.024 Hearing.

At any time not later than the hour set for hearing objections and protests to the establishment of the proposed setback line or lines, any person having any interest in any land upon which the setback line is proposed to be established, may file with the City Clerk a written protest or objection against the establishment of the setback line or lines designated in the Resolution of Intention. Such protest must be in writing, must contain a statement of the facts or reasons constituting the owner's objections and be delivered to the Clerk not later than the hour set for the hearing, and no other protests or objections shall be considered. All protestants may appear before the Council at the hearing, either in person or by attorney, and be heard in support of their protests or objections. At the time set for hearing, or at any time to which the hearing may be continued, the Council shall proceed to hear and pass upon all protests or objections so made, and its decision shall be final and conclusive, both as to the protestants and all other persons.

The Council shall have power and jurisdiction to sustain any protest or objection and abandon the proceeding, or to deny any and all protests or objections, and order by ordinance the establishment of the setback line or lines described in the Resolution of Intention, or to order the same established with such changes or modifications as the Council may deem proper. (Ord. 3710, 1974; Ord. 2585, 1957; Ord. 1157 §4, 1923.)

28.82.140 Construction Between Street and Setback Lines - Prohibited.

From and after the taking effect of such ordinance establishing any setback line or lines, it shall be unlawful for any person, firm or corporation to construct any building, wall, fence or other structure within the space between the street line and the setback line, so established, and no permit for any building or structure to be erected within such space shall be issued. (Ord. 3710, 1974; Ord. 2585, 1957; Ord. 1157 §5, 1923.)

28.82.142 Penalty for Violation.

Any person, firm or corporation violating any of the provisions of any ordinance establishing any setback line pursuant to this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars ($500.00), or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each such person, firm or corporation shall be deemed guilty of a separate offense for each day during any portion of which any violation of such ordinance is permitted, continued or committed by such person, firm or corporation, and shall be punishable therefor as provided by this chapter. (Ord. 3710, 1974; Ord. 2585, 1957; Ord. 1157 §6, 1923.)

Chapter 28.83

STREET WIDENING SETBACK LINES ESTABLISHED

Sections:

28.83.007 Canon Perdido Street - Northwesterly Between Quarantina and Milpas Street.
28.83.027 Canon Perdido Street - Southeasterly Between Quarantina Street and Milpas Street.
28.83.057 Chapala Street - Northeasterly Between Montecito Street and Cabrillo Boulevard.
28.83.067 Chapala Street - Southwesterly Between Montecito Street and Cabrillo Boulevard.
28.83.077 Cliff Drive.
28.83.117 East Cabrillo Boulevard.
28.83.127 Gutierrez Street - Northwesterly Between De la Vina Street and Milpas Street.
28.83.137 Gutierrez Street - Southeasterly Between De la Vina Street and Milpas Street.
28.83.147 Hollister Avenue - Northeasterly Between Calle Laureles and Mission Street.
28.83.157 Hollister Avenue - Between City Limits and Mission Street.
28.83.167 Milpas Street - Northeasterly Between Anapamu Street and Cabrillo Boulevard.
28.83.177 Milpas Street - Southeasterly Between Anapamu Street and Cabrillo Boulevard.
28.83.187 Montecito Street - Northeasterly Between Bath Street and Rancheria Street.
28.83.197 Montecito Street - Southeasterly Between Bath Street and Rancheria Street.
28.83.227 Carrillo Street Extension.

28.83.007 Canon Perdido Street - Northwesterly Between Quarantina and Milpas Street.

A straight line drawn from the northeasterly line of Quarantina Street produced northwesterly, to southwesterly line of Milpas Street, ten feet (10') northwesterly from the northwesterly line of Canon Perdido Street is established as a setback line, between which line and such northwesterly line of Canon Perdido Street no building or structure shall hereafter be erected or placed. (prior Code Appendix II, Article II §1(5).)

28.83.027 Canon Perdido Street - Southeasterly Between Quarantina Street and Milpas Street.

A straight line drawn from the northeasterly line of Quarantina Street to the southwesterly line of Milpas Street, ten feet (10') southeasterly from the southeasterly line of Canon Perdido Street is established as a setback line, between which line and such southeasterly line of Canon Perdido Street no building or structure shall hereafter be erected or placed. (prior Code Appendix II, Article II §1(6).)

28.83.057 Chapala Street - Northeasterly Between Montecito Street and Cabrillo Boulevard.

A straight line drawn from the southeasterly line of Montecito Street to the northwesterly line of Cabrillo Boulevard, ten feet (10') northeasterly from the northeasterly line of Chapala Street is established as a setback line, between which line and such northeasterly line of Chapala Street no building or structure shall hereafter be erected or placed. (prior Code Appendix II, Article II §1(9).)

28.83.067 Chapala Street - Southwesterly Between Montecito Street and Cabrillo Boulevard.

A straight line drawn from the southeasterly line of Montecito Street to the northwesterly line of Cabrillo Boulevard, ten feet (10') southwesterly from the southwesterly line of Chapala Street is established as a setback line, between which line and such southwesterly line of Chapala Street no building or structure shall hereafter be erected or placed. (prior Code Appendix II, Article II §1(10).)

28.83.077 Cliff Drive.

Two (2) setback lines, drawn parallel to each other and to the centerline of Cliff Drive, separated from each other by the centerline of Cliff Drive, the one (1) being drawn on one (1) side of the centerline of Cliff Drive and the other being drawn on the other side of such centerline of Cliff Drive, each such setback line being fifty-five feet (55') distant from the centerline of Cliff Drive, and one hundred ten feet (110') distant from the other such setback line, at all points, and running for a distance extending from the existing West Montecito Street widening setback line on the east, to and including all portions of Cliff Drive, to the easterly side of the entrance to Arroyo Burro Beach, between which two (2) setback lines no building or structure shall hereafter be erected, constructed or placed. (Ord. 5274, 2003; prior Code Appendix II, Article II §1(11).)

28.83.117 East Cabrillo Boulevard.

A line drawn parallel to and distant ten feet (10') northwesterly from the line of East Cabrillo Boulevard between the northeasterly line of State Street and the southwesterly line of Santa Barbara Street is established as a setback line, between which line and such northeasterly line of East Cabrillo Boulevard no building or structure shall hereafter be erected or placed. (prior Code Appendix II, Article II §1(14).)

28.83.127 Gutierrez Street - Northwesterly Between De la Vina Street and Milpas Street.

A straight line drawn from the northeasterly line of De la Vina Street to the southwesterly line of Milpas Street, ten feet (10') northwesterly from the northwesterly line of Gutierrez Street is established as a setback line, between which line and such northwesterly line of Gutierrez Street no building or structure shall hereafter be erected or placed. (Ord. 3028 §1(part), 1965; prior Code Appendix II, Article II §1(15).)

28.83.137 Gutierrez Street - Southeasterly Between De la Vina Street and Milpas Street.

A straight line drawn from the northeasterly line of De la Vina Street to the southwesterly line of Milpas Street, ten feet (10') southeasterly from the southeasterly line of Gutierrez Street is established as a setback line, between which line and such southeasterly line of Gutierrez Street no building or structure shall hereafter be erected or placed. (Ord. 3028 §1(part), 1965; prior Code Appendix II, Article II §1(16).)

28.83.147 Hollister Avenue - Northeasterly Between Calle Laureles and Mission Street.

A line drawn from the easterly line of Calle Laureles to the northwesterly line of Mission Street, parallel to and ten feet (10') northeasterly from the northeasterly line of Hollister Avenue is established as a setback line, between which line and such northeasterly line of Hollister Avenue no building or structure shall hereafter be erected or placed. (prior Code Appendix II, Article II &1(17).)

28.83.157 Hollister Avenue - Between City Limits and Mission Street.

A line drawn from the City limits to the northwesterly line of Mission Street, parallel to and ten feet (10') southwesterly from the southwesterly line of Hollister Avenue is established as a setback line, between which line and such southwesterly line of Hollister Avenue no building or structure shall hereafter be erected or placed. (prior Code Appendix II, Article II §1(18).)

28.83.167 Milpas Street - Northeasterly Between Anapamu Street and Cabrillo Boulevard.

A straight line drawn from the southeasterly line of Anapamu Street to the northwesterly line of Cabrillo Boulevard, ten feet (10') northeasterly from the northeasterly line of Milpas Street is established as a setback line, between which line and such northeasterly line of Milpas Street no building or structure shall hereafter be erected or placed. (prior Code Appendix II, Article II §1(19).)

28.83.177 Milpas Street - Southeasterly Between Anapamu Street and Cabrillo Boulevard.

A straight line drawn from the southeasterly line of Anapamu Street to the northwesterly line of Cabrillo Boulevard, ten feet (10') southwesterly from the southwesterly line of Milpas Street, is established as a setback line, between which line and such southwesterly line of Milpas Street no building or structure shall hereafter be erected or placed. (prior Code Appendix II, Article II §1(20).)

28.83.187 Montecito Street - Northeasterly Between Bath Street and Rancheria Street.

A straight line drawn from the southwesterly line of Bath Street to the northeasterly line of Rancheria Street, ten feet (10') northwesterly from the northwesterly line of Montecito Street, is established as a setback line, between which line and such northwesterly line of Montecito Street no building or structure shall hereafter be erected or placed. (Ord. 5153, 2000; prior Code Appendix II, Article II §1(21).)

28.83.197 Montecito Street - Southeasterly Between Bath Street and Rancheria Street.

A straight line drawn from the southwesterly line of Bath Street to the northeasterly line of Rancheria Street, ten feet (10') southeasterly from the southeasterly line of Montecito Street is established as a setback line, between which line and the southeasterly line of Montecito Street no building or structure shall hereafter be erected or placed. (Ord. 5153, 2000; prior Code Appendix II, Article II §1(22).)

28.83.227 Carrillo Street Extension.

A line parallel with and forty feet (40') easterly of the centerline of Carrillo Street extension between engineer's station 49+00 and station 52+00, said centerline as shown on approved plan number C-1-2672, sheet 2 of 31 sheets, on file in the Office of the City Engineer, is established as a setback line, between which line and such easterly side of Carrillo Street extension no building or structure shall hereafter be erected or placed. (Ord. 3205 §1, 1967.)

Chapter 28.84

VARIANCES FOR STREET WIDENING SETBACK LINES

Sections:

28.84.003 Variance by Resolution Authorized.
28.84.010 Basis for Allowing Variances.
28.84.013 Prerequisites to Granting Variance.
28.84.025 Council's Decision to be Final.
28.84.033 Petition to State Grounds for Variance.
28.84.073 Resolution to be Entered in Minutes.
28.84.142 Compliance.

28.84.003 Variance by Resolution Authorized.

Where there is need to allow variance to avoid unreasonable practical difficulties or unreasonable and unnecessary hardships resulting or arising from any setback line established by ordinance in the City, the City Council upon its own motion or upon verified petition, filed with the Clerk of the City Council, of any property owner whose property is directly affected by such setback line, shall have power to allow by its resolution upon such reasonable terms and conditions as the City Council may deem proper and under the circumstances and subject to the conditions and provisions hereinafter specified, variance from the restrictions and prohibitions of any such setback line. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §1, 1946.)

28.84.010 Basis for Allowing Variances.

Variance shall be allowed and permitted under this chapter only in consonance with the general purpose and objective of whatever setback line may be involved; and, only in such instances and only to such extent that the public welfare, safety and convenience shall be duly secured, with substantial justice done with respect to all concerned. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062, §3, 1946.)

28.84.013 Prerequisites to Granting Variance.

Moreover, variance shall be authorized under this chapter upon the following additional provisions and conditions:

(1) That whatever improvements may be constructed, erected or made pursuant to any variance authorized under this chapter shall be and must be wholly removed in the event of any future public acquisition by condemnation of the real property whereon such improvements may be constructed, erected or made at the sole expense of the property owner to whom leave for such variance was granted the owner of the property at the time of the condemnation by the City.

(2) That variance shall be allowed by the City Council only upon the filing with the Clerk of the City of a written agreement and undertaking signed and acknowledged by the property owner involved and by its term binding the property owner or whoever shall be the owner of the property involved at the time of any future condemnation such as that abovementioned, to wholly remove whatever improvements may be constructed, erected or made under or pursuant to the leave granted under this ordinance, which removal shall be at the sole cost and expense of the property owner.

(3) That variance shall be allowed under this chapter only upon the further express condition and provision that if the property owner signing the aforementioned written agreement and undertaking any other owner of such property at the time of condemnation thereof shall fail to wholly remove all improvements constructed, erected or made under this chapter, the same may be removed by the City if it acquires by condemnation the land involved as contemplated by this chapter, at the sole expense of such property owner or owners.

(4) That variance shall be authorized under this chapter only upon the express provision and condition of the property owner or owners involved evidenced as above stated and expressly waiving and renouncing any and all right or claim to damages or compensation in favor of any such property owner or owners involved or otherwise arising by reason of the severance of any improvement constructed, erected or made under this chapter from any other or remaining improvement or by reason of the removal of any such improvement constructed, erected or made pursuant to leave authorized by this chapter, if the City acquires the land involved by condemnation.

(5) That variance shall be authorized by the City Council under this chapter by resolution of the City Council setting forth the written findings of fact required by Subsection "A" next following:

Subsection "A": In order to justify any variance under the provisions of this chapter, the three (3) following qualifications must be shown relative to the property involved in the application for such variance; and, the City Council's resolution of approval in connection with any such applications must contain written findings of fact showing wherein the property involved meets the three (3) following qualifications:

(1) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to all property affected by the setback line involved, and which produce unreasonable practical difficulties or unreasonable and unnecessary hardships in the way of adhering to the setback line or lines as established without the granting of leave for any variance therefrom.

(2) That such variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner in consonance and harmony with the enjoyment of their property by other neighboring owners, subject to the setback line involved.

(3) That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements subject to the setback line involved. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §4, 1946.)

28.84.025 Council's Decision to be Final.

The decision of the City Council in granting or refusing any petition for any variance under this ordinance or any granting on its own motion any variance under this chapter pursuant to the provisions of this chapter, shall be final and conclusive without any right of appeal. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §6, 1946.)

28.84.033 Petition to State Grounds for Variance.

Every petition filed under this chapter shall state fully the grounds upon which leave for variance is sought and the facts warranting the proposed allowance of variance. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §2, 1946.)

28.84.073 Resolution to be Entered in Minutes.

Every resolution hereafter allowing variance from any setback line shall be entered in full in the minutes of the City Council. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §5, 1946.)

28.84.142 Compliance.

Save and except under and as allowed pursuant to the provisions and procedure prescribed by this chapter, no improvements shall be constructed, erected or made in violation of any setback line ordinance of this City within the prescribed limits established by such setback line ordinance. (Ord. 3769, 1975; Ord. 3710, 1974; Ord. 2585, 1957; Ord. 2062 §7, 1946.)

Chapter 28.85

NONRESIDENTIAL GROWTH MANAGEMENT PROGRAM

Sections:

28.85.010 Nonresidential Development Limitation.
28.85.020 Definitions.
28.85.030 Development Plan Review Procedures.
28.85.040 Standards for Review – Development Plans.
28.85.050 Traffic Management Strategy.
28.85.060 Development Plan Notice and Hearing.
28.85.070 Appeals.
28.85.080 Fees.
28.85.090 Development Plan Time Limits.
28.85.100 Multiple Development Plans.

28.85.010 Nonresidential Development Limitation.

No application for a land use permit for a nonresidential construction project, as defined in Section 28.85.020 of this Chapter, will be accepted or approved on or after December 6, 1989, unless all of the new nonresidential floor area within the project is allocated from one or more of the categories specified in this Section and the project is consistent with the City's Traffic Management Strategy (as approved by City Resolution No. 13-010 dated as of March 12, 2013, and as filed with the City Clerk) as implemented in Section 28.85.050.

A. DEVELOPMENT LIMIT. From the effective date of this ordinance until December 31, 2033, the amount of new nonresidential floor area available for nonresidential construction projects shall be restricted to no more than one million three hundred fifty thousand (1,350,000) square feet. This allowable floor area shall be allocated from the following categories, as defined in Section 28.85.020 of this Chapter:

Category	Square Footage
Community Benefit	600,000 s.f.
Small Addition Floor Area	400,000 s.f.
Vacant Property	350,000 s.f.

Except as otherwise provided in this Section and as allocated on an annual basis by a resolution of the Planning Commission, Small Additions shall be limited to no more than twenty thousand (20,000) square feet of nonresidential floor area during each calendar year from the effective date of this ordinance through December 31, 2033. Any unused, expired, or withdrawn development square footage remaining from each annual allotment from the Small Additions category may be rolled over to the following year's Small Additions allotment or allocated to another category by a resolution of the Planning Commission. Procedures for allocating square footage under these categories shall be established by resolution of City Council.

B. NONRESIDENTIAL FLOOR AREA EXCLUDED FROM THE DEVELOPMENT LIMIT. Nonresidential floor area may be constructed or converted from residential floor area without requiring an allocation from the allowable square footage specified in Subsection A of this Section so long as the nonresidential floor area falls within the following categories, as defined in Section 28.85.020 of this Chapter:

1. City Government Buildings.
2. Government Displacement Floor Area.
3. Hotel Room for Room Replacement.
4. Minor Addition Floor Area.
5. Prior-Pending Projects.
6. Prior-Approved Projects.
7. Prior-Approved Specific Plan Project.
8. Transfers of Existing Development Rights, as defined in Section 28.95.020 of this Code.

(Ord. 5609, 2013.)

28.85.020 Definitions.

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

A. COMMUNITY BENEFIT PROJECT. A project which has been designated by the City Council as satisfying one or more of the following categories is a Community Benefit Project:

1. Community Priority Project. A Community Priority Project is a project that has a broad public benefit, is not principally operated for private profit, and is necessary to meet a present or projected need directly related to public health, safety or general welfare (e.g., museums, childcare facilities, health clinics).

2. Economic Development Project. An Economic Development Project is a project that is consistent with the City Charter, General Plan and this Title, will enhance the standard of living for City and South Coast residents, and will strengthen the local or regional economy by either creating new permanent employment opportunities or enhancing the City's revenue base. An Economic Development Project should also accomplish one or more of the following:

a. Support diversity and balance in the local or regional economy by establishing or expanding businesses or industries in sectors which currently do not exist on the South Coast or are present only in a limited manner; or

b. Provide new recreational, educational, or cultural opportunities for City residents and visitors; or

c. Provide products or services which are currently not available or are in limited supply either locally or regionally; or

d. Support a small and local business in the Santa Barbara community which is being started, maintained, relocated, redeveloped or expanded.

For purposes of this Section, "standard of living" is defined as wages, employment, environment, resources, public safety, housing, schools, parks and recreation, social and human services, and cultural arts.

3. Planned Development – New Automobile Sales Project. A Planned Development – New Automobile Sales Project is a project within a Planned Development zone that proposes a project involving new automobile sales, rental and leasing as allowed in Chapter 28.39 of this Code.

B. DEVELOPMENT AREA. A Development Area is a portion of the City that the City of Santa Barbara Traffic Model (as approved by the City Council by Resolution No. 13-010 dated as of March 12, 2013, and as filed with the City Clerk) has shown to have distinct traffic generation patterns, as identified on the Development Area Map. The City of Santa Barbara Development Areas are shown on the map labeled "Growth Management Program Development Areas" (as approved by City Resolution No. 13-010 dated as of March 12, 2013). All notations, references and other information shown on said map are incorporated by reference herein and made a part hereof.

C. EXISTING NONRESIDENTIAL FLOOR AREA. Existing Nonresidential Floor Area is nonresidential floor area that existed on a lot as of October 1, 1988, or nonresidential floor area that was approved and constructed or converted from residential floor area after October 1, 1988, in compliance with, or exempt from, a City development plan or nonresidential growth management program ordinance.

D. FLOOR AREA. Floor Area is the area included within the surrounding exterior walls of a building, or a portion thereof, excluding the area occupied by the exterior walls, vent shafts and courts, stairway landings, or areas or structures used exclusively for parking. Enclosed spaces that contain building “infrastructure” (e.g., mechanical equipment enclosures, trash and recycling enclosures, air conditioners, forced air units, electric vaults, water heaters and softeners, cellular telephone equipment, and other similar uses) shall not count toward the calculation of floor area if such areas are designed in the minimum size necessary to screen or enclose such equipment, and the space cannot be converted to storage or another non-infrastructure use. The area occupied by an elevator shaft or stairs shall only be counted in the calculation of floor area on one floor. A building, or a portion thereof, occupied exclusively by public utility equipment constitutes floor area for purposes of development plan review, but shall not count toward the calculation of floor area for purposes of the development limit specified in Subsection 28.85.010.A. Any floor area which was constructed, approved, demolished or converted in violation of any provision of this Municipal Code shall not give rise to any right to rebuild or transfer floor area.

E. GOVERNMENT BUILDING. A Government Building is a building owned or leased by the city of Santa Barbara, excluding buildings or portions of buildings that are leased to private entities conducting non-governmental activities (e.g., the private leaseholds at the Harbor or Airport).

F. GOVERNMENT DISPLACEMENT FLOOR AREA. Government Displacement Floor Area is nonresidential floor area that is constructed or converted from residential floor area to replace nonresidential floor area that was acquired, removed or damaged by direct condemnation or negotiated acquisition by a governmental entity (federal, state or local), provided the nonresidential floor area of the project constructed to replace a building acquired or removed by the government does not exceed the nonresidential floor area of the building so acquired or removed, unless the additional nonresidential floor area is allocated from another available category.

G. HOTEL ROOM FOR ROOM REPLACEMENT. A Hotel Room for Room Replacement is a project which consists of the replacement of existing hotel rooms at the same location, or transferred from another location as part of an approved Transfer of Existing Development Rights pursuant to Chapter 28.95 of this Code, on a room for room basis. A Hotel Room for Room Replacement does not include nonresidential floor area outside the hotel rooms.

H. LAND USE PERMIT. A Land Use Permit is a governmental decision concerning a permit, license, certificate, or other entitlement for use of land, including a conditional use permit, variance, modification, development plan, specific plan, general plan amendment, coastal development permit, conversion permit, subdivision map (except those creating new single family lots), building permit, grading permit, demolition permit, water service connection or any similar approval or use.

I. MINOR ADDITION FLOOR AREA. Minor Addition Floor Area is the first 1,000 square feet of new nonresidential floor area, over the amount of nonresidential floor area that existed on the lot as of December 6, 1989. Procedures for allocating and accounting for Minor Addition Floor Area shall be established by resolution of the City Council.

J. NONRESIDENTIAL CONSTRUCTION PROJECT. A Nonresidential Construction Project is a project, or portion thereof, which consists of the construction of new nonresidential floor area or the conversion of existing residential floor area to nonresidential use. The repair, replacement, or reconstruction of Existing Nonresidential Floor Area (including existing development rights that are transferred from another site) is not considered new nonresidential floor area for the purpose of the nonresidential development limitation specified in Subsection 28.85.010.A. A nonresidential construction project may occur in the following forms:

1. The addition of new nonresidential floor area to an existing structure; or
2. The construction of new nonresidential floor area in a free standing structure on real property containing another structure; or
3. The construction of new nonresidential floor area as a portion of a mixed use building; or
4. The conversion of residential floor area to nonresidential floor area; or
5. A new building on vacant real property that contains nonresidential floor area.

K. NONRESIDENTIAL FLOOR AREA RATIO. The Nonresidential Floor Area Ratio of a lot is a ratio of the nonresidential floor area on the lot to the net lot area of the lot.

L. PRIOR-APPROVED PROJECTS. A Prior-Approved Project is a project for which a land use permit (other than an application for Specific Plan approval) was approved on or before April 11, 2013, and where the approval remains valid.

M. PRIOR-APPROVED SPECIFIC PLAN PROJECT. A Prior-Approved Specific Plan Project is a project that implements a specific plan that was approved prior to April 16, 1986, the specific plan required the construction of substantial circulation system improvements, and the required circulation system improvements were either:

1. Installed prior to April 11, 2013; or
2. Constructed after April 11, 2013, pursuant to an Owner Participation Agreement and installed prior to the approval of any development plan(s) related to the approved specific plan.

N. PRIOR-PENDING PROJECT. A Prior-Pending Project is a nonresidential construction project for which an application for a land use permit was deemed complete by the City before April 11, 2013, and the application: i. has not been denied by the City; ii. has not been withdrawn by the applicant; and iii. has not yet received City approval.

O. SMALL ADDITION FLOOR AREA. Small Addition Floor Area is the 2,000 square feet of new nonresidential floor area over the amount of nonresidential floor area that existed on the lot on December 6, 1989, and any floor area that has been constructed or approved as Minor Addition Floor Area pursuant to this Chapter or any preceding development plan ordinance since December 6, 1989. Procedures for allocating Small Addition Floor Area shall be established by resolution of the City Council.

P. VACANT PROPERTY. A Vacant Property is a lot of land that was not developed with a permanent building containing floor area as of October 1, 1988, and has not since been developed with any permanent building containing floor area. A vacant property may be allocated new nonresidential floor area from the Vacant Property category up to a maximum nonresidential floor area ratio of .25. Any nonresidential development proposed for the lot over the .25 floor area ratio must be allocated from another development category available for allocation on the lot. (Ord. 5609, 2013.)

28.85.030 Development Plan Review Procedures.

A. DEVELOPMENT PLAN APPLICATION SUBMISSION. Before any project requiring approval of a development plan pursuant to this Chapter is hereafter permitted in any zone, including zones at the Santa Barbara Municipal Airport, a complete development plan application for the proposed development shall be submitted to the Community Development Department for review and consideration in accordance with the provisions of this Chapter.

B. REVIEW BY PRE-APPLICATION REVIEW TEAM. All nonresidential construction projects involving the construction, addition, or conversion of more than 3,000 square feet of nonresidential floor area and all transfers of existing development rights, regardless of size, shall be reviewed by the Pre-Application Review Team as provided in Section 27.07.070 of this Code.

C. DEVELOPMENT PLAN APPROVAL REQUIREMENTS. Except as otherwise specified in this Subsection C, all nonresidential construction projects and all Transfers of Existing Development Rights require approval of a Development Plan.

1. Design Review Approval. Any nonresidential construction project that involves the construction, addition, or conversion of more than one thousand (1,000) square feet of new nonresidential floor area and not more than three thousand (3,000) square feet of new nonresidential floor area shall require approval of the design of a development plan from the Architectural Board of Review, or from the 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.
2. Staff Hearing Officer Approval. Any nonresidential construction project that involves the construction, addition, or conversion of more than one thousand (1,000) square feet of new nonresidential floor area and not more than three thousand (3,000) square feet of new nonresidential floor area, and which also requires approval of a City discretionary land use permit from the Staff Hearing Officer, shall require approval of a development plan from the Staff Hearing Officer.
3. Planning Commission Approval. The following projects shall require approval of a development plan from the Planning Commission:

a. Any nonresidential construction project (including a public utility facility) that involves the construction, addition, or conversion of more than three thousand (3,000) square feet of new nonresidential floor area, or

b. Any transfer of existing development rights that involves the construction, addition, or conversion of more than one thousand (1,000) square feet of nonresidential floor area (as an aggregate total of all development categories) on the receiving site, or

c. Any nonresidential construction project that involves the construction, addition, or conversion of more than one thousand (1,000) square feet of new nonresidential floor area and not more than three thousand (3,000) square feet of new nonresidential floor area, and which requires approval of another land use permit from the Planning Commission, shall require approval of a development plan from the Planning Commission.

d. Notwithstanding the review assignments specified in Paragraphs 1 and 2 above, any nonresidential construction project or transfer of existing development rights that requires the preparation of an Environmental Impact Report shall be reviewed by the Planning Commission.

4. Exceptions. Unless the project requires the preparation of an Environmental Impact Report, the following projects do not require the approval of a development plan:

a. A nonresidential construction project that involves the construction, addition, or conversion of not more than 1,000 square feet of nonresidential floor area (as an aggregate total of all development categories), or

b. A Transfer of Existing Development Rights that involves the construction, addition, or conversion of nonresidential floor area so long as the project will not result in more than 1,000 square feet of nonresidential floor area over the amount of nonresidential floor area that existed on the lot as of April 11, 2013. This exception is not available for a Transfer of Existing Development Rights that involves the transfer of a hotel room on a room-for-room basis. (Ord. 5609, 2013.)

28.85.040 Standards for Review – Development Plans.

The following findings shall be made prior to approving any development plan pursuant to this Chapter:

A. The proposed development complies with all provisions of this Title; and

B. The proposed development is consistent with the principles of sound community planning; and

C. The proposed development will not have a significant adverse impact upon the community's aesthetics or character in that the size, bulk or scale of the development will be compatible with the neighborhood based on the Project Compatibility Analysis criteria found in Sections 22.22.145 or 22.68.045 of this Code; and

D. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy (as approved by City Resolution No. 13-010 dated as of March 12, 2013) as expressed in the allocation allowances specified in SBMC Section 28.85.050. (Ord. 5609, 2013.)

28.85.050 Traffic Management Strategy.

In order to utilize the City's existing transportation capacity efficiently and to prioritize constrained transportation capacity for high priority land uses, the City has established a Traffic Management Strategy (as approved by City Resolution No. 13-010 dated as of March 12, 2013). In furtherance of the Traffic Management Strategy and recognizing the differential rates of traffic generation observed in the City of Santa Barbara Traffic Model methodology (as used in connection with the preparation of the General Plan FEIR) between the different Development Areas, only certain categories of nonresidential development are available for allocation within the Development Areas identified in this Section.

A. DOWNTOWN DEVELOPMENT AREA. If all of the floor area for a project is proposed from a category or categories of development that are available for allocation within the development area in which the proposed project is located, the project's contribution to a potentially significant adverse cumulative traffic impact may be overridden by the Planning Commission. Within the Downtown Development Area, unless specifically authorized below, a project-specific potentially significant adverse traffic impact cannot be overridden by the Planning Commission. The following categories of nonresidential development are available for allocation to lots within the Downtown Development Area:

1. Prior-Approved Projects. Prior-Approved Projects do not require further environmental review.

2. Prior-Pending Projects.

3. Prior-Approved Specific Plan Projects. A Prior-Approved Specific Plan Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

4. Minor Addition Floor Area. A project constructing, adding, or converting Minor Addition Floor Area that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

5. Small Addition Floor Area.

6. Vacant Property. A Vacant Property Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

7. Community Priority Projects. A Community Priority Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

8. Economic Development Projects.

9. Transfers of Existing Development Rights (TEDR), as defined in Section 28.95.020 of this Code, from any Development Area.

a. A Transfer of Existing Development Rights between lots within the same Development Area that will result in the construction, addition, or conversion of not more than 1,000 square feet of nonresidential floor area over the amount of nonresidential floor area that existed on the receiving lot as of the effective date of this ordinance and that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

b. All other Transfers of Existing Development Rights (including Hotel Room for Room Replacements) that result in a project-specific potentially significant adverse traffic impact cannot be overridden.

10. Hotel Room for Room Replacement. An on-site Hotel Room for Room Replacement that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

11. Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot. The Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

12. City Government Buildings. A government building project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

13. Government Displacement Floor Area. A Government Displacement Floor Area Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

14. Public Utility Facilities. A Public Utility Facility that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

B. UPPER STATE STREET, MESA, COAST VILLAGE ROAD, AND RIVIERA DEVELOPMENT AREAS (OUTLYING DEVELOPMENT AREAS). If all of the floor area for a project is proposed from a category or categories of development that are available for allocation within the development area in which the proposed project is located, the project's contribution to a significant cumulative traffic impact may be overridden. Within the Outlying Development Areas, unless specifically authorized below, a project-specific potentially significant adverse traffic impact cannot be overridden by the Planning Commission. The following categories of nonresidential development are available for allocation to lots within the Outlying Development Areas:

1. Prior-Approved Projects. Prior-Approved Projects do not generally require further environmental review.

2. Prior-Pending Projects.

3. Prior-Approved Specific Plan Projects. A Prior-Approved Specific Plan Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

4. Minor Addition Floor Area. A project constructing, adding, or converting Minor Addition Floor Area that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

5. Vacant Property. A Vacant Property Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

6. Community Priority Projects. A Community Priority Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

7. Transfer of Existing Development Rights (including Hotel Room for Room Replacements), as defined in Section 28.95.020 of this Code, from and to lots within the same Development Area. No receiving site located in an Outlying Development Area may receive a Transfer of Existing Development Rights from a sending site that is located in another Development Area.

a. A Transfer of Existing Development Rights between real properties within the same Development Area that will result in the construction, addition, or conversion of not more than 1,000 square feet of nonresidential floor area over the amount of nonresidential floor area that existed on the receiving lot as of April 11, 2013, and that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

b. All other Transfers of Existing Development Rights (including Hotel Room for Room Replacements) that result in a project-specific potentially significant adverse traffic impact cannot be overridden by the Planning Commission.

8. Demolition and Reconstruction of Existing Nonresidential Floor Area on the same parcel. The Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

9. Government Buildings. A Government Building that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

10. Government Displacement Project. A Government Displacement Floor Area Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

11. Hotel Room for Room Replacement. An on-site Hotel Room for Room Replacement that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

12. Public Utility Facilities. A Public Utility Facility that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

13. Planned Development – New Automobile Sales Project. A Planned Development – New Automobile Sales Project that presents a project-specific potentially significant adverse traffic impact may be approved by the Planning Commission following the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A.

C. AIRPORT DEVELOPMENT AREA. If all of the floor area for a project is proposed from a category or categories of development that are available for allocation within the development area in which the proposed project is located, the project's contribution to a significant cumulative adverse traffic impact may be overridden by the Planning Commission. Within the Airport Development Area, unless specifically stated below, a project-specific potentially significant adverse traffic impact may be overridden by the Planning Commission with the adoption of a Statement of Overriding Considerations in the manner authorized by C.E.Q.A. The following categories of nonresidential development are available for allocation to real properties within the Airport Development Area:

1. Prior-Approved Projects.
2. Prior-Pending Projects.
3. Prior-Approved Specific Plan Projects.
4. Minor Addition Floor Area.
5. Small Addition Floor Area.
6. Vacant Property.
7. Community Priority Projects.
8. Economic Development Projects.
9. Transfers of Existing Development Rights (including Hotel Room for Room Replacements), as defined in Section 28.95.020 of this Code, from and to lots within the Airport Development Area are available for allocation. No Receiving Site located in the Airport Development Area may receive a Transfer of Existing Development Rights (including Hotel Room for Room Replacements) from a Sending Site that is located in another Development Area.
10. Demolition and Reconstruction of Existing Nonresidential Floor Area on the same lot.
11. Government Buildings.
12. Government Displacement Projects.
13. Public Utility Facilities. (Ord. 5609, 2013.)

28.85.060 Development Plan Notice and Hearing.

If a nonresidential construction project or transfer of existing development rights requires the approval of a development plan by the Architectural Board of Review, Historic Landmarks Commission, Staff Hearing Officer, Planning Commission, or the City Council on appeal, the Architectural Board of Review, Historic Landmarks Commission, Staff Hearing Officer, Planning Commission, or City Council shall hold a public hearing prior to taking action on any development plan. Notice of the public hearing shall be given in accordance with Section 28.87.380. (Ord. 5609, 2013.)

28.85.070 Appeals.

A decision by the Architectural Board of Review, the Historic Landmarks Commission, or the Planning Commission under this Chapter may be appealed according to the provisions of Chapter 1.30. A decision by the Staff Hearing Officer under this Chapter may be appealed according to the provisions of Section 28.05.020 of this Code. (Ord. 5609, 2013.)

28.85.080 Fees.

Fees for filing applications and appeals in accordance with this Chapter shall be established by resolution of the City Council. (Ord. 5609, 2013.)

28.85.090 Development Plan Time Limits.

Subject to the adjustments for projects with multiple approvals specified in Section 28.87.370 of this Code, development plan approvals shall have the following time limits:

A. TIME LIMIT. A development plan approved pursuant to any provision of this Title shall expire four (4) years from the date of its approval, except as otherwise provided herein. No building or grading permit for any work authorized by a development plan shall be issued following expiration of that plan.

B. CONDITIONS. Any condition imposed on a development plan may, in the discretion of the body approving the development plan, also constitute (i) a condition to the issuance of and continued validity of any building or grading permit issued to implement that development plan, (ii) a condition to the issuance of the certificate of occupancy with respect to any improvements authorized by the development plan and (iii) if recorded with the County Recorder, to the continued validity of the certificate of occupancy. Violation of any such condition shall be grounds for suspension or revocation of any building or grading permit or certificate of occupancy issued with respect to the development plan.

C. EXTENSION OF TIME PERIOD. Upon application of the developer filed prior to the expiration of the development plan, the time at which the development plan expires may be extended by the Community Development Director for one (1) year. An extension of the expiration date of a development plan shall be granted if it is found that there has been due diligence to implement and complete the proposed project as substantiated by competent evidence in the record.

D. SUSPENSION OF TIME DURING MORATORIUM. The period of time specified in Subsection A, including any extension thereof granted pursuant to Subsection C, shall not include any period of time during which a moratorium, imposed after approval of the development plan, is in existence, provided, however, that the length of the moratorium does not exceed five (5) years. For purposes of this Subsection, a development moratorium shall include (i) a water or sewer moratorium, (ii) a water and sewer moratorium, and (iii) a building or grading permit moratorium, as well as other actions of public agencies which regulate land use, development, or the provision of services to the land other than the City, which thereafter prevents, prohibits, or delays the completion of the development. Once a moratorium is terminated, the development plan shall be valid for the same period of time as was left to run on the development plan at the time that the moratorium was imposed. However, if the remaining time is less than 120 days, the development plan shall be valid for 120 days following the termination of the moratorium.

E. SUSPENSION OF TIME DURING LITIGATION. The period of time specified in Subsection A, including any extension thereof granted pursuant to Subsection C, shall not include the period of time during which a lawsuit involving the approval of the development plan or related approvals is or was pending in a court of competent jurisdiction. After service of the initial petition or complaint in the lawsuit upon the City, the applicant may advise the City of the need for a litigation tolling stay pursuant to the City's adopted procedures.

F. DEVELOPMENT PLANS ALREADY APPROVED.

1. Beginning Date – Development Plan Approvals. The adoption of this ordinance shall not alter the date of approval of a Development Plan approved prior to the adoption of this ordinance.

2. Specific Plan Development Plan Approvals. For the purposes of calculating the expiration date of a Specific Plan project Development Plan approved in accordance with Santa Barbara Municipal Code Chapter 29.30, Development Plan approvals shall be deemed to expire eight (8) years after the date of the final City action approving the project Development Plan and shall include any related project approvals or modifications granted by the City in connection therewith.

G. DISPOSITION OF FLOOR AREA ALLOCATED TO EXPIRED PROJECTS. For projects with floor area allocated from the Small Addition category, the unused floor area shall be made available for allocation to Small Addition or Community Benefit Projects, as determined by Planning Commission Resolution, upon expiration of the development plan. For projects with floor area allocated from the Community Benefit and Vacant Property categories, the unused floor area shall revert to the category from which the floor area was allocated upon expiration of the development plan. Floor area that was excluded from the development limit specified in Section 28.85.010 under the Prior-Approved or Prior-Pending categories shall expire upon expiration of the project's Development Plan and shall not be available for another allocation. (Ord. 5609, 2013.)

28.85.100 Multiple Development Plans.

When more than one valid approved development plan exists for a lot, upon issuance of a building or grading permit for any work authorized by one of the approved development plans, all other development plans approved for that lot are deemed abandoned by the property owner. No building or grading permit shall be issued for any work authorized by a development plan following abandonment of that plan. For projects with floor area allocated from the Small Addition category, any unused floor area shall be made available for allocation to the Small Addition category or the Community Benefit Project category upon abandonment of a development plan. For projects with floor area allocated from the Community Benefit and Vacant Property categories, any unused floor area shall revert to the category from which the floor area was allocated upon abandonment of a development plan. (Ord. 5609, 2013.)

Chapter 28.87

GENERAL PROVISIONS

Sections:

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28.87.380 Notice of Hearing.
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28.87.001 In General.

The regulations specified in this chapter shall be subject to the following interpretations and exceptions. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.87.005 Conflicting Regulations.

Where any provision of this chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this chapter shall govern. (Ord. 3710, 1974; Ord. 2585, 1957.)

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 and building story 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 or where the proposed expansion would otherwise be deemed precluded development as 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 expansion is allowed pursuant to this subparagraph (c) (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 are not allowed if the improvement or alteration does any of the following: 1. increases residential density, 2. increases floor area of any main or accessory building on the lot (except garages and carports), or 3. increases the amount of habitable space. 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, C-M, HRC-2, and OC Zones, where residential uses are allowed, the 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 the 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 or upper 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, including converting existing floor area to bathrooms or laundry rooms, subject to the limitations specified above regarding residential density, floor area, and habitable space;
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.

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.

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. (Ord. 5459, 2008; Ord. 5444, 2008; Ord. 5416, 2007; Ord. 5412, 2007; Ord. 5380, 2005; Ord. 5072, 1998; Ord. 4896, 1994; Ord. 4582, 1989; Ord. 4181, 1982; Ord. 3710, 1976; Ord. 3679, 1974; Ord. 2628, 1957; Ord. 2585, 1957.)

28.87.036 Nonconforming Uses Resulting from Amendments.

The provisions of this chapter shall apply to uses which become nonconforming by reason of any amendment to this title, as of the effective date of such amendment. (Ord. 3710, 1974; Ord. 2585, 1957.)

28.87.038 Reconstruction of Damaged Nonconforming Structures.

A. Nonresidential Structures. A nonconforming building or structure used for nonresidential purposes, which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy to the extent of not more than seventy-five percent (75%) of its market value immediately prior to the damage, as determined by the Community Development Director or designee, may be restored and the occupancy or use of such building, structure or part thereof which existed at the time of such partial destruction may be continued or resumed, provided that reconstruction, restoration or rebuilding shall commence within a period of one (1) year of the occurrence of the damage or destruction. The applicant shall demonstrate due diligence to complete the proposed reconstruction as determined by the Community Development Director. In the event such damage or destruction exceeds seventy-five percent (75%) of the market value of such nonconforming building or structure immediately prior to the damage, as determined by the Community Development Director or designee, no repairs or reconstruction shall be made unless every portion of such building is made to conform to all the regulations for new buildings in the zone in which it is located. The Community Development Director or designee may require the applicant to have the property appraised by a licensed real estate appraiser in order to determine the market value of such nonconforming building or structure immediately prior to the damage.

B. Residential Structures. Any nonconforming building or structure used for residential purposes, which is damaged or destroyed by fire, flood, wind, earthquake or other calamity or act of God or the public enemy may be restored or rebuilt and the occupancy and use may be continued or resumed provided the following conditions are met:

1. The net square footage of the replacement building or structure shall not exceed the net square footage of the building or structure that was legally permitted prior to the damage or destruction;
2. The number of dwelling units shall be not greater than the number existing prior to the damage or destruction;
3. In R-3, R-4, R-O, C-1, C-2, and C-M zones, the number of bedrooms per dwelling unit shall not be greater than the number existing prior to the damage or destruction;
4. The building setbacks shall not be less than those which existed prior to the damage or destruction;
5. The number of parking spaces shall be no less than the number of parking spaces in existence prior to the damage or destruction;
6. The building, plot and landscaping plans shall be reviewed and approved by the Architectural Board of Review, or the 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, or the City Council on appeal, if such review would normally be required, except as allowed in this Section;
7. Any such reconstruction, restoration or rebuilding shall conform to all applicable adopted Uniform Codes in effect at the time of reconstruction, unless otherwise excused from compliance as a historic structure, pursuant to the Uniform Code for Building Conservation;
8. All permits required under the California Building Code as adopted and amended by the City shall be obtained. The Community Development Director or designee shall review and determine prior to issuance of said permits that the plans conform to the above;
9. Plans existing in the City's archives shall be used to determine the size, location, use, and configuration of nonconforming buildings and structures. Notwithstanding anything to the contrary above, if a property owner proposes to rebuild the building or structure in accordance with the City's archive plans, a building permit shall be the only required permit or approval. However, any exterior alterations shall be subject to design review, if such review would normally be required by the Santa Barbara Municipal Code. If plans do not exist in the City's archives, the City shall send a notice to all owners of property within 100 feet of the subject property, advising them of the details of the applicant's request to rebuild, and requesting confirmation of the size, location, use, and configuration of the nonconforming building that is proposed to be rebuilt. The public comment period shall be not less than 10 calendar days as calculated from the date that the notice was mailed.
10. The building permit for the reconstruction, restoration or rebuilding must be issued within three (3) years of the occurrence of the damage or destruction. (Ord. 5503, 2009; Ord. 5451, Section 5, 2008; Ord. 5072, 1998; Ord. 4851, 1994; Ord. 3916, 1977; Ord. 3915, 1977; Ord. 3710, 1974.)

28.87.045 Demolition and Replacement of Potentially Hazardous Nonconforming Buildings Which are Subject to the Seismic Safety Ordinance.

A. **OWNER MAY ELECT TO DEMOLISH AND REPLACE.** This section applies to potentially hazardous, nonconforming buildings which are required to, but have not yet complied with Chapter 22.18 of this Code as of the effective date of this amendment. An owner of a potentially hazardous, nonconforming building may elect to demolish that building, and construct a new building in order to meet the requirements of the Seismic Safety Ordinance provided that:

1. If the potentially hazardous, nonconforming building is a Landmark designated pursuant to the authority of Chapter 22.22, demolition of that building shall comply with the requirements contained in Chapter 22.22; and

2. The amount of interior building space (i.e., square footage) shall not be greater than the amount which is contained within the existing building; however, nothing herein shall preclude an addition of square footage pursuant to Chapter 28.85 of this Title; and

3. Setbacks shall not be less than those which currently exist; and

4. The number of parking spaces shall be no less than the number of parking spaces which currently exist; and

5. The number of stories in the building shall be no more than the number of stories which currently exist or which are allowed in the zone, whichever is greater; and

6. Any other existing elements or uses of the building or property which do not conform with the current applicable requirements of the Municipal Code shall not be increased or expanded, but may be retained; and

7. The building, site and landscaping plans shall be subject to the review and approval of the Architectural Board of Review, or the 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, or the City Council on appeal.

Nothing herein shall be deemed to exempt such demolition and replacement of a building from full compliance with the requirements of Charter Section 1506 with respect to the height of buildings in certain zones.

B. **TENANT RELOCATION ASSISTANCE PLAN.** Prior to an approval of the demolition of a residential hotel project pursuant to the provisions of this Section, the property owner shall submit a proposed Tenant Relocation Assistance Plan. The plan, which shall be subject to the review and approval of the Planning Commission shall include, but not be limited to, the following components:

1. **Notice**: A certification that each non-transient tenant will receive a written Notice of Displacement not less than 180 days prior to issuance of a demolition permit for the unit occupied by that tenant.

2. **Relocation Services**: A description of how the property owner will provide relocation services to assist non-transient tenants in finding and securing suitable and comparable replacement housing.

3. **Relocation Assistance**: A description of the amount of monetary assistance (either in the form of cash, a rent credit or other similar credit or free relocation services or a combination thereof) each non-transient tenant will receive prior to the actual displacement of that tenant.

4. **Schedule for Implementation**: A relocation implementation schedule indicating when completion of the Tenant Relocation Plan will be accomplished.

C. **PLANNING COMMISSION REVIEW**. The Planning Commission shall hold a public hearing to review any request to demolish a nonconforming, potentially hazardous building, and construct a new building which may retain one or more nonconformities pursuant to this Subsection. The public hearings shall be held pursuant to Section 28.92.050 of this Title.

1. **Notice of Planning Commission Public Hearing**. Not less than 10 days before the date of the Planning Commission Public Hearing, a notice of the date, time and place of such hearing, the location of the property and the nature of the request shall be given in the following manner, unless otherwise directed by the Planning Commission:

a. By publishing once in a newspaper of general circulation in the City; and

b. By mailing a notice, postage prepaid, to the applicant, to each member of the Planning Commission, to the owners of all property within 300 feet of the exterior boundaries of the property involved, using for this purpose the last known name and address of such owners as shown upon the last Assessment Roll of the County of Santa Barbara.

If the proposed project involves the demolition of a residential hotel, a notice shall be mailed to all tenants of the residential hotel not less than 28 days before the date of the Planning Commission Public Hearing.

2. **Findings**. The Planning Commission may approve the demolition and replacement of such buildings upon finding that:

a. Seismic upgrading of the building is necessary to increase the level of public safety in the event of an earthquake; and

b. Demolition and replacement of the nonconforming building is the most effective method of significantly increasing the level of public safety for the building occupants and the community; and

c. The new building or uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved; and

d. Adequate access and circulation is provided in a manner so that the demands of the new development are adequately met without adversely altering the character of the public streets, sidewalks and walkways in the area; and

e. The appearance of the developed site in terms of the arrangement, size, bulk, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area; and

f. If the project involves the demolition of nonconforming residential hotels, the Tenant Relocation Assistance Plan is adequate to meet the needs of the tenants of the residential hotel which is proposed for demolition and replacement.

g. The parking demands of the replacement project (when contrasted with the demands of the demolished project) do not create a new and significant adverse impact on the parking resources located in the area of the project. If the replacement project results in a new and significant adverse impact on parking resources, the applicant shall make reasonable efforts to mitigate the impact. In such cases, the Planning Commission, or City Council on appeal, shall consider the parking impacts and proposed mitigation measures and may override the impacts if the benefits of the project outweigh the impact. (Ord. 5609, 2013; Ord. 5380, 2005; Ord. 4984, 1996.)

28.87.060 Swimming Pool Requirements.

In any zone that has required setbacks, a swimming pool shall not be located closer than 15 feet to a front lot line or closer than five feet (5') to an interior lot line unless the zone in which the pool is to be constructed has a smaller setback; then, the pool shall observe this lesser setback. The setback shall be measured from the front and interior lot lines to the closest water area of the pool. (Ord. 3804, 1975; Ord. 2585, 1957.)

28.87.062 Setback, Open Yard, Common Outdoor Living Space, and Distance Between Main Buildings Encroachments.

A. Where setbacks, open yards, common outdoor living space, and minimum distances between main buildings are required in this title, they shall be not less in depth or width than the minimum dimensions specified for any part, and they shall be at every point unobstructed by structures from the ground upward, except as follows:

1. Encroachments allowed in the specific zone.
2. Cantilevered architectural features at least three feet (3’) above adjacent grade or finished floor (whichever is higher), and which do not provide additional floor space within the building (such as cornices, canopies, or eaves), or chimneys may encroach up to two feet (2'). However, no cantilevered architectural feature or chimney shall be located closer than three feet (3’) from any property line, except roof eaves, which may be located as close as two feet (2’) from any property line.
3. Uncovered balconies not providing additional floor space within the building may encroach up to two feet (2’). However, an uncovered balcony shall not encroach into an interior setback on a lot located in any single family zone.
4. 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 perpendicularly to the highest point of the solar energy system), a roof eave, may encroach the same amount as the roof eave.

B. The following structures may encroach into setbacks as specified:

1. Decks that are no more than 10 inches (10”) in height above existing grade may encroach into any setback.
2. Uncovered porches, terraces and outside steps, not extending above the finished floor level of the first floor, may encroach up to three feet (3') into any interior setback.
3. Covered or uncovered entrance landings not extending above the finished floor level of the ground floor and not exceeding three feet (3’) measured in perpendicular dimensions (excluding the area under any handrail required under the California Building Code as adopted and amended by the City) may encroach three feet into any setback.
4. Bay windows at least three feet (3’) above adjacent grade or finished floor (whichever is higher), and which do not provide additional floor space within the building may encroach up to two feet (2') into the front setback.
5. Accessible uncovered parking spaces, access aisles, and accessibility ramps necessary to make an existing building accessible to persons with disabilities may encroach into required setbacks to the extent reasonably necessary to accommodate the existing building. This encroachment is not available for new buildings or additions to existing buildings where the addition precludes the development of a conforming accessible improvement.

C. The following types of structures may encroach into the required open yard in the One-Family Residence Zone and the Two-Family Residence Zone (SBMC Section 28.15.060.C and 28.18.060.C.1 and 3a) or common outdoor living space in the R-3/R-4 Zones (SBMC Section 28.21.081.A.3 and 28.21.081.B), provided the total area of all such structures on the property does not occupy more than 20% of the total required open space or common outdoor living space on the lot, that no structure or structures occupy more than 20% of any individual area of required open space or common outdoor living space (if provided in multiple locations):

1. Detached, unenclosed structures (e.g., gazebos, trellises, hot tubs, spas, play equipment, or other freestanding structures).
2. Unenclosed structures which are attached to a wall or walls of a main building (e.g., patio covers, trellises, canopies, or other similar structures).

D. The following types of structures may encroach into the required minimum distance between main buildings on the same lot. However, at no time shall any structure be located closer than five (5) feet to any other structure on the lot, with the exception of: planters less than ten (10) inches in height above finished grade, fences, walls, and roof eaves.

1. Detached accessory structures.
2. Uncovered parking.
3. Planters less than ten (10) inches in height from finished grade.
4. Paving.

5. Fences, hedges, and walls.
6. Uncovered bicycle parking areas including bicycle racks and posts, but excluding bicycle locker parking.
7. The following structures may encroach a maximum of three feet:
a. Balconies, decks, porches, and terraces that do not provide additional floor area. These improvements may be roofed or unroofed. If such improvements are provided above the first floor, they must be cantilevered, and the area below the structure shall not be enclosed.
b. Structures built to enclose trash, recycling, water heaters, or water softeners.
c. Exterior stairways, as long as the stairways are not enclosed by solid walls.
(Ord. 5630, 2013; Ord. 5459, 2008; Ord. 5416, 2007; Ord. 5412, 2007; Ord. 2585, 1957.)

28.87.080 Location of Building.

Except where otherwise provided for in this title, every main building shall face or have frontage upon a public street or permanent means of access to a street. (Ord. 2585, 1957.)

28.87.140 Buildings Under Construction.

Any building or structure for which a building permit has been issued, and actual construction has begun, prior to the effective date of this title, may be completed and used in accordance with the plans, specifications and permits on which said building permit was granted, if construction is diligently prosecuted to completion, and provided further that such building or structure shall be completed within two (2) years from the effective date of this chapter. (Ord. 2585, 1957.)

28.87.150 Dwelling and Other Occupancies.

A. **DWELLING UNIT MINIMUM FLOOR AREA REQUIREMENTS**. Every dwelling unit hereafter created shall contain not less than four hundred (400) square feet of usable floor area. Such usable floor area shall be exclusive of open porches, garages, basements, cellars and unfinished attics.
B. **EXCEPTION FOR AFFORDABLE EFFICIENCY DWELLING UNITS.** For projects constructed or operated by a nonprofit or governmental agency providing housing as an "Affordable Housing Cost" to "Lower Income Households" (as those terms are defined in sections 50052.5 and 50079.5 of the state Health and Safety Code), the City may permit efficiency dwelling units (as defined in Section 310.7 of the California Building Code as adopted and amended by the City) for occupancy by no more than two persons who qualify as either very low or low income households at the time of their initial occupancy under circumstances where the unit will have a minimum useable floor area (excluding floor area in the kitchen, bathroom and closet) of not less than 150 square feet. In all other respects, such efficiency dwelling units shall conform to the minimum standards specified in the California Building Code (2001 Edition) and other applicable provisions of this Code. (Ord. 5459, 2008; Ord. 5336, 2004; Ord. 4912, 1995; Ord. 4225, 1983; Ord. 4152, 1982; Ord. 3680, 1974.)

28.87.160 Accessory Buildings.

The following regulations shall apply to the size and location of accessory buildings unless otherwise provided in this title.
A. No detached accessory buildings in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3 or R-4 Zones may exceed two (2) stories or thirty feet (30') in height.
B. Setback requirements contained in this title shall apply to all accessory buildings and structures as well as main buildings and structures, except that no accessory buildings, except garages, shall be located in a front yard.
C. Accessory buildings, excluding garages, shall not have a total aggregate floor area in excess of 500 square feet.
D. Garages in the A-1 and A-2 Zones shall not have a total aggregate floor area in excess of 750 square feet. Garages in the E-1, E-2, E-3, and R-1 Zones shall not have a total aggregate floor area in excess of 500 square feet, except that garages on lots in excess of 20,000 square feet shall not have a total aggregate floor area in excess of 750 square feet. (Ord. 5459, 2008; Ord. 4780, 1992; Ord. 3788, 1975; Ord. 2585, 1957.)

28.87.170 Fences, Screens, Walls and Hedges.

A. DEFINITIONS. As used in this Section 28.87.170, the following terms and phrases shall have the indicated meanings:
1. **Arbor**. An open structure typically constructed of latticework or metal that often provides partial shade or support for climbing plants, sometimes referred to as a trellis or pergola. An arbor is not considered an accessory building.
2. **Fence**. An upright structure serving as an enclosure, barrier, or boundary or that visually divides or conceals a parcel, usually made of posts, boards, wire, or rails.
3. **Hedge**. A row of closely planted shrubs, bushes, or any other kind of plant material that forms a boundary or substantially continuous visual barrier.

4. **Parkway**. An area between the curb and sidewalk in a fully improved right-of-way, typically landscaped.

5. **Screen**. Vegetation, including, but not limited to, trees, shrubs, bushes, and other plantings, that visually divides or conceals a parcel.

6. **Wall**. An upright structure of masonry, wood, plaster, or other building material serving to enclose, divide, or protect an area.

B. GENERAL RULES. The following guidelines and standards apply in any zone within the City:

1. **Guidelines**. The Fences, Screens, Walls and Hedges Guidelines, as adopted by resolution of the City Council, shall provide direction and guidance to decision makers and City staff in connection with applications reviewed pursuant to this Section.

2. **Required Reduction for Safety**. If the height of any fence, screen, wall or hedge obstructs the sightlines required for the safe operation of motor vehicles, the Public Works Director (or Director's designee) may declare the fence, screen, wall or hedge to be a public nuisance and require the reduction of the height of the fence, screen, wall or hedge in order to provide for the safe operation of motor vehicles.

3. **Height Measurement**. The height of a fence, screen, wall or hedge shall be measured in a vertical line from the lowest point of contact with the ground directly adjacent to either side of the fence, screen, wall or hedge to the highest point of the fence, screen, wall or hedge along said vertical line.

4. **Separation**. Unless there is a horizontal separation of at least five feet (5') between a fence, screen, wall or hedge, the combined height of a fence, screen, wall or hedge and any adjacent fence, screen, wall or hedge shall be measured from the lowest point of the lowest such fence, screen, wall or hedge to the highest point of other fences, screens, walls or hedges.

5. **Schools**. A chain link or open mesh type fence of any height necessary to enclose an elementary or high school site may be located and maintained in any required yard.

6. **Barbed Wire, Concertina Wire, Sharp Wire or Points**. No barbed wire or concertina wire shall be used or maintained in or about the construction of a fence, screen, wall or hedge along the front or interior lot lines of any lot, or within three feet (3') of said lot lines. No sharp wire or points shall project at the top of any fence or wall less than six feet (6') in height.

C. RULES APPLICABLE TO FENCES AND WALLS ON RESIDENTIALLY-ZONED PARCELS. On parcels zoned A-1, A-2, A-3, E-1, E-2, E-3, R-1, R-2, R-3, or R-4, the following standards apply to fences and walls:

1. **Required Setbacks**. Except as otherwise provided in this Section, no fence or wall located in the required setbacks shall exceed a height of eight feet (8').

2. **Front Lot Lines**. Except as otherwise provided in this Section, no fence or wall located within ten feet (10') of a front lot line shall exceed a height of three and one-half feet (3-1/2').

3. **Driveways**. Except as otherwise provided in this Section, no fence or wall exceeding a height of three and one-half feet (3-1/2') shall be located within a triangular area on either side of a driveway as follows:

a. When a driveway directly abuts a portion of a street improved with a sidewalk and a parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line.

b. When a driveway directly abuts a portion of a street without a sidewalk or parkway, the triangle is measured on two sides by a distance of twenty feet (20') from the side of a driveway and ten feet (10') back from the front lot line.

4. **Corner Lots**. Within the required "Intersection Sight Distance", as depicted in the Fences, Screens, Walls and Hedges Guidelines, no fence or wall may obstruct the sightlines required for the safe operation of motor vehicles. This paragraph does not apply to parcels located adjacent to intersections controlled by an all-way stop.

5. **Guardrails**. A guardrail may extend above the maximum height limit for a fence or wall without requiring an exception or modification, only to the minimum extent required for safety by the California Building Code, and only if the guardrail is predominately transparent.

6. **Decorative Elements**. Notwithstanding the above provisions, decorative elements not wider than nine inches (9") by nine inches (9"), such as pilaster caps, finials, posts, lighting fixtures, or similar decorative features as determined by the Community Development Director (or the Director's designee), may exceed the maximum height of any fence or wall by not more than twelve inches (12"), provided such features are spaced not less than six feet (6') apart, measured on-center.

7. **Entryway Arbors**. Notwithstanding the above provisions, one entryway arbor, substantially open (no solid walls or roof) and not exceeding a maximum of eighteen (18) square feet in area and eight feet (8') in height, is permitted in any front yard. The square footage of the arbor shall be determined by the area located within the rectangle formed around the posts of the arbor or the roof portion of the arbor, whichever dimension is larger. This exception shall only apply to an entryway arbor used in combination with and attached to a fence or wall. No arbor shall be located on a street corner in conflict with the provisions of Section 28.87.170.C.4.

D. RULES APPLICABLE TO SCREENS AND HEDGES ON RESIDENTIALLY-ZONED PARCELS. On parcels zoned A-1, A-2, A-3, E-1, E-2, E-3, R-1, R-2, R-3, or R-4, the following standards apply to screens and hedges:

1. **Required Setbacks**. Except as otherwise provided in this Section, no screen or hedge located in the required setbacks shall exceed a height of eight feet (8').

2. **Front Lot Lines**. Except as otherwise provided in this Section, no screen or hedge located within ten feet (10') of a front lot line shall exceed a height of eight feet (8').

3. **Driveways**. Except as otherwise provided in this Section, no screen or hedge exceeding a height of three and one-half feet (3-1/2') shall be located within a triangular area on either side of a driveway as follows:

a. When a driveway directly abuts a portion of a street improved with a sidewalk and a parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line.

b. When a driveway directly abuts a portion of a street without a sidewalk or parkway, the triangle is measured on two sides by a distance of twenty feet (20') from the side of a driveway and ten feet (10') back from the front lot line.

4. **Corner Lots**. Within the required "Intersection Sight Distance", as depicted in the Fences, Screens, Walls and Hedges Guidelines, no screen or hedge may obstruct the sightlines required for the safe operation of motor vehicles. This paragraph does not apply to parcels located adjacent to intersections controlled by an all-way stop.

E. ADMINISTRATIVE REVIEW AND APPROVAL OF MINOR EXCEPTIONS.

1. **Exceptions to the Fence and Wall Standards by the Community Development Director**. The Community Development Director (or the Director's designee) may grant minor exceptions, as specified in the Fences, Screens, Walls and Hedges Guidelines, to Paragraphs C.1, C.2, C.5, C.6, and C.7 above, if the Community Development Director finds that:

a. If the subject fence or wall is located on, or within the required setback of, an interior property line, the adjacent property owner(s) that share a common property line nearest to the fence or wall have agreed to the requested exception;

b. The granting of such exception will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles;

c. As applicable, the subject fence or wall will be compatible with other similarly situated and approved structures in the neighborhood; and

d. The granting of such exception will not be detrimental to the use and enjoyment of other properties in the neighborhood.

2. **Exceptions to the Screen and Hedge Standards by the Community Development Director**. The Community Development Director (or the Director's designee) may grant minor exceptions, as specified in the Fences, Screens, Walls and Hedges Guidelines, to Paragraphs D.1 and D.2 above, if the Community Development Director finds that:

a. If the subject screen or hedge is located on, or within the required setback of, an interior property line, the adjacent property owner(s) that share a common property line nearest to the screen or hedge have agreed to the requested exception;

b. The granting of such exception will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles;

c. The screen or hedge will be compatible with the character of the neighborhood (the Community Development Director may seek advice from the appropriate design review body when considering this finding);

d. The proposed height of the screen or hedge will respect the height limitation applicable to structures for the protection of solar access as specified in Section 28.11.020 of this Code; and

e. The granting of such exception will not be detrimental to the use and enjoyment of other properties in the neighborhood.

3. **Exceptions to Corner Lot and Driveway Sightline Standards by the Public Works Director**. The Public Works Director (or the Director's designee) may grant minor exceptions, as specified in the Fences, Screens, Walls and Hedges Guidelines, to Paragraphs C.3, C.4, D.3 and D.4 above, if the Public Works Director finds that:

a. The granting of such exception will not create or exacerbate an encroachment into the necessary sightlines for safe operation of motor vehicles; and

b. The granting of such exception will not be detrimental to the use and enjoyment of the other properties in the neighborhood.

F. NONCONFORMING. Any fence, screen, wall or hedge which is nonconforming to the provisions of this section and which existed lawfully on January 10, 1957 (the effective date of the ordinance adopting the provisions of this section), may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence or wall, except as permitted in other sections of this title. A hedge shall be determined to be nonconforming by the Community Development Director upon receipt of sufficient evidence indicating that the hedge existed in its present location on January 10, 1957. Notwithstanding the foregoing, no more than ten percent (10%) of the length of a nonconforming fence or wall may be replaced within any twelve-month period, unless: 1) such fence or wall is a significant structure or feature associated with a designated City Landmark or Structure of Merit and the extent of repair or maintenance occurs pursuant to Santa Barbara Municipal Code Section 22.22.070; or 2) such fence or wall is necessary to retain or support soil in a vertical or near vertical slope of earth. If a nonconforming fence, screen, wall or hedge has been determined to be a safety hazard by the Public Works Director, the Public Works Director (or Director's designee) may declare the fence, screen, wall or hedge to be a public nuisance and require the reduction of the height of the fence, screen, wall or hedge in order to provide for the safe operation of motor vehicles.

G. RELATIONSHIP WITH THE VIEW DISPUTE RESOLUTION PROCESS. The fact that a hedge or screen does not violate the standards set forth in this Section 28.87.170 or the fact that a property owner has received an administrative exception or modification from the standards set forth in this Section for a hedge or screen shall not preclude another property owner from alleging an unreasonable obstruction of a view and availing himself or herself of the protections and procedures of the City's View Dispute Resolution Process found in Chapter 22.76 of this Code. (Ord. 5650, 2014; Ord. 5459, 2008; Ord. 4162, 1982; Ord. 3513, 1972; Ord. 3234, 1967; Ord. 2585, 1957; Ord. 2346, 1951.)

28.87.180 Recreational Vehicles, Mobilehomes and Modular Units.

A. **RESIDENTIAL USE OF RECREATIONAL VEHICLES AND MOBILEHOMES**. No recreational vehicle shall be used or occupied for living or sleeping purposes unless it is located in a recreational vehicle park and complies with all provisions of any ordinance of the City of Santa Barbara regulating such park.

B. **TEMPORARY OVERNIGHT USE**. Notwithstanding subsection (A) above or any other provision of this Code, the overnight use of a paved parking area by the registered owner of a recreational vehicle (as defined in Section 18010 of the state Health & Safety Code) is allowed under the following expressly limited circumstances:

1. **Church and Nonprofit Parking Lots**. A church or other public benefit nonprofit corporation (which utilizes its real property for a permitted church or nonprofit institutional use) may allow the overnight use of an adjacent paved vehicular parking portion of their real property by the registered owner of a recreational vehicle as a transitional housing alternative under the following limited circumstances:

a. Such overnight use does not conflict with express conditions imposed by the City on a permit for the church or non-profit institutional use.

b. No more than five (5) recreational vehicles are on the church or institutional real property for overnight accommodation use at any one time.

c. During the overnight use, each recreational vehicle is sited at a location not less than fifty (50) feet from any real property being used for residential purposes.

d. Such recreational vehicles are properly and currently licensed for operation on the highway in accordance with the California Vehicle Code.

e. The church or non-profit organization has sole and exclusive control of the parking being used for this purpose.

f. The church or non-profit organization makes adequate and sanitary bathroom facilities (as approved by the Santa Barbara County Health Officer) available to the occupants of the recreational vehicles.

g. No rent is received by the church or non-profit organization for this overnight accommodation use, as the term "rent" is defined in SBMC Section 26.08.030(N).

h. The owner of the RV has been issued a permit for such use of the RV by a non-profit entity designated by the City for supervising the Safe RV Parking Program and designated by the City to assist such RV owners in transitioning to permanent housing.

2. **Parking of RVs in Certain Areas of Certain Zones**. An owner of real property in the M-1 zone, north of the U.S. Highway 101, and the C-M zone, east of Santa Barbara Street to the City limits (as depicted on the map attached to this chapter entitled "RV Overnight Parking in Certain Areas of M-1 and C-M Zones, Dated February 6, 2007"), may allow the overnight use of a paved parking portion of their real property by the registered owner of a recreational vehicle as a transitional housing alternative under the following limited circumstances:

a. Such overnight use does not conflict with express conditions imposed by the City on a use permit for the use of the real property.

b. No more than one (1) recreational vehicle is on the real property for overnight accommodation use at any one time.

c. During the overnight use, each recreational vehicle is parked at a location not less than fifty (50) feet from any real property being used for residential purposes.

d. Such recreational vehicles are properly and currently licensed for operation on the highway in accordance with the California Vehicle Code.

e. The owner of the real property makes adequate and sanitary bathroom facilities (as approved by the Santa Barbara County Health Officer) available to the occupants of the recreational vehicles.

f. No rent is received by the owner of real property for this overnight accommodation use, as the term "rent" is defined in SBMC Section 26.08.030(N), so long as the occupant of the recreational vehicle serves as night-time security personnel.

g. The owner of the RV has been issued a permit for such use of the RV by a non-profit entity designated by the City for supervising the Safe RV Parking Program and designated by the City to assist such RV owners in transitioning to permanent housing.

3. **City Parking Lots**. The recreational vehicle being used is located within a City public parking lot as such lots (including the locations thereon) as may be designated by a resolution of the City Council under use conditions and permit restrictions which shall be expressly established in the City Council resolution. Such Council resolution shall also establish criteria for and a process to certify the continuing need for the occupants of a recreational vehicle to use the recreational vehicle as a transitional housing alternative pending an eventual transition to an acceptable and safe housing alternative.

C. **COMMERCIAL USE**. No recreational vehicle, mobilehome, or modular unit shall be used for office, retail or any other commercial purpose except in the following situations:

1. A recreational vehicle or mobilehome may be used as a sales office for a new or used recreational vehicle or mobilehome sales business if such recreational vehicle or mobilehome is on the same lot or parcel of land where the business is located and if, on such same lot or parcel of land, new or used recreational vehicles or mobilehomes, other than that used for a sales office, are normally kept for display to the public;

2. A recreational vehicle or mobilehome may be used as a sales office for a new or used auto sales business conducted on the same lot or parcel of land in areas other than a City designated landmark district;

3. A recreational vehicle or mobilehome may be used as a construction building or office at the site of a construction project for the duration of such project;

4. A mobilehome in a residential zone may be used for the conduct of a home occupation upon the same conditions and regulations as apply to single family residences in the zone;

5. A modular unit or mobilehome in a residential zone may be used for temporary office purposes in connection with the use of real property as a dedicated public park provided that the owner of the property or the operator of the park has received the required City approvals to construct a permanent park office building and all of the following conditions exist:

a. All required building permits are obtained.

b. Each modular unit or mobilehome is located outside the construction zone.

c. No required parking spaces are eliminated by the placement of the modular units or mobilehome.

d. No retail sales are made from the modular units.

6. One or more modular units may be used during the term of a construction project by employees of an existing business which has been displaced due to the project, provided all of the following conditions exist:

a. All required building permits are obtained.

b. Each modular unit is located outside the construction zone.

c. No required parking spaces are eliminated by the placement of the modular units.

d. No retail sales are made from the modular units.

7. A mobilehome or modular unit may be used as an office for the initial sale, rental or leasing of lots and dwellings in a project on the site provided all of the following conditions exist:

a. All required building permits are obtained.

b. All necessary street improvements and off-street parking spaces are provided to the satisfaction of the Public Works Director and Community Development Director.

c. The sales office is closed after a period of two years, unless the time period is extended by the Community Development Director.

8. A modular unit or mobilehome in a residential zone may be used for interim fire protection purposes in connection with the use of City Fire Station No. 7 (Sheffield/Stanwood Station) provided that such use complies with the requirements of Santa Barbara Municipal Code Section 28.15.040. (Ord. 5411, 2007; Ord. 5368, 2005; Ord. 5275, 2003; Ord. 5222, 2002; Ord. 4525, 1988; Ord. 4269, 1984; Ord. 3710, 1974; Ord. 3001, 1964.)

28.87.190 Storage.

A. No portion of any front yard or any required interior setback, open yard, private outdoor living space or front porch shall be used for the permanent storage of motor vehicles, trailers, airplanes, boats, parts of any of the foregoing, appliances, loose rubbish or garbage, junk, tents, garbage or rubbish receptacles, building materials, compost pile, or any similar item, except as hereinafter provided. Permanent storage, as used in this section, shall mean storage for a period of forty-eight (48) or more consecutive hours.

B. No portion of any vacant or undeveloped lot in a residential zone where no main building exists shall be used for permanent storage.

C. Building materials for use on the same premises may be stored thereon during the time that a valid permit is in effect for construction on the premises. (Ord. 5459, 2008; Ord. 3710, 1974; Ord. 3115, 1966.)

28.87.200 Landscape or Planting Plan Approvals - Standards.

Whenever in the Zoning Ordinance, as amended, the administrative duty of reviewing and approving landscaping or planting plans is placed upon any officer or employee of the City, such officer or employee may disapprove such plans, or any part of them, if:

1. Any or all of the proposed plant materials are of the type having root structures which, in their natural and anticipated extension and growth and in relation to their location as shown on the plans, may damage or interfere with the normal use and enjoyment of:

a. Public or private lines, cables, conduits, pipes or other underground structures; or

b. Public or private sidewalks, curbs, gutters or hard surfaced roads, streets, driveways, parking and turn around areas, easements or like things designed and constructed to accommodate vehicles; or

c. Contiguous, adjacent or abutting structures, foundations or landscape materials.

2. Any or all of the proposed plant materials:

a. Are noxious or dangerous to persons or domestic animals; or

b. Exude or emit substances or things which because of proposed location will probably injure or damage real or personal property in the area of their effect; or

c. Are weeds which bear seeds of a downy or wingy nature.

3. Any or all of the proposed plant materials, because of proposed location and type, will contribute to the spread of or make more hazardous the possibility of a brush or forest fire; or

4. Any or all of the proposed plant materials which are designed for relatively permanent emplacement will probably die because of proposed locations unrelated to their ecological requirements; or

5. Any or all of the proposed plant materials, as affected by normal growth, will probably block the view, sunlight or fresh air flow otherwise available at a window or other opening in the walls of a building on the property or of a building on adjacent property; or

6. Any or all of the proposed plant materials are so arranged or placed so as not to produce the aesthetic result desired by the property owner; or

7. Any or all of the proposed plant materials are in such combinations as to promote a natural competition for the elements necessary to their healthy growth and thus seriously affect their stability or permanence; or

8. Any or all of the proposed plant materials, as affected by normal growth, will tend to become a nuisance to or otherwise interfere with the free use and enjoyment of neighboring property; or

9. Any or all of the proposed plant materials, as affected by normal growth, and with reference to their proposed location, will probably become obstructions to the vision of vehicle operators or to other uses of public streets and places, as such obstructions are defined and regulated under provisions contained in the Code of the City of Santa Barbara. (Ord. 3710, 1974; Ord. 3008, 1964.)

28.87.205 Automobile Service Stations - Site Development Regulations.

For the promotion and preservation of the health, safety, peace and general mental, economic and physical welfare, the following regulations, in addition to other requirements of law, are established for automobile service station site development, primarily to provide opportunity for the dissipation of and to reduce noise, glare or lights and gas and oil fumes, to provide safe barriers between adjacent pedestrian ways and vehicle maneuvering areas on the site, and to provide adequate separation from adjoining residential properties so as to preserve their residential amenities and incidentally, to carry out such primary purposes in a manner that will enhance and assure maintenance of the aesthetic appeal of service station sites to aid and preserve the unique character and quality of the environment of the City which draws tourists and visitors, consequently, both directly and indirectly promoting the business of service station owners and operators as well as benefitting the general economy of the City of which the tourist and visitor element is of predominant importance.

1. When a lot is developed for automobile service station purposes, the following requirements shall be met:

a. Where such lot abuts property used or zoned for residential purposes, such lot shall be separated from such abutting property by an ornamental masonry wall six feet (6') high; provided that from the front property line to a depth along the abutting lot line of twenty feet (20') such wall shall be three feet (3') high. There shall also be provided individual planting areas no less than five feet (5') square along and adjacent to the side of such wall which faces the service station facilities, such planting areas to be planted with trees.

b. Where such lot abuts property other than that used or zoned for residential purposes there shall be provided individual planting areas no less than five feet (5') square along and adjacent to such property, such planting areas to be planted with trees.

c. Along and abutting all street rights-of-way, except in those areas encompassed within the driveway exits and entrances, there shall be provided planted planter areas three (3) or more feet wide.

d. No part of any building or structure or any part of a parked vehicle shall be permitted to protrude or intrude into any required planting areas from ground level up. Parking spaces shall be provided with approved tire stops, bumper stops or other barriers for this purpose.

e. Except where buildings abut planting areas, all planting areas shall be separated from adjoining unplanted areas by a curb that is no less than four inches (4") above pavement level.

f. All planting areas shall be maintained in a manner that will sustain normal growth.

2. Prior to the issuance of a building permit for an automobile service station, a planting plan showing above required planting areas, showing that the requirements of this section have been met, and showing compliance with the following additional matters shall be submitted to the Architectural Board of Review, or the 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, for a determination that all of such requirements and matters have been met and upon such determination, approved:

a. The plan shall show the botanical and common names of the plants to be used, their number, and proposed spacing and location.

b. The plan shall show combinations of trees and shrubs or ground cover. Ground covers or shrubs alone are not acceptable as a separation from adjoining residential property, but will be sufficient for areas abutting streets.

c. The plan shall show all parking spaces, paved areas and driveways.

d. The plan shall show an adequate method of irrigating all planted areas. Irrigation may be by a permanent watering system or by hose.

3. Approval upon final inspection under a building permit shall not be given until the approved planting has been completed to the satisfaction of the Chief of Building and Zoning or his delegate.

4. Compliance with Section 28.87.205 shall not be required for automobile service stations and automobile service station/mini-markets that have a conditional use permit issued pursuant to Subsection 28.94.030.U of this Code. (Ord. 5380, 2005; Ord. 4851, 1994; Ord. 4033 §7, 1980; Ord. 3710, 1974; Ord. 3034, 1965.)

28.87.210 Substandard Lots Created by Action of Public Agency.

Where any existing parcel of land is reduced in size or lot dimensions below those required by this title by reason of the acquisition of a portion thereof along any perimeter of such parcel for any public purpose by any public agency, such parcel as so reduced shall be considered as conforming to the provisions of this title as a legal lot. In such case, minimum lot area and lot dimensions required by this title shall not apply. Lot area per dwelling unit requirements and all other provisions of this title shall apply. This section shall not apply to property acquired by a public agency as part of subdivision or lot split proceedings. (Ord. 3710, 1974; Ord. 3040, 1965.)

28.87.220 Zoning Information Report.

A. **STATEMENT OF LEGISLATIVE INTENT.**

These regulations are intended to require a Zoning Information Report for purchasers of residential property, setting forth matters of City record pertaining to the authorized use, occupancy, zoning and the results of a physical inspection of the property. Primary purpose of the report is to provide information to the potential buyer of residential property concerning the zoning and permitted use of the property.

B. **DEFINITIONS.**

1. "Owner" shall mean any person, co-partnership, association, corporation or fiduciary having legal or equitable title or any interest in any real property.

2. "Residential property" shall mean any improved real property, designed or permitted to be used for any residential purpose, situated in the City and shall include the building or structures located on said improved real property.

3. "Agreement of sale" shall mean any agreement or written instrument which provides that title to any property shall thereafter be transferred for consideration from one (1) owner to another owner.

C. **REPORT REQUIRED.**

1. **Application.** Except where a sale is exempt from the requirements of this section pursuant to Subsection G below, no later than five (5) days after entering into an "agreement of sale" of any residential property, the owner or owner's authorized representative shall make application to the City for a Zoning Information Report to the Community Development Director on a form provided, and pay a fee as established by resolution of the City Council.

Under normal circumstances the report will be available no later than fifteen (15) working days after the application is received by the Community Development Director.

2. **Copy to Buyer.** Said owner or owner's authorized representative shall provide a copy of the report to the buyer or buyer's authorized representative no later than three (3) days prior to consummation of the transfer of title. The buyer or buyer's authorized representative may waive in writing the requirement for delivery three (3) days prior to consummation of the transfer of title but in any event the report shall be provided to the buyer or buyer's authorized representative prior to the consummation of the transfer of title.

3. **Proof of Receipt.** Proof of receipt of a copy of the report shall be obtained by the owner or owner's authorized representative prior to consummation of the transfer of title. Said proof shall consist of a statement signed by the buyer or buyer's authorized representative stating that the report has been received, the date of the report and the date it was received. City shall provide a receipt form with each zoning information report. The original of the signed proof of receipt shall be mailed or delivered to the Community Development Director of the City no later than the consummation of the transfer of title.

D. **CONTENTS OF ZONING INFORMATION REPORT.**

The Community Development Director shall review the applicable City records and provide the applicant the following information on the Zoning Information Report:

1. Street address and parcel number of the property.

2. The zone classification and permitted uses as set forth in the Zoning Ordinance of the City of Santa Barbara.

3. Occupancy and use permitted as indicated and established by records.

4. Variance, special use permits, conditional use permits, modifications and other administrative acts of record.

5. Any special restrictions in use or development which are recorded in City records and may apply to the property.

6. Any known nonconformities or violations of any ordinances or law.

7. The results of a physical inspection for compliance with the Zoning Ordinance and for compliance with Chapter 14.46 of this Code.

8. A statement of whether the real property has had a Building Sewer Lateral Report prepared for the real property pursuant to the requirements of Santa Barbara Municipal Code Chapter 14.46 within the five (5) year period prior to the preparation of the Zoning Information Report and, if so, that a copy of the Building Sewer Lateral Report is available from the City for the buyer's inspection. All Zoning Information Reports shall also contain an advisory statement (in bold not less than 10 point typeface) prepared by the Public Works Director which advises a purchaser of residential real property regarding the potential problems and concerns caused by an inadequate, failing, or poorly-maintained Building Sewer Lateral. In addition, the standard required advisory statement shall indicate the advisability of a purchaser obtaining a recently-prepared Building Sewer Lateral Inspection Report.

E. **VIOLATION OF LAW NOT PERMITTED.**

Any report issued pursuant to this section shall not constitute authorization to violate any ordinance or law, regardless of whether the report issued pursuant to this section purports to authorize such violation or not.

F. **EXPIRATION OF REPORT.**

Each report shall be valid for a period of twelve (12) months after date of issue or until a transfer of title occurs, whichever is sooner.

G. **EXEMPTIONS.**

The provisions of this section shall not apply to the following sales:

1. The first sale of each separate residential building located in a subdivision where the final subdivision or parcel map has been approved and recorded in accordance with the Subdivision Map Act not more than two (2) years prior to the first sale.

2. The sale of any residential property on which a new home is under construction pursuant to a valid building permit; or

3. The sale of any residential property where the final building permit inspection on a new home was issued within three (3) months of the date on which the owner entered into the agreement for the sale of a home to the buyer.

4. The sale of a condominium unit.

H. **EFFECT OF NONCOMPLIANCE.**

It shall be unlawful for any owner to consummate the transfer of title to any residential property without providing the transferee with a Zoning Information Report as required in this Section 28.87.220. The failure to comply with the provisions of this Section shall not invalidate the transfer or conveyance of real property to a bona fide purchaser or encumbrancer for value. (Ord. 5537, 2010; Ord. 5396, 2006; Ord. 4932, 1995; Ord. 4106, 1981; Ord. 3986, 1979; Ord. 3843, 1976; Ord. 3826, 1976.)

28.87.230 Zoning Plan Check - Fee.

Prior to issuance of a building permit, the development and construction plans shall be reviewed to determine consistency with the Zoning Ordinance. Application for a zoning plan check shall be accompanied by the fee in the amount established by resolution of the City Council. (Ord. 3955 §4, 1978.)

28.87.240 Drive-Through Facility.

No new or expanded drive-through facility shall be permitted in any zone of the City. Existing financial institution drive-through facilities may be replaced in kind with automated teller machines as long as the number of drive-through lanes does not increase. (Ord. 4837, 1993; Ord. 4001, 1979.)

28.87.250 Development Along Creeks.

A. Legislative Intent. The purpose of this Section is to provide controls on development adjacent to the bed of Mission Creek within the City of Santa Barbara. These controls are necessary:

1. to prevent undue damage or destruction of developments by flood waters;

2. to prevent development on one parcel from causing undue detrimental impact on adjacent or downstream properties in the event of flood waters;

3. to protect the public health, safety and welfare.

B. Limitation on Development. No person may construct, build, or place a development within the area described in Subsection 28.87.250.C unless said development has been previously approved as provided in Subsection 28.87.250.E.

C. Land Area Subject to Limitation. The limitations of this Section shall apply to all land within the banks and located within twenty-five (25) feet of the top of either bank of Mission Creek within the City of Santa Barbara.

"Top of bank" means the line formed by the intersection of the general plane of the sloping side of the watercourse with the general plane of the upper generally level ground along the watercourse; or, if the existing sloping side of the watercourse is steeper than the angle of repose (critical slope) of the soil or geologic structure involved, "top of bank" shall mean the intersection of a plane beginning at the toe of the bank and sloping at the angle of repose with the generally level ground along the watercourse. The angle of repose is assumed to be 1.5 (horizontal) : 1 (vertical) unless otherwise specified by a geologist or soils engineer with knowledge of the soil or geologic structure involved.

"Toe of bank" means the line formed by the intersection of the general plane of the sloping side of the watercourse with the general plane of the bed of the watercourse.

D. Development Defined. Development, for the purposes of this Section, shall include any building or structure requiring a building permit; the construction or placement of a fence, wall, retaining wall, steps, deck (wood, rock, or concrete), or walkway; any grading; or, the relocation or removal of stones or other surface which forms a natural creek channel.

E. Approval Required. Prior to construction of a development in the area described in Subsection 28.87.250.C, the property owner shall obtain approvals as follow:

1. Any development subject to the requirement for a building permit shall be reviewed and approved by the Chief of Building and Zoning or the Planning Commission on appeal prior to the issuance of a building permit.

2. Any development not requiring a building permit shall be reviewed and approved by the Chief of Building and Zoning or his designated representative or the Planning Commission on appeal. A description of the development shall be submitted showing the use of intended development, its location, size and manner of construction.

F. Development Standards. No development in the area subject to this Section shall be approved unless it is found that it will be consistent with the purposes set forth in Subsection 28.87.250.A.

1. The Chief of Building and Zoning or the Planning Commission on appeal shall consider the following in determining whether the development is consistent with Subsection 28.87.250.A:

a. That the proposed new development will not significantly reduce existing floodways, re-align stream beds or otherwise adversely affect other properties by increasing stream velocities or depths, or by diverting the flow, and that the proposed new development will be reasonably safe from flow-related erosion and will not cause flow-related erosion hazards or otherwise aggravate existing flow-related erosion hazards.

b. That proposed additions, alterations or improvements comply with Subparagraph 1.a above.

c. That proposed reconstruction of structures damaged by fire, flood or other calamities will comply with Subparagraph 1.a above, or be less nonconforming than the original structure and will not adversely affect other properties.

d. The report, if any, of a qualified soils engineer or geologist and the recommendations of the Santa Barbara County Flood Control and Water Conservation District.

e. After review of that report, whether denial of approval would cause severe hardship or prohibit the reasonable development and use of the property.

2. The Chief of Building and Zoning, or the Planning Commission on appeal may consider the following factors as mitigating possible hazards which might otherwise result from such development:

a. Where the development is located on a bank of the creek which is sufficiently higher than the opposite bank to place the development outside a flood hazard area.

b. Where the creek bed adjacent to the development is sufficiently wide or the creek bank slope sufficiently gradual that the probability of flood hazard is reduced.

c. Where approved erosion or flood control facilities or devices have been installed in the creek bed adjacent to the development.

d. Where the ground level floor of the development is not used for human occupancy and has no solid walls.

e. Where the development is set on pilings so that the first occupied floor lies above the 100-year flood level, and such pilings are designed to minimize turbulence.

3. The Chief of Building and Zoning or the Planning Commission on appeal may allow development into required setbacks if he makes the finding that the encroachment would not be necessary except for the development controls required by this section and that the modification of the required setback is necessary to secure an appropriate improvement on a lot, to prevent unreasonable hardship or to promote uniformity of improvement.

G. Procedures. The following procedures shall apply to developments in the area defined in Subsection 28.87.250.C:

1. All applicants shall receive an environmental assessment.

2. All applications shall be referred to the Santa Barbara County Flood Control and Water Conservation District and the City Public Works Department for review and comment.

3. Upon completion of the above review and comment, the proposed development shall be reviewed by the Chief of Building and Zoning as provided in Subsection 28.87.250.E. The Chief of Building and Zoning shall give the applicant and any other person requesting to be heard, an opportunity to submit oral and/or written comments to him prior to his decision. The Chief of Building and Zoning shall send by mail notice of his decision to the applicant. The decision of the Chief of Building and Zoning shall be final unless appealed by the applicant or any interested person to the Planning Commission within ten (10) days by the filing of a written appeal with the Department of Community Development. The Department of Community Development shall schedule the matter for a hearing by the Planning Commission and shall mail the applicant and any interested person requesting notice written notice of the hearing ten (10) days before the hearing. The decision of the Planning Commission shall be final. (Ord. 5459, 2008; Ord. 4056, 1980.)

28.87.260 Antenna Height Limitation.

A. Basic Height Limitation. Except as otherwise conditionally permitted herein, no radio, television or other antenna or mast or related screening shall be permitted if at the highest point the height above grade is more than forty-five (45) feet in any one-family or two-family residence zone, fifty-five (55) feet in any multiple-family residence, office, restricted or limited commercial zone or seventy (70) feet in any other commercial, commercial-manufacturing or limited manufacturing zone.

B. Exceptions. Permitted exceptions to height limits:

1. Amateur or Citizen's Band Antennas. Amateur or Citizen's Band transmitting or receiving antennas used in the Amateur Radio Service or the Citizen's Radio Service by licensed amateur or citizen's band radio operators may exceed the basic height limitation provided that:

a. No antenna tower shall extend to a height above grade of more than sixty-five (65) feet in any residential, office, restricted or limited commercial zone or one hundred (100) feet in any other commercial or manufacturing zone.

b. No antenna support which is not a tower or part of a tower shall be installed and thereafter maintained whose height above grade is more than forty-five (45) feet unless such support is a part of an approved structure or a naturally existing object.

2. Cellular Telephone and Emergency Service Antennas. A Cellular Telephone or Emergency Service Antenna and related screening may exceed the basic height limitation provided that it is placed on an existing building and the top of the antenna is no more than fifteen (15) feet above the highest point of the building. (Ord. 4891, 1994; Ord. 4851, 1994; Ord. 4147, 1982.)

28.87.270 Emergency Service Antennas.

Emergency Service antennas shall be a permitted use in all zones. (Ord. 4891, 1994.)

28.87.280 Automated Teller Machines.

A. PROHIBITION ADJACENT TO RESIDENTIAL ZONES. Except as provided in Subsection B. of this Section, Automated Teller Machines (ATMs) shall not be installed, operated or maintained under the following circumstances:

1. Where the ATM is located on a parcel that is immediately adjacent to a parcel zoned for residential purposes, and

2. Where the ATM is less than one hundred feet from the lot line of the adjacent residentially zoned lot, and

3. Where the ATM is either:

a. Located on an exterior wall of a structure, which wall is visible from the adjacent residential lot, or

b. Accessible through a door installed in such an outside wall which is open other than during normal hours of the business which otherwise is conducted in said building.

B. NONCONFORMING ATMs; AMORTIZATION PERIOD. Any Automated Teller Machine existing on the effective date of the ordinance first enacting this Section 28.87.280 and which is located as described in Subsection A hereof shall be either removed, or moved to a location that conforms to the provisions of Subsection A hereof within six years of the date of its original installation. During such six (6) year period, such ATM must also comply with the following conditions:

1. Such ATM shall not be replaced, improved or upgraded during said period, and

2. Such ATM and associated security lighting shall not be operated between the hours of 10:00 p.m. and 7:00 a.m. daily.

3. An illuminated sign stating the hours of operation of the ATM shall be placed in a location visible to potential users of the ATM, subject to Chapter 22.70 (Sign Ordinance) of this Title. (Ord. 5072, 1998.)

28.87.290 Seasonal Holiday Sales.

Notwithstanding any provisions of this Title to the contrary, the annual retail sale of Christmas trees or Halloween pumpkins (holiday sales) is permitted in the C-P, C-2, C-M, M-1, and P-D zones subject to the following requirements:

A. The person, firm, or organization conducting holiday sales shall first obtain a permit from the Community Development Department. The Community Development Department shall develop appropriate application requirements for holiday sales permits.

B. No holiday sales permitted under this section shall be maintained or operated for more than six weeks.

C. The space in which holiday sales are conducted shall not displace any parking spaces or loading areas required for other uses on the lot pursuant to this Code.

D. The operator of the holiday sales shall comply with all other applicable provisions of the Santa Barbara Municipal Code, including, but not limited to, the Sign Ordinance, the Outdoor Lighting Ordinance, applicable Building and Fire Codes, and any applicable design review of buildings or structures.

E. The lot on which the holiday sales are conducted shall be restored to the condition in which it existed prior to the conduct of the holiday sales within one week following the respective holiday. (Ord. 5459, 2008.)

28.87.300 Cannabis Cultivation.

A. Definitions.

For the purposes of this section, the following words and phrases shall be defined as set forth below:

1. "Cannabis" shall have the meaning set forth in California Business and Professions Code section 19300.5(f), the Medical Marijuana Regulation and Safety Act, as it was enrolled in 2015 in A.B. 266.

2. "Commercial" shall have the meaning set forth in section 28.04.180 of the Zoning Ordinance.

3. "Cultivation" shall have the meaning set forth in California Business and Professions Code section 19300.5(l) of the Medical Marijuana Regulation and Safety Act, as it was enrolled in 2015 in A.B. 266.

4. "Cultivation site" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

5. "Parcel" shall have the meaning set forth in section 28.04.515 of the Zoning Ordinance.

6. "Personal Medical Use" shall mean non-commercial cannabis cultivation by a qualified patient for their personal use.

7. "Qualified Patient" shall have the meaning set forth in California Health and Safety Code section 11362.7, and shall not include primary caregivers.

8. "Residential unit" shall have the meaning set forth in section 28.04.590 of the Zoning Ordinance.

B. Cannabis Cultivation for Personal Medical Use. A qualified patient is permitted to engage in indoor or outdoor cannabis cultivation for personal medical use on a single contiguous cultivation site, existing in a horizontal plane not exceeding a footprint of one hundred (100) square feet in area, in any zone, provided that the parcel is occupied by the qualified patient living in a lawful residential unit, but in no event may more than one cultivation site be permitted at any single lawful residential unit.

C. Commercial Cannabis Cultivation Prohibited. Commercial cannabis cultivation for any purpose or use is prohibited in all zones.

D. All Other Cannabis Cultivation Prohibited. Except to the extent expressly permitted by this section, cannabis cultivation of any kind and for any purpose shall not be construed as a permitted agricultural or other use in any zone under the Zoning Ordinance.

E. Permissive Zoning. For the purposes of California Health and Safety Code section 11362.777(b)(3), the Zoning Ordinance shall be construed as establishing permissive zoning so that cannabis cultivation is permitted only where expressly allowed by this section.

F. Nuisance. Nothing in this section shall be construed to permit the establishment or maintenance of any use which constitutes a public nuisance. (Ord. 5733, 2016.)

28.87.360 Abandonment and Revocation of Staff Hearing Officer or Planning Commission Approvals.

A. ABANDONMENT OR NON-USE OF APPROVAL. The validity of a Staff Hearing Officer or Planning Commission action approving a modification, conditional use permit, variance, or Performance Standard Permit shall terminate if (i) a building permit for the use authorized by the approval is not issued within twenty-four (24) months of granting the approval, unless an extension is granted by the Community Development Director, and the construction authorized by the permit diligently pursued to completion and issuance of a Certificate of Occupancy, or (ii) the use authorized by the approval is discontinued, abandoned or unused for a period of six (6) months following the earlier of (a) issuance of a Certificate of Occupancy for the use, or (b) two (2) years from granting the approval.

B. SUSPENSION OF TIME DURING LITIGATION. The period of time specified in Subsection A shall not include the period of time during which a lawsuit involving the approval of the modification, conditional use permit, variance, or Performance Standard Permit or related approvals is or was pending in a court of competent jurisdiction. After service of the initial petition or complaint in the lawsuit upon the City, the applicant may advise the City of the need for a litigation tolling pursuant to the City's adopted procedures.

C. VIOLATION OF CONDITIONS OF APPROVAL. If the conditions of approval of any variance, modification, conditional use permit or performance standard permit have not been met within any time limits established in such conditions, or have been violated as determined by the Community Development Director, the Staff Hearing Officer or Planning Commission may revoke these permits or approvals. A decision to revoke shall be made following a hearing, using the same noticing requirements that were applicable to the original permit or application.

D. APPEALS.

1. A decision of the Staff Hearing Officer to revoke a permit or other approval under this Section may be suspended or appealed pursuant to Section 28.05.020.

2. A decision of the Planning Commission to revoke a permit or other approval under this Section may be appealed to the City Council pursuant to Chapter 1.30. 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 Planning Commission regarding a decision of the Staff Hearing Officer shall be provided in the same manner as notice was provided for the hearing before the Planning Commission. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council. (Ord. 5537, 2010; Ord. 5380, 2005; Ord. 4532, 1988).

28.87.370 Timelines for Projects with Multiple Approvals.

A. **TIMELINES TRACK LONGEST LAND USE APPROVAL.** If a project requires multiple discretionary applications pursuant to Titles 22, 27 or 28 of this Code, the expiration date of all discretionary approvals (i.e., such as Title 22 design review, Title 27 subdivision map approval, or Title 28 land use approvals) shall correspond with the longest expiration date specified by any of the land use discretionary applications (including any extensions that are granted for such approval and any applicable tolling or suspensions granted pursuant to this Chapter), unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the longest discretionary land use approval related to the application, unless otherwise specified by state or federal law.

B. **EXCLUSIONS OF TIME.** The periods of time specified in this Section 28.87.370 shall not include any period of time during which either: 1. a moratorium ordinance on the issuance of building permits, imposed by the City after the project received project design approval, is or was in effect; or 2. a lawsuit involving the project design approval or the land use approvals for the project is or was pending in a court of competent jurisdiction. The maximum length of any exclusion of time under this subsection shall be five (5) years. If the project requires the approval of a tentative subdivision or parcel map pursuant to Title 27 of this Code, the length of any exclusion of time pursuant to this subsection shall be equal to the length of the exclusion approved by the local agency upon a request of the subdivider pursuant to Government Code Section 66452.6(c) and subsection (F) of SBMC 27.07.110.

C. **APPROVALS RUN CONCURRENTLY.** When any City discretionary approval is extended by operation of this Section 28.87.370, such approval shall run concurrently with, not consecutively to, the term of the longest discretionary land use approval for the project. If a building permit for the project has not been issued prior to the expiration of the longest discretionary land use approval for the project (including any extensions granted for that approval), all discretionary approvals for the project shall expire and become null and void upon the expiration of the longest discretionary land use approval. A design review approval shall not operate to extend a land use approval.

D. **COMMENCEMENT OF TIMING FOR APPROVALS CONTINGENT UPON ACTION OF OTHER GOVERNMENTAL BODIES.** When a discretionary approval by the City made pursuant to Titles 27 or 28 is contingent upon an action by another governmental body (i.e., for example, the approval of an annexation by the Local Agency Formation Commission or certification of an amendment to the Local Coastal Plan by the California Coastal Commission), the timeline for all discretionary approvals related to the project shall not commence until all such outside agency contingencies are satisfied. The suspension of project timelines allowed in this subsection shall not exceed two (2) years from the date of the final City action on the discretionary approval that is contingent upon the action of another governmental body. This suspension shall not run consecutively to a moratorium or litigation exclusion unless the moratorium or litigation legally prevented the applicant from processing the application before the other governmental body. (Ord. 5537, 2010; Ord. 5380, 2005.)

28.87.380 Notice of Hearing.

When a provision of this Code requires notice of a public hearing to be given pursuant to this Section, said notice shall comply with the following provisions:

A. REQUIRED MANNER OF NOTICE. Notice shall be given in each of the following ways:

1. Notice of the hearing shall be sent by first class mail at least 10 calendar days prior to the hearing to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant; and

2. Notice of the hearing shall be sent by first class mail at least 10 calendar days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the hearing. If the number of owners to whom notice would be mailed pursuant to this paragraph is greater than 1,000, the City, in lieu of mailed notice, may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the City at least 10 calendar days prior to the hearing; and

3. Notice of the hearing shall be published once in a newspaper of general circulation within the City at least 10 calendar days prior to the hearing.

B. ADDITIONAL NOTICING METHODS. In addition to the required manners of notice specified in Subsection A above, the City may also require notice of the hearing in any other manner it deems necessary or desirable, including, but not limited to, posted notice on the project site. However, the failure of any person or entity to receive notice given pursuant to these additional noticing methods shall not constitute grounds for any court to invalidate the actions of the City for which the notice was given.

C. CONTENT OF NOTICE. The notice shall include all of the following information:

1. The date, time, and place of the public hearing;
2. The identity of the hearing body or officer;
3. A general explanation of the matter to be considered; and
4. A general description, in text or by diagram, of the location of the real property, if any, that is the subject of the hearing.

D. REQUEST FOR NOTICE. When a provision of this Code requires notice of a public hearing to be given pursuant to this Section, the notice shall also be mailed at least 10 days prior to the hearing to any person who has filed a written request for notice with either the City Clerk or with any other person designated to receive such requests. The City may charge a fee for providing this service as set by resolution of the City Council. Any request to receive such notice shall be renewed annually. The members of the Planning Commission shall receive notice of all public hearings scheduled before the Staff Hearing Officer.

E. CONTINUANCES. Any public hearing noticed pursuant to this Section may be continued to a time certain without further notice. (Ord. 5380, 2005.)

28.87.400 Density Bonus and Development Incentives.

A. INTENT. The intent of this section is to provide incentives for the development of housing affordable to very-low income, low income, senior and other qualifying households. State law mandates the provision of density bonuses to senior, very-low, and low income households under certain circumstances. The City of Santa Barbara has created a separate density bonus program for certain other households. Both the State mandated and City created density bonus programs use terms defined in this section.

B. DEFINITIONS. The following words and phrases have the meaning indicated unless the context or usage clearly requires a different meaning:

1. Density. The number of residential units allowed on a parcel based on the lot area requirements specified in the zone and General Plan.

2. Density Bonus. A density increase over the otherwise maximum allowable residential density under the applicable Zoning Ordinance and Land Use Element of the General Plan as of the date of application by the developer to the City.

C. PROJECTS WHICH MEET THE CRITERIA SET FORTH IN STATE DENSITY BONUS LAW.

1. Qualifying housing developments as defined in Government Code Section 65915. When a developer of housing agrees or proposes to construct at least:

a. 20% of the total units of a housing development for low income households; or

b. 10% of the total units of a housing development for very low income households; or

c. 50 percent of the total dwelling units of a housing development for senior citizens;

The applicant must submit the project for review by the Community Development Director or his/her designee to determine whether the project meets the criteria set forth in State density bonus law. If the Director determines that the project meets the criteria of State law, the project may be granted a density bonus and at least one other incentive as required by State law, and processed as required by State law unless otherwise requested by the applicant. The incentives and processing provisions required by State law are described in Government Code Section 65915.

2. Procedure for review of projects submitted under State density bonus law. A project which meets all the requirements of State law shall be processed according to the usual discretionary review procedure, subject to the following exceptions:

a. LOT AREA MODIFICATION. Notwithstanding any other section in this Code, when a proposed project complies with all of the requirements of State density bonus law, and the density bonus requested is no more than the density bonus mandated by State law, the Community Development Director or his/her designee shall deem the project's density consistent with the Zoning Ordinance, and exempt from the requirement for a lot area modification as set forth in Section 28.92.110.

b. NOTICE OF DESIGN REVIEW BOARD HEARING. When the Community Development Director determines that a proposed project meets all the requirements of State law and the requirements of the residential zoning category in which the project is proposed, and does not cause any unavoidable, significant, environmental impacts, and requires design review as its only City discretionary approval, the appropriate Design Review Board (Historic Landmarks Commission or Architectural Board of Review) will review the project. Notice of the meeting at which the project is considered by the Design Review Board will be provided in accordance with the requirements for noticing of public hearings in Municipal Code Section 28.92.060.

D. PROJECTS WHICH DO NOT MEET THE CRITERIA SET FORTH IN STATE DENSITY BONUS LAW.

1. Qualifying housing developments. When a developer proposes a development which does not meet the criteria listed above and requests a density bonus, the Community Development Director or his/her designee will review the project for consistency with the criteria of the City's density bonus program, described in the City of Santa Barbara Affordable Housing Policies and Procedures Manual. If the proposed project is determined to be consistent with the criteria of the City's density bonus program, it will be approved or disapproved under the provisions of that program.

2. Procedures for approval of projects which are consistent with the City density bonus program. A project which does not meet all the requirements of State law, but does meet the standards of the City density bonus program will be processed according to the discretionary review procedures in effect and applicable to the project. (Ord. 5380, 2005; Ord. 4912, 1995.)

28.87.500 Denial of Affordable Housing Projects.

A. Affordable Housing Projects May Be Denied by the Planning Commission or City Council on Appeal. If at least 20% of a housing development's units are sold or rented to low income households, and the balance of the units are sold or rented to either low- or moderate-income households, it shall not be disapproved or conditioned in a manner which renders the project infeasible for development for the use of low- and moderate-income households unless the decision making body finds, based upon substantial evidence, one of the following, pursuant to California Government Code Section 65589.5:

1. The project is not needed for the City to meet its share of the regional need of low and/or moderate income housing as outlined in the adopted Housing Element to the General Plan; or

2. The project as proposed would have a specific, adverse impact upon the public health and safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the project unaffordable to low and/or moderate income households; or

3. Denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the project unaffordable to low and/or moderate income households; or

4. Approval of the project would increase the concentration of low income households in a neighborhood that already has a disproportionately high number of low income households and there is no feasible method of approving the development at a different site, including sites identified in the adopted Housing Element, without rendering the development unaffordable to low and/or moderate income households; or

5. The project is proposed on land zoned for resource preservation which is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project; or

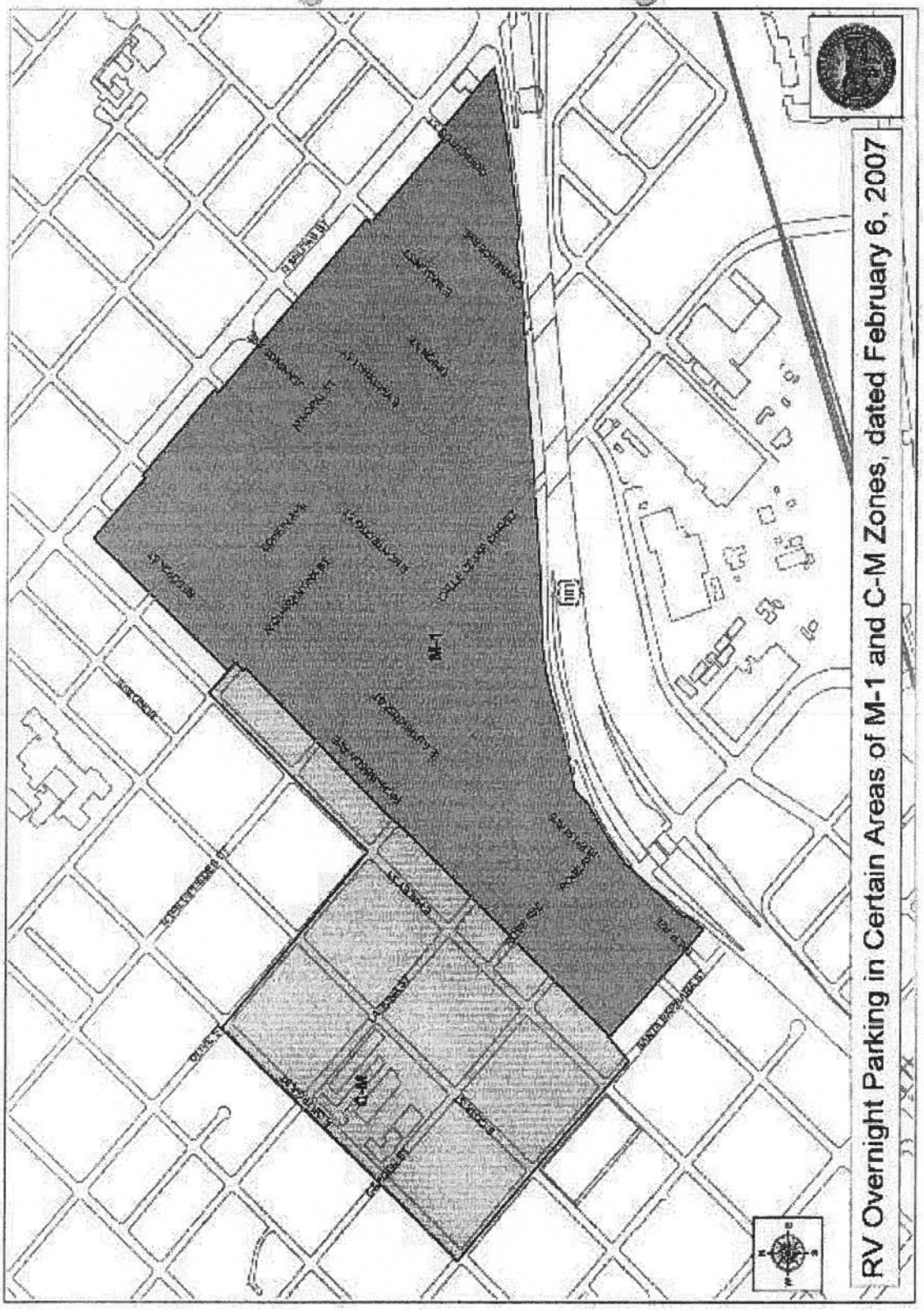
6. The project is inconsistent with the land use designation as outlined in the adopted General Plan or in any General Plan element as it existed on the date the application for the project was deemed complete.

B. Findings. When a proposed housing development project complies with the applicable General Plan, Zoning and development policies in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence in the record that both of the following conditions exist:

1. The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density, and

2. There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph 1, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(Ord. 4912, 1995.)


M-1
C-M
RV Overnight Parking in Certain Areas of M-1 and C-M Zones, dated February 6, 2007

Chapter 28.88

CONVERSION OF DWELLING UNITS TO CONDOMINIUMS, HOTELS OR SIMILAR USES

Sections:

28.88.010 Purpose.
28.88.020 Community Apartments and Stock Cooperatives.
28.88.025 Date of Conversion.
28.88.028 Permit Required; Exceptions.
28.88.029 Issuance of Permits.
28.88.030 Requirements and Procedures.
28.88.040 Physical Standards for Condominium Conversions.
28.88.045 Conversions of Dwelling Units to Hotels or Similar Uses.
28.88.050 Application Requirements for Condominium and Time Share Conversions.
28.88.055 Application Requirements for Conversions to Hotels or Similar Uses.
28.88.060 Additional Submittals for Conversions to Condominiums or Hotel Units.
28.88.070 Acceptance of Reports.
28.88.080 Copy to Buyers.
28.88.090 Hearing.
28.88.100 Tenant Protection Provisions.
28.88.110 Effect of Proposed Conversion on the City's Low- and Moderate-Income Housing Supply.
28.88.120 Findings.
28.88.130 Maximum Number of Conversions.

28.88.010 Purpose.

A. To establish criteria for the conversion of existing multiple family rental housing to condominiums, community apartments, cooperative apartments, hotels or similar uses.

B. To reduce the impact of such conversions on residents in rental housing who may be required to relocate due to the conversion of apartments to condominiums, community apartments, and stock cooperatives, hotels or similar uses by providing procedures for notification and adequate time and assistance for such relocation.

C. To insure that the purchasers of converted housing have been properly informed as to the physical condition of the structure which is offered for purchase.

D. To insure that converted housing achieves high quality appearance and safety, and is consistent with the goals of the City's General Plan and conforms or is legally nonconforming with the density requirements of the General Plan's Land Use Element.

E. To attempt to balance the opportunity for housing ownership of all types, for all levels of income and in a variety of locations with the need to maintain a supply of rental housing which is adequate to meet the housing needs of the community.

F. To attempt to maintain a supply of rental housing for low and moderate income persons and families. (Ord. 4716, 1991; Ord.4606, 1989; Ord. 4199, 1983; Ord. 4014 §1, 1979; Ord. 4000 §2, 1979.)

28.88.020 Community Apartments and Stock Cooperatives.

Conversion to community apartments and stock cooperatives shall be subject to the same restrictions, conditions, and requirements as condominiums. All references to a "condominium" in this Chapter shall be deemed to include community apartment, and stock cooperative, except where specifically noted. (Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.025 Date of Conversion.

As used in this Chapter, the "date of conversion" for condominium conversions shall mean the date the final or parcel map for the project is filed with the County Recorder following its approval by the Staff Hearing Officer or Planning Commission or, if an appeal is filed, by the City Council. For hotels or similar uses, the "date of conversion" is the date of issuance of the conversion permit by the Chief Building Official after the Staff Hearing Officer or Planning Commission, or the City Council on appeal, approves the conversion. (Ord. 5380, 2005; Ord. 4606, 1989; Ord. 4199, 1983;Ord. 4048, 1980; Ord. 4000 §2, 1979.)

28.88.028 Permit Required; Exceptions.

A. **PERMIT REQUIRED.** No person, firm, corporation, partnership or other entity shall convert existing dwelling units to a condominium, hotel or similar use without first having said conversion approved by the Planning Commission or the City Council on appeal, and having been issued a conversion permit by the Chief Building Official. For conversions of dwelling units to condominium units, the body that shall serve as the Advisory Agency for the required subdivision, as specified in Section 27.03.010 of this Code, shall review the application for the conversion pursuant to this Chapter 28.88.

B. **EXCEPTIONS TO REQUIREMENTS FOR CONVERSION PERMITS.**

The following shall be exempt from the provisions of this Chapter:

1. A project creating a condominium, hotel or similar use and using no more than one (1) existing dwelling unit as part of said project shall not be considered a conversion. To qualify for this exception, the number of dwelling units on the project site shall not have been previously reduced by use of this exception clause. For the purposes of this exclusion, the number of existing dwelling unit(s) shall be determined on the date of application for the permit. If the project calls for destruction of the structure housing the dwelling unit(s), those units shall not be counted as existing unit(s).

2. A stock cooperative or community apartment which has received final approval from the California Department of Real Estate or has otherwise been legally created prior to the adoption date of the ordinance establishing this Chapter.

No exception under this Subsection shall affect the applicability of the Zoning Ordinance, the California Building Code as adopted and amended by the City, or other applicable ordinances or regulations. (Ord. 5451, Section 5, 2008; Ord. 5380, 2005; Ord. 4716, 1991: Ord.4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.029 Issuance of Permits.

The Chief of Building and Zoning shall issue a conversion permit when he determines that:

A. The applicant has complied with all the applicable City or State regulations in effect at the time the conversion application was deemed to be complete, and

B. The applicant has complied with the conditions of approval.

Once issued, the conversion permit can be revoked only because of the failure of the applicant or his successors in interest to comply with the conditions of approval.

An approval shall expire if the tentative subdivision map expires. For hotels or similar uses, an approval shall expire in the same period of time as projects requiring a tentative map unless a conversion permit has been issued by the Chief of Building and Zoning. (Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4048, 1980; Ord. 4000 §2, 1979.)

28.88.030 Requirements and Procedures.

No existing building containing a dwelling unit shall be approved for conversion to a condominium or hotel unless it meets the standards set forth in the following requirements:

A. All residential buildings shall, on the date of conversion, be in compliance with the minimum standards of the Uniform Housing Code as adopted by the City of Santa Barbara and those of the State of California.

B. All buildings shall, on the date of conversion, be in compliance with the exit and occupancy requirements and the height and area requirements for the type of construction and occupancy involved as outlined in the California Building Code as adopted and amended by the City.

C. All buildings sought to be converted are, on the date of conversion, in all respects in compliance with the Zoning Ordinance and the goals and policies of the General Plan, or legally nonconforming therewith. Notwithstanding the provisions of Santa Barbara Municipal Code Section 28.87.030, any legally nonconforming building or buildings for which a condominium conversion application is approved may be remodeled or otherwise physically changed provided the changes do not increase or intensify the element of the building that is nonconforming.

D. All condominium projects differentiated from hotels or similar uses, shall be subject to all applicable provisions of the Subdivision Map Act and Title 27 of this Code.

E. Once a building permit has been issued, a building may not be converted unless the certificate of occupancy for the building was issued more than five (5) years prior to the date the owner files with the City an application for the approval of a tentative condominium map or conversion to a hotel or similar use, unless the building satisfies the City's requirements for new condominium construction. (Ord. 5451, Section 5, 2008; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.040 Physical Standards for Condominium Conversions.

To achieve the purpose of this article, the Staff Hearing Officer or Planning Commission, prior to the date of conversion, shall require that all condominium conversions conform to the Santa Barbara Municipal Code in effect at the time of approval except as otherwise provided in this Chapter. The Staff Hearing Officer or Planning Commission, prior to the date of conversion, shall require conformance with the standards of this section in approving an application for conversion.

A. **UNIT SIZE.** The enclosed living or habitable area of each unit shall be not less than 600 square feet.

B. **FIRE PREVENTION.**

1. **Smoke Detectors.** Each living unit shall be provided with approved detectors of products of combustion other than heat conforming to standards of the California Building Code as adopted and amended by the City, mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to rooms used for sleeping purposes.

2. **Maintenance of Fire Protection Systems.** All on-site fire hydrants, fire alarm systems, portable fire extinguishers, and other fire protective appliances shall be retained in an operable condition at all times, maintained by the Homeowner's Association and delineated in the Covenants, Conditions and Restrictions.

C. **SOUND TRANSMISSION.**

Wall and floor-ceiling assemblies shall conform to Title 25, California Code of Regulations, Section 1092, or its successor, or permanent mechanical equipment, including domestic appliances, which is determined by the Chief Building Official to be a potential source of vibration or noise, shall be shock mounted, isolated from the floor and ceiling, or otherwise installed in a manner approved by the Chief Building Official to lessen the transmission of vibration and noise. Floor covering may only be replaced by another floor covering that provides the same or greater insulation. The requirements of this paragraph shall not apply to a unit in a building with no other unit(s).

D. **UTILITY METERING.**

1. The consumption of gas and electricity within each unit shall be separately metered so that the unit owner can be separately billed for each utility. Each unit shall have its own electrical panel, or access thereto, for all electrical circuits which serve the unit. A gas shut-off valve shall be provided for each unit and for each gas appliance.

2. Each dwelling unit shall be served by a separate City water meter. An additional separate City meter shall be provided to serve the landscaped areas in projects that include five or more dwelling units.

3. All plumbing fixtures shall conform to the standards for water saving devices as contained in the Uniform Plumbing Code as adopted and amended by the City of Santa Barbara in Chapter 22.04 of this Code.

4. An exception to any requirement of this subsection may be granted by the Staff Hearing Officer or Planning Commission if the following requirements are met:

a. A licensed engineer has determined that compliance with the requirement cannot practically be accomplished and the applicant has included alternative measures to accomplish conservation equivalent to that which would be expected through compliance with the requirement;

b. The Public Works Director has reviewed the proposed exception and the proposed alternative measures and has concurred that equivalent conservation is likely to be accomplished as a result thereof. Measures proposed as alternatives to the water conservation requirements of this subsection may include, but are not limited to, installation of privately owned sub-meters on each dwelling unit, conversion of existing landscaped areas to conform with current standards for water conserving landscaping, and installation of additional separate City meters to serve groups of dwelling units.

E. **PRIVATE STORAGE SPACE.** 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 owner. Such space shall be accessible from the garage or parking area for the units it serves.

F. **LAUNDRY FACILITIES.** A laundry area shall be provided in each unit; or if common laundry areas are provided, such facilities shall consist of not less than one automatic washer and dryer for each five units or fraction thereof.

G. **CONDITION OF EQUIPMENT AND APPLIANCES.** The applicant shall provide written certification to the buyer of each unit on the initial sale after conversion that any dishwashers, garbage disposals, stoves, refrigerators, hot water tanks, and air-conditioners that are provided are in working condition as of the close of escrow. At such time as the Homeowner's Association takes over management of the development, the applicant shall provide written certification to the Association that any pool and pool equipment and any appliances and mechanical equipment to be owned in common by the Association is in working condition.

H. **PUBLIC EASEMENTS.** The applicant shall make provisions for the dedication of land or easements for street widening, public access or other public purpose in connection with the project where necessary and in accordance with established planned improvements.

I. **REFURBISHING AND RESTORATION.** All main buildings, structures, fences, patio enclosures, carports, accessory buildings, sidewalks, driveways, landscaped areas, irrigation systems, and additional elements as required by the Staff Hearing Officer or Planning Commission shall be refurbished and restored as necessary to achieve high quality appearance and safety.

J. **PARKING STANDARDS.** The off-street parking requirements for a conversion project shall be one and one-half (1½) parking spaces per unit for one bedroom or efficiency units and two (2) parking spaces per unit for units containing two or more bedrooms.

K. **PHYSICAL ELEMENTS.** Any physical element identified in the Physical Elements Report as having a useful life of less than two (2) years shall be replaced.

L. **OUTDOOR LIVING SPACE.** Outdoor living space for a conversion project shall be provided as required in MC §28.21.081.

M. **HANDICAPPED ACCESSIBILITY AND ADAPTABILITY.** All conversions involving five or more units shall meet the accessibility and adaptability requirements of the State Housing and Community Development Commission.

N. **EXCEPTIONS.** The Staff Hearing Officer or Planning Commission may grant an exception to the physical standards set forth in Subsections A, E, F, J , L, and M of this Section if it makes any of the following findings:

1. The economic impact of meeting the standard is not justified by the benefits of doing so.

2. The project includes design features or amenities which offset the project's failure to meet the standard.

3. The project includes provisions for low-, or moderate-income sales restrictions on the converted units beyond what is otherwise required in this Chapter that offset the project's failure to meet the standard.

4. The project's proximity to public open space could partially offset the project's lack of on-site open space. (Ord. 5451, Section 5, 2008; Ord. 5380, 2005; Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4000 §2, 1979.)

28.88.045 Conversions of Dwelling Units to Hotels or Similar Uses.

Conversion of existing dwelling units to hotels or similar uses in the R-4 Zone and zones in which R-4 uses are allowed shall be subject to all applicable Sections of this Chapter and of Chapter 28.21 of this Code. In addition, the following standards shall apply:

A. **LIGHTING.** All outdoor lighting shall be hooded or shielded so that no direct beams fall on adjacent property. When outdoor lighting is provided, indirect soft lighting and low garden lighting shall be used whenever possible, and shall be required as necessary to assure compatibility with adjacent and surrounding properties.

B. **PARKING.** Off-street parking shall be provided as required in Chapter 28.90 or Subsection 28.88.045.C.5 of this Chapter if applicable, subject to Subsection 28.88.120.I.4 of this Chapter.

C. **TIME SHARE PROJECTS.** If a proposed time share project retains kitchens in the individual units, they shall be subject to all physical standards under Section 28.88.040 of this Code. The conversion of a dwelling unit to a time share project, wherein the converted unit consists of a suite of no more than two (2) rooms and provides no individual kitchens or cooking facilities is exempt from the following Subsections of Section 28.88.040:

1. 28.88.040A. Unit Size:
2. 28.88.040D.1. Utility metering, if a water shut-off valve is provided for each unit or for each plumbing fixture in that unit;
3. 28.88.040E. Private Storage Space;
4. 28.88.040F. Laundry Facilities; and
5. 28.88.040J. Parking Standards, provided that there shall be provided one-and-one quarter (1¼) spaces for each unit. This requirement may be modified if the applicant can demonstrate that additional parking is not needed.

D. **USE OF AMENITIES - TIME SHARE PROJECTS.**

A provision shall be included in the "Declaration of Time Share Plan" or similar instrument restricting the use of the project or its amenities by individual owners/users of a unit to the period of the time share interval(s) or right-to-use. (Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4199, 1983)

28.88.050 Application Requirements for Condominium and Time Share Conversions.

In addition to such other application requirements as the Staff Hearing Officer or Planning Commission may deem necessary and those requirements as set forth in Section 28.88.030 above, no application for a conversion to condominiums or time share projects shall be accepted for any purpose unless the application includes the following:

A. A development plan of the project including:

1. The location, height, gross floor area, and proposed uses for each existing structure to remain and for each proposed new structure;
2. The location, use, and type of surfacing for all open storage areas;
3. The location and type of surfacing for all driveways, pedestrian ways, vehicle parking areas, and curb cuts;
4. The location, height, and type of materials for walls or fences;
5. The location of all landscaped areas, the type of landscaping, and a statement specifying the method by which the landscaped areas shall be maintained;
6. The location and description of all recreational facilities and a statement specifying the method of the maintenance thereof;
7. The location and size of the parking facilities to be used in conjunction with each unit;
8. The location, type and size of all drainage pipes and structures depicted or described to the nearest public drain or watercourse;
9. The location and type of the nearest fire hydrants;
10. The location, type and size of all on-site and adjacent street overhead utility lines;
11. A lighting plan of the project;
12. Existing and proposed exterior elevations;
13. The location of any provisions for any unique natural or vegetative features.

B. A physical elements report which shall include but not be limited to:

1. A report detailing the condition and estimating the remaining useful life of each element of the project proposed for conversion: roofs, foundations, exterior paint, paved surfaces, mechanical systems, electrical systems, plumbing systems, including sewage systems, swimming pools, sprinkler systems for landscaping, utility delivery systems, central or community heating and air-conditioning systems, fire protection systems including automatic sprinkler systems, alarm systems, or standpipe systems, and structural elements. Such report shall be prepared by an appropriately licensed contractor or architect or by a registered civil or structural engineer other than the owner. For any element whose useful life is less than five (5) years, a replacement cost estimate shall be provided.
2. A structural pest control report. Such report shall be prepared by a licensed structural pest control operator pursuant to Section 8516 of the Business and Professions Code.
3. A building history report including the following:
   a. The date of construction of all elements of the project;
   b. A statement of the major uses of said project since construction;

c. The date and description of each major repair or renovation of any structure or structural element since the date of construction. For the purposes of this subsection a "major repair" shall mean any repair for which an expenditure of more that $1,000 was made;

d. Statement regarding current ownership of all improvements and underlying land;

e. Failure to provide information required by subsections a. through d., inclusive, shall be accompanied by an affidavit, given under penalty of perjury, setting forth reasonable efforts undertaken to discover such information and reasons why such information cannot be obtained. (Ord. 5380, 2005; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.055 Application Requirements for Conversions to Hotels or Similar Uses.

In addition to such other application requirements as the Planning Commission may deem necessary and those requirements as set forth in Section 28.88.030 of this Code, no application for conversion of a building containing a dwelling unit to a hotel or similar use shall be accepted for any purpose unless the application includes a development plan of the project containing:

A. The location, height, gross floor area, and proposed uses for each existing structure to remain and for each proposed new structure;

B. The location and type of surfacing for all driveways, pedestrian ways, vehicle parking areas, and curb cuts;

C. The location, use, and type of surfacing for all open storage areas;

D. The location, height, and type of materials for walls or fences;

E. The location of all landscaped areas, the type of landscaping, and any proposed changes thereto;

F. The location and description of all recreational and other hotel-related facilities, and any proposed changes thereto;

G. The location and size of the parking facilities to be used in conjunction with each guest room and other related uses on-site;

H. A drainage plan for the site;

I. A lighting plan of the project;

J. Existing and proposed exterior elevations; and

K. The location of and provisions for any unique natural or vegetative site features. (Ord. 4606, 1989; Ord. 4199, 1983.)

28.88.060 Additional Submittals for Conversions to Condominiums or Hotel Units.

A. A statement of any unique provisions of the proposed Covenants, Conditions and Restrictions which would be applied on behalf of any and all owners of condominium units within the project. With regard to stock cooperatives, this submission shall consist of a summary of proposed management, occupancy and maintenance policies on forms approved by the City Attorney.

B. Specific information concerning the characteristics of any conversion project, including but not limited to the following:

1. Square footage and number of rooms in each existing and proposed unit or guest room;
2. Rental rate history for each type of unit for previous five (5) years;
3. Monthly vacancy rate for each month during preceding two (2) years;
4. Makeup of existing tenant households, including family size, length of residence, age of tenants, and whether receiving federal or state rent subsidies;
5. Names and addresses of all tenants; and
6. Applications for conversion to time share projects shall include the length of every time share interval and maintenance period.

When the developer can demonstrate that such information is not available, this requirement may be modified by the Community Development Department.

C. The developer shall submit evidence that notification of intent to convert was sent to each tenant in accordance with Section 28.88.100.

D. Any other information which, in the opinion of the Community Development Department, will assist in determining whether the proposed project will be consistent with the purposes of this article. (Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.070 Acceptance of Reports.

The final form of the Physical Elements Report and other documents shall be as approved by the Chief Building Official. The reports in their acceptable form shall remain on file with the Community Development Department for review by any interested persons. The report shall be referenced in the subdivision report to the Staff Hearing Officer or Planning Commission. (Ord. 5380, 2005; Ord. 4606, 1989; Ord. 4000 §2, 1979.)

28.88.080 Copy to Buyers.

The seller shall provide each purchaser of a condominium or time share unit with a copy of all reports (in their final, acceptable form), along with the Department of Real Estate Final Subdivision Public Report, when required, except the information required by Subsections B. and C. of Section 28.88.060, prior to the purchaser completing an escrow agreement or other contract to purchase a unit in the project, and the developer shall give the purchaser sufficient time to review the reports. Copies of the reports shall be made available at all times at the sales office and shall be posted at various locations, as approved by the City, at the project site. (Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000, 1979.)

28.88.090 Hearing.

A. **TENANT NOTICE.** Prior to action on the application, the Staff Hearing Officer or Planning Commission shall hold a hearing. Notice of the hearing shall be mailed at least ten (10) days prior to the hearing date to tenants of the proposed conversion and posted on the property. The public hearing notice shall include, in addition to the notice of the time and place of the public hearing, notification of the tenant's rights to appear and be heard.

B. **STAFF REPORT.** Any report or recommendation from the staff on a proposed tentative map for a residential condominium conversion submitted to the Staff Hearing Officer or Planning Commission or City Council on appeal shall be in writing and a copy shall be sent to the subdivider at least six (6) calendar days prior to any hearing or action on the map by the Staff Hearing Officer or Planning Commission and City Council. The subdivider shall be responsible for providing a copy of any such report to each tenant of the subject property at least three (3) days prior to any hearing or action on such map by the Staff Hearing Officer, Planning Commission or City Council. (Ord. 5380, 2005; Ord. 4606, 1989; Ord. 4199,1983; Ord. 4000, 1979.)

28.88.100 Tenant Protection Provisions.

A. **NOTICE OF INTENT.** A notice of intent to convert shall be provided to each tenant a minimum of sixty (60) days prior to the filing of the application for Tentative Map approval. Notice shall be provided either by (i) personal delivery, or (ii) mailing the notice, postage prepaid, by certified letter with return receipt requested. Evidence of compliance with this Section shall be submitted with the application for conversion. The form of the notice shall be as approved by the Community Development Department and shall contain at a minimum the following:

1. Name and address of current owner;
2. Name and address of the proposed subdivider;
3. Approximate date on which the tentative map/conversion permit application is proposed to be filed;
4. Tenant's right to purchase condominium, if applicable;
5. Tenant's right of notification to vacate;
6. Tenant's right of termination of lease;
7. Statement of limitations on rent increase;
8. An explanation of all provisions made by the subdivider for special cases;
9. An explanation of all provisions made by the subdivider for moving expenses of displaced tenants;
10. Tenant's right to receipt of notice for each hearing and right to appear and be heard at any such hearing; and
11. Other information as may be deemed necessary by the Community Development Department.

B. **TENANT'S RIGHT TO PURCHASE.**

1. As provided in Government Code Section 66427.1 (d) any present tenant or tenants of any unit shall be given an exclusive right to contract for the purchase of the unit occupied or equivalent unit at a price no greater than the price offered to the general public or terms more favorable to the tenant, whichever is less. The exclusive right to contract shall extend for at least ninety (90) days from the date of issuance of the Subdivision Public Report or commencement of sales, whichever date is later, unless the tenant gives prior written notice of his or her intention not to exercise the right.

2. In addition, the present tenant or tenants shall have the right of first refusal to purchase the unit occupied or equivalent unit at the same price as that offered by a buyer and accepted by the applicant, whenever such accepted price is lower than the price required to be offered to the tenant under Paragraph B.1 of this Subsection. The tenant must exercise the tenant's right of first refusal within forty-five (45) days of receipt of notice from the applicant.

3. If the tenant exercises his right to purchase under this Subsection, then the applicant is not required to provide moving expenses as outlined in Subsection G of this Section, except to the extent required by State law.

4. The manner in which any exclusive right to contract or right of first refusal shall be exercised shall be in accordance with regulations established by resolution of the City Council. This Subsection does not apply to conversions to hotels or similar uses.

C. **VACATION OF UNITS.** Each non-purchasing tenant, not in default under the obligations of the rental agreement or lease under which the unit is occupied, shall have not less than one hundred eighty (180) days from the date of approval of the conversion by the Staff Hearing Officer or Planning Commission or, if an appeal is filed, by the City Council, to find substitute housing and to relocate. Applicant shall give written notice of the approval containing an explanation of any and all conditions of approval which affect the tenants to each tenant within fifteen (15) days of the approval. Such notice shall be prepared in accordance with procedures established by resolution of the City Council setting forth the manner and contents of such notice.

D. **TENANT'S RIGHT OF TERMINATION OF LEASE.** Any present tenant or tenants of any unit shall be given the right to terminate their lease or rental agreement without penalty, following the receipt of the notification from the owner of the intent to convert.

E. **SPECIAL CASES.** For purposes of this Section, a "special case" tenant is one who is over age 62, handicapped, low income, a single parent with custody of minor children, or otherwise likely to experience difficulty finding suitable replacement housing. The subdivider shall afford special consideration to each "special case" tenant which special consideration, at a minimum, shall include the following:

1. Each "special case" tenant shall be allowed an additional period of time, not exceeding six (6) months beyond the period specified in Subsection C of this Section, in which to relocate.

2. A tenant with school age children shall not be required to vacate the unit prior to the end of the school year in which the one hundred eighty (180) day period specified in Subsection C begins to run.

F. **INCREASE IN RENTS.** From the date of approval of the application to convert until the date of conversion, no tenant's rent shall be increased more frequently than once annually nor at a rate greater than the rate of increase in the Consumer Price Index (all items, Los Angeles - Long Beach), on an annualized basis, for the same period. This limitation shall not apply if rent increases are provided for in leases or contracts in existence prior to the filing date of the application to convert.

G. **MOVING EXPENSES.** The subdivider shall provide moving expenses of one and one-half (1½) times the monthly rent or $2000, whichever is greater, to any tenant who relocates from the building to be converted after approval of the condominium conversion by the City, except when the tenant has given notice of intent to move prior to receipt of notification from the subdivider of the intent to convert.

H. **NOTICE TO NEW TENANTS.** After the issuance of the Notification of Intent to Convert, any prospective tenants shall be notified in writing of the intent to convert prior to leasing or renting any unit and shall not be subject to the provisions of subsections B.2, F and G. The form of the notice shall be as approved by the Community Development Department, subject to Government Code Section 66452.8(b) and 66452.8(c). Failure by a subdivider to give such notice shall not be grounds to deny the proposed conversion. Further, the subdivider shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice, and who did not receive such notice, an amount equal to the sum of: (1) actual moving expenses incurred when moving from the subject property, but not to exceed $1000, and (2) the first month's rent on the tenant's new rental unit, if any, immediately after moving from the subject property, but not to exceed $1000.

I. **NOTICE OF FINAL MAP.** Each of the tenants of the proposed condominium conversion shall be given written notification within ten (10) days of approval of a final map for the proposed conversion and proof of such notification shall be submitted to the Public Works Department.

J. **NOTICE OF DEPARTMENT OF REAL ESTATE REPORT.** Each of the tenants of the proposed condominium conversion shall be given written notification that an application for a public report will be, or has been submitted to the Department of Real Estate, and that such report will be available upon request. (Ord. 5380, 2005; Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4086, 1980; Ord. 4000 §2, 1979.)

28.88.110 Effect of Proposed Conversion on the City's Low- and Moderate-Income Housing Supply.

A. If any of the units in the project have been "affordable rental units" for at least twenty-four of the previous forty-eight months preceding the conversion application, the application for condominium conversion may be approved only if a condition is imposed requiring that the same number and type of units in the project after conversion will be subject to a recorded affordability covenant placing maximum sales price limits on each such unit in accordance with the City's affordability criteria. For purposes of this Chapter, "affordable rental unit" shall be defined by resolution of the City Council. All units subject to this affordability restriction shall be owner-occupied, except as otherwise set forth by Council resolution. Any such units that are retained by the original owner and not sold shall be subject to affordable rental restrictions as defined by resolution of the City Council.

B. If the Staff Hearing Officer or Planning Commission determines that vacancies in the project have been increased for the purpose of preparing the project for conversion, the conversion shall be disapproved. In evaluation of the current vacancy level under this subsection, the increase in rental rates for each unit over the preceding five (5) years and the average monthly vacancy rate for the project over the preceding two (2) years shall be considered. (Ord. 5380, 2005; Ord. 4716, 1991: Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4000 §2, 1979.)

28.88.120 Findings.

The Staff Hearing Officer or Planning Commission shall not approve an application for condominium conversion unless the Staff Hearing Officer or Planning Commission finds that:

A. All provisions of this Chapter are met and the project will not be detrimental to the health, safety, and general welfare of the community.

B. The proposed conversion is consistent with the General Plan of the City of Santa Barbara or legally nonconforming with the density requirement of its Land Use Element.

C. The proposed conversion will conform to the Santa Barbara Municipal Code in effect at the time the application was deemed to be complete, except as otherwise provided in this Chapter.

D. The overall design (including project amenities) and physical condition of the conversion will result in a project which is aesthetically attractive, safe and of quality construction.

E. If required by Subsection 28.88.110 A above, the proposed conversion has mitigated impacts to the City's low and moderate income housing supply through an agreement to record affordability control covenants on the specified number of units.

F. The applicant has not engaged in coercive retaliatory action regarding the tenants after the submittal of the first application for City review through the date of approval. In making this finding, consideration shall be given to:

1. Rent increases at a rate greater than the rate of increase in the Consumer Price Index (all items, Los Angeles - Long Beach) unless provided for in leases or contracts in existence prior to the submittal of the first application for City review, or

2. Any other action by applicant which is taken against tenants to coerce them to refrain from opposing the project. An agreement with tenants which provides for benefits to the tenants after the approval shall not be considered a coercive or retaliatory action.

G. The owner has made a reasonable effort to assist those tenants wishing to purchase their units for purposes of minimizing the direct effect on the rental housing market created by relocating such tenants.

H. The requirements of Section 28.88.130 have been met.

I. The following additional findings shall be made by the Staff Hearing Officer or Planning Commission in order to approve conversions to hotels or similar uses:

1. The use will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially decrease property values in the neighborhood involved;

2. The total area of the site and the setbacks and location of all facilities in relation to property and street lines are adequate in view of the characteristics of the site.

3. The conversion will not have a significant adverse impact on the surrounding properties.

4. Adequate access and off-street parking, including parking for guests and employees, are provided so that there is no adverse impact on the character of the public streets in the neighborhood. (Ord. 5380, 2005; Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4014, 1979; Ord. 4000, 1979.)

28.88.130 Maximum Number of Conversions.

A. **MAXIMUM NUMBER OF CONVERSIONS.**

1. Annual Quota. The maximum number of conversions to condominiums to be approved during any calendar year shall not exceed the greater of:

a. fifty (50) units; or

b. the number of unassisted new dwelling units in two family and multiple family rental projects issued certificates of occupancy during the previous calendar year minus the number of dwelling units in two family and multiple family rental units to be demolished pursuant to permits issued in that same year.

2. In the event that the annual conversion quota determined pursuant to paragraph 1 of this Subsection A exceeds the aggregate number of units approved for conversion to condominiums during any year any excess shall be available in the following twelve (12) month period for conversions to hotels or similar uses only, after which time any remaining excess shall not be included in the annual conversion quota permitted for any following year.

3. A condominium project consisting of more dwelling units than the maximum number which can be approved in the applicable calendar year, may be approved for a phased conversion. The approval of a phased conversion shall specify the number of units which may be converted in each year (which number may not exceed the annual conversion quota for that year), and shall specify that the units approved for conversion in a given year shall have priority for conversion over units in other projects approved for conversion in that year.

B. **PROCESSING OF APPLICATIONS.** Applications shall be processed in accordance with procedures established by resolution of the City Council setting forth the manner and method of prioritizing applications for conversions.

C. **EXCEPTIONS.**

1. This section shall not be applicable to:

a. A project consisting of four (4) or less units.

b. A project as to which the tenants of more than fifty percent (50%) of the rental units have made a commitment to purchase their units.

c. A project involving conversions for a non or limited equity cooperative or condominium for low-to-moderate income residents.

d. A project involving the conversion of dwelling units which, at the time the application for condominium conversion was filed, were legally rented as hotel units.

e. A project involving conversions in which not less than 75% of the dwelling units are subject to the City's standard affordability controls. (Ord. 4716, 1991; Ord. 4606, 1989; Ord. 4199, 1983; Ord. 4014 §1, 1979; Ord. 4000 §2, 1979.)

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Chapter 28.89

TENANT DISPLACEMENT ASSISTANCE ORDINANCE

Sections:

28.89.010 Definitions.
28.89.020 Submittal Requirements.
28.89.030 Displacement Assistance.
28.89.040 Certification of Displacement Assistance.
28.89.050 Protections for Resident Households.

28.89.010 Definitions.

Except where the context or particular provisions require otherwise, the following definitions shall govern the construction of this Chapter.

A. **Application**. Any application required to be submitted to the City of Santa Barbara for discretionary or ministerial approval of a land use change or improvement of real property that will result in a displacement of a resident household.

B. **Displacement**. The vacating of a rental unit by a resident household upon notice from the property owner as the result of or to enable any of the following: 1. the demolition of any rental unit on the lot, 2. the alteration of any structure on the lot in a manner that requires a permit from the City and which reduces the number of rental units on the lot, 3. the conversion of a single residential unit to a condominium unit, or 4. a change of use of real property from a residential use to a nonresidential use that requires a permit from the City. For purposes of this Chapter, a displacement does not include a vacation of a rental unit as the result of the following: 1. a condominium conversion regulated and processed pursuant to Chapter 28.88 of this Code, 2. a conversion of any portion of a mobilehome park or a permanent recreational vehicle park regulated and processed pursuant to Chapter 28.78 of this Code, 3. a property owner's compliance with an enforcement order of the City Building Official for which the property owner has been ordered to pay relocation expenses pursuant to Health and Safety Code section 17980.7 or any other state or federal law, or 4. a vacation of a rental unit resulting from the damage or destruction of the unit which is caused by a natural disaster.

C. **Eligible Resident Household**. A resident household occupying a rental unit at the time an application is filed with the City. There shall be a rebuttable presumption that any resident household which received a notice to quit pursuant to Section 1946 of the Civil Code within the six (6) month period preceding the filing of an application is an eligible resident household for purposes of receiving displacement assistance pursuant to this Chapter. The presumption specified in the preceding sentence shall not apply where the property owner provides evidence of either of the following: 1. the resident household's occupancy ended due to the expiration of a term lease and the tenancy was not extended by the operation of Section 1945 of the Civil Code, or 2. the resident household was found to have committed an unlawful detainer pursuant to Subdivisions 2, 3, 4 or 5 of Section 1161 of the Code of Civil Procedure as evidenced by a final judgment of a court of competent jurisdiction.

D. **Immediate Family**. Immediate family includes a spouse, registered domestic partner, children, parents, and the spouses or registered domestic partners of children of a property owner.

E. **Median Advertised Rental Rate**. An estimate of rental rates for residential rental units within the City prepared annually by the staff of the Community Development Department. For the purposes of this Chapter, the median advertised rental rate shall be calculated annually based on the median of a representative sample of rental units advertised in a newspaper of general circulation for one Sunday during the month of April. The median advertised rental rate shall be published by the City each May 1 and shall remain in effect for the next twelve (12) months or until a new median advertised rental rate is provided by the City. The median advertised rental rate shall be calculated and published for the following categories of rental units: 1. studio units (no bedrooms), 2. one bedroom units, 3. two bedroom units, and 4. units with three or more bedrooms. As used in this Chapter, the applicable median advertised rental rate shall be determined based on the number of bedrooms in the rental unit to be vacated by the residential household. The methodology for calculating the median advertised rental rate shall be approved by the Community Development Director and described in detail in the City's Affordable Housing Policies and Procedures.

F. **Rental Unit**. A structure (or part thereof) used as a place of permanent or customary and usual abode of a resident household. A rental unit shall not include a room or any other portion of any residential unit which is occupied by the property owner or a member of the property owner's immediate family.

G. **Resident Household**. Any person or group of persons entitled to occupy a rental unit under a valid lease or rental agreement (written or oral) including all persons who are considered residents under the Civil Code, but not including the owner of the rental unit or members of the owner's immediate family.

H. **Special Needs Resident Household**. An eligible resident household with any of the following characteristics: 1. at least one member who is 62 years of age or older, 2. at least one member qualifies as a disabled person pursuant to section 295.5 of the Vehicle Code, or 3. the household qualifies as a low income household pursuant to the City's Affordable Housing Policies and Procedures. (Ord. 5401, 2006.)

28.89.020 Submittal Requirements.

A. **Notice of Intent**. At least sixty (60) days prior to filing an application, either the property owner or the owner's agent shall notify each resident household residing on the subject real property of the owner's intent to file an application. The notice shall be provided by either: 1. personal delivery, or 2. certified mail, postage prepaid, with return receipt requested. Evidence of compliance with this section must be submitted to the City in order for the application to be deemed complete. The form of the notice shall be approved by the Community Development Department and shall contain at least the following information:

1. The name and address of current owner;
2. The name and address of the proposed applicant;
3. The approximate date on which the application is to be filed;
4. The resident's right to purchase a resulting residential unit, if applicable;
5. The resident's right of notice before being required to vacate the rental unit;
6. The resident's right to terminate lease without obligation for future rent;
7. A statement regarding the applicable limitations on rent increases;
8. An explanation of displacement assistance available for eligible resident households and special needs resident households under this Chapter (i.e., monetary assistance, relocation counseling, contact information for the Rental Housing Mediation Task Force, qualifications for Special Needs Resident Households, etc.);
9. The resident household's right to receive written notice for each hearing and right to appear and be heard at land use hearings, if applicable; and
10. Other information as may be deemed necessary or desirable by the Community Development Department.

B. **Resident Information**. Concurrent with the filing of the application, either the property owner or the owner's agent shall provide the Community Development Department with all of the following information for each rental unit that will be subject to a displacement as a result of the application:

1. The name of every member of the resident household who is a signatory on a written lease or the name of every person the property owner considers to be a resident under an oral lease; and
2. The names of all members of resident households that were issued a notice to vacate within the six (6) months preceding the filing of the application. (Ord. 5401, 2006.)

28.89.030 Displacement Assistance.

A. Monetary Assistance. As a condition of the City approval of any application that will result in a displacement, the property owner is obligated to pay to each eligible resident household monetary displacement assistance in an amount equal to four (4) times the median advertised rental rate or $5,000, whichever is greater. The displacement assistance to be paid to an eligible special needs resident household shall be equal to five (5) times the median advertised rental rate or $6,000, whichever is greater.

The displacement assistance shall be calculated on a "per rental unit" basis and shall be paid jointly, in one lump sum, to all members of the eligible resident household occupying the rental unit.

B. Waiver of Assistance. The payment of the monetary displacement assistance required pursuant to subsection A above, or the right of first refusal provided for in Section 28.89.050, may be waived or otherwise altered by mutual written agreement of the property owner and all members of the eligible resident household; provided, the waiver is executed after the members of the resident household have received notice of the application and notice of the provisions of this Chapter pursuant to Section 28.89.020. (Ord. 5401, 2006.)

28.89.040 Certification of Displacement Assistance.

Prior to any displacement or the issuance of any permit pursuant to the application, whichever occurs first, the property owner shall provide the Community Development Director with either: 1. a copy of a cancelled check evidencing payment of the displacement assistance required by this Chapter to the members of the eligible resident household or 2. a copy of a written waiver or modification of the displacement assistance obligation executed by the property owner and all of the members of the eligible resident household. In order to satisfy the requirements of this Section 28.89.040, the written waiver must be executed after the members of the resident household have received notice of the application and the provisions of this Chapter pursuant to Section 28.89.020. (Ord. 5401, 2006.)

28.89.050 Protections for Resident Households.

A. **Right to Purchase (Right of First Refusal)**. The members of any eligible resident household or eligible special needs resident household shall be given an exclusive right to contract for the purchase of a residential unit within any resulting development upon the same terms and conditions that the residential unit will be initially offered to the general public or on terms more favorable to the members of the eligible resident household or eligible special needs resident household. The exclusive right to contract shall be valid for at least ninety (90) days from the date of issuance of a Subdivision Public Report or the commencement of sales, whichever date is later. The manner in which any exclusive right to contract shall be exercised shall be in accordance with administrative rules established by the Community Development Department in the City's affordable housing policies and procedures. This Subsection shall not apply to applications for conversions of rental units to hotels or similar commercial uses.

B. **Right to Terminate Lease**. After receipt of the notice required pursuant to subsection 28.89.020.A and until the applicant's withdrawal of the application or the displacement of the resident household, the resident household shall have the right to terminate the lease or rental agreement without obligation for any rent that would accrue under the lease or rental agreement after the vacation of the residential unit by the resident household. An eligible resident household's election to terminate the lease and relinquish possession of the rental unit following receipt of the notice required pursuant to subsection 28.89.020.A shall not constitute a waiver of the eligible resident household's right to assistance pursuant to subsection 28.89.030.A.

C. **Notice to New Residents**. Any prospective resident household that applies for residency after an application has been filed shall be notified in writing of the pending application and the potential for displacement prior to occupying any rental unit. The form of this notice shall be approved by the Community Development Department. The failure of the property owner or applicant to give notice in accordance with this subsection shall not be a ground to deny the proposed land use action; however, the property owner shall pay monetary displacement assistance in the manner specified in Section 28.89.030 to each resident household that was entitled to notice pursuant to this subsection and who did not receive such notice. (Ord. 5401, 2006.)

Chapter 28.90

AUTOMOBILE PARKING REQUIREMENTS

Sections:

28.90.001 In General.
28.90.045 Parking Design Standards.
28.90.050 Landscaping and Lighting.
28.90.060 Availability of Parking Spaces and Maneuvering Areas.
28.90.070 Handicapped Facilities.
28.90.100 Parking Requirements.

28.90.001 In General.

A. 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.

B. 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 net floor area (excluding the garage), then parking shall be brought up to the current standards for the entire lot.

C. 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.

D. 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.

E. No building permit for any structure referred to in the preceding subsections (C) and (D) shall be issued without the written approval of the Community Development Director 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 Community Development Director 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 Building and Safety Division, 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.

F. 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.

G. 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 California Fire Code as amended and adopted by ordinance of this City.

1. 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.

2. 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 Paragraph 1. above shall be applicable to each such driveway.

The design review body that reviews the project 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.

H. PARKING IN SETBACK PROHIBITED. In any zone, there shall be no parking space provided in any setback, except that uncovered parking or turnaround areas may be allowed in interior setbacks in an R-3 or less restrictive zone for lots containing three or more residential units, commercial buildings, or office buildings if at least five percent (5%) of the total area used for parking, turnaround and driveway is landscaped.

I. PARKING IN FRONT SETBACK PROHIBITED. Parking is prohibited in the front setback in any zone. Parking may be allowed in the remaining front yard, whether covered or uncovered, if screened by a decorative wall or fence and planting.

J. 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.

K. 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.

L. 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.

M. MOTOR VEHICLES INCAPABLE OF MOVEMENT UNDER THEIR OWN POWER, UNREGISTERED VEHICLES. All motor vehicles incapable of movement under their own power, other than in cases of emergency, and vehicles not currently registered for use on the street shall be stored in an entirely enclosed space. This provision shall not apply in the case of auto wrecking establishments.

N. 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.

O. 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.

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

Q. 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.

R. 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:

1. 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.

2. 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. (Ord. 5459, 2008; Ord. 5416, 2007; Ord. 5380, 2005; Ord. 4946, 1996; Ord. 4912, 1995; Ord. 4851, 1994; Ord. 4427, 1986; Ord. 4063, 1980; Ord. 3947, 1978; Ord. 3705, 1974; Ord. 3556, 1972; Ord. 3341, 1969; Ord. 2585, 1957.)

28.90.045 Parking Design Standards.

A. REQUIREMENTS. All parking facilities must be designed and constructed pursuant to the following:

1. Backing out onto a public street or sidewalk from a parking space shall be permitted only for a one-family or two-family dwelling, where not more than four (4) spaces are provided.

2. All turnaround movements shall be accomplished in one (1) maneuver. One (1) maneuver is considered to be one (1) back up and one (1) forward movement.

3. The required dimensions and criteria for parking plans and vehicle ramps shall be as shown in the current City Standard for Parking Design as prepared by the Transportation Engineer and on file with the Public Works Department.

4. It shall be the duty of the Transportation Engineer to review and approve all parking plans.

B. VARIATION. Any variation from the above requirements must be approved pursuant to a waiver by the Public Works Director or his designee.

C. VEHICLE RAMPS.

1. A vehicle ramp is defined to be a sloping connection between a street level and a parking level or two (2) parking levels.

2. For multiple-family dwellings or nonresidential uses, all parking plans involving ramps shall be accompanied by a profile showing the ramp, ramp transitions and overhead and adjacent wall clearances.

3. The length of a ramp is defined as that portion of the ramp from the beginning of the transition at one end of the ramp to the end of the transition at the opposite end thereof.

4. For ramps longer than sixty-five feet (65'), the ramp grade shall not exceed twelve percent (12%) with the first and last eight feet (8') of the ramp not exceeding six percent (6%).

5. For ramps sixty-five feet (65') or less, the ramp grade shall not exceed sixteen percent (16%) with the first and last ten feet (10') of the ramp not exceeding eight percent (8%).

6. The slopes of all parking areas shall not exceed five percent (5%), excluding ramps. (Ord. 3113, 1966.)

7. The maximum grade for the driveway (vehicle ramp) serving a one-family dwelling shall not exceed sixteen percent (16%), except when the distance from the street pavement to the rearmost portion of any structure on the subject parcel is one hundred fifty feet (150') or less in which case the maximum grade shall not exceed twenty percent (20%).

D. TANDEM PARKING. Notwithstanding any other provision in this Title, parking for mixed use developments may be provided in a tandem configuration (one parking space behind the other) if each set of tandem parking spaces is assigned to a single residential unit, and the tandem parking spaces are provided either on the subject lot or on an immediately adjacent lot. Vehicle movements necessary to move cars parked in a tandem arrangement shall not take place on any public street or alley. Guest parking spaces shall not be provided in a tandem configuration.

E. BICYCLE PARKING. All bicycle parking facilities must be designed and constructed pursuant to the following:

1. All facilities intended for permanent use shall provide a method for securing or locking the bicycle. A rack or space shall be provided for locking both the frame and the wheels.

2. All bicycle areas shall be accessible and lighted, on an all-weather surface.

3. A typical bicycle space shall be a minimum of two and one-half (2-1/2) feet in width and six (6) feet in length or less, if a permanent device is provided to stand the bicycle on end. A backout or maneuvering space of approximately five feet (5') shall be provided. (Ord. 5459, 2008; Ord. 4946, 1996; Ord. 4945, 1996; Ord. 4063, 1980; Ord. 3834, 1976; Ord. 3710, 1974; Ord. 2585, 1957.)

28.90.050 Landscaping and Lighting.

1. GENERAL. In an effort to encourage the development of more attractive parking lots in commercial, industrial, and multiple-family use areas, to provide for attractive and durable screening between such parking lots and adjoining areas, and to lessen the effect of commercial and industrial uses upon adjoining residential uses, the following requirements shall be met. Landscape plans shall be prepared by an architect or landscape architect registered in the State of California, unless said requirement is waived by the Architectural Board of Review, or the 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, in projects containing fewer than twenty (20) parking spaces. The landscaping standards set forth below are required for all parking areas, parking lots, automobile service stations and automobile service stations/mini-markets except for one- or two-family dwellings.

2. FENCES AND WALLS. Where any parking area is for commercial, multiple-family residential, or industrial use, and the parking area or driveway abuts property used for residential purposes, it shall be separated therefrom by an approved wall or fence at least six (6) feet in height, except no fence or wall shall exceed a height of three and one-half feet (3-1/2') within a triangular area on either side of a driveway as follows:

a. When a driveway directly abuts a portion of a street improved with a sidewalk and a parkway, the triangle is measured on two sides by a distance of ten feet (10') from the side of a driveway and ten feet (10') back from the front lot line.

b. When a driveway directly abuts a portion of a street without a sidewalk or parkway, the triangle is measured on two sides by a distance of twenty feet (20') from the side of a driveway and ten feet (10') back from the front lot line. The design of the wall or fence shall be subject to approval by the Architectural Board of Review, or the 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, said walls or fences may be lowered or eliminated in proportion to the degree of screening provided by differences in elevation, mounding, existing planting, and other similar factors.

3. PERIMETER PLANTERS. Where such parking areas and/or driveways abut a street, a planting area at least five (5) feet in depth shall be provided and an ornamental wall or fence three-and-one-half (3-1/2) feet in height shall be provided, except if the planting area is eight (8) feet or greater in depth and suitable screen planting is provided, the ornamental fence or wall may be omitted. Where parking areas or driveways abut a neighboring building or a property line not adjoining a street, a planting area at least five (5) feet in depth shall be provided. The Architectural Board of Review, or the 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 five (5) foot planting area where alternative landscaping and designs are presented that result in landscaping and designs that are equally effective.

4. INTERIOR PLANTERS. In addition to the perimeter planters, there shall be planting areas to relieve the expanse of paving. Said interior planters shall be at least four (4) feet in width, and shall be located in such a way that there will be not more than eight (8) parking spaces without an intervening planter. Said planters shall have trees and either shrubs or ground cover. 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 four (4) foot interior planter where alternative landscaping and designs are presented that result in landscaping and designs that are equally effective.

5. GRADING. Grading should be utilized as much as possible to screen parking lots, by lowering or raising the parking area or by providing earth mounds or berms. If approved by the Architectural Board of Review, or the 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, mounding or berms may be substituted for an ornamental wall or fence.

6. ORNAMENTAL WALLS OR FENCES. Ornamental walls or fences shall be subject to approval by the Architectural Board of Review, or the 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, and shall be constructed of materials compatible with adjacent buildings and surroundings.

7. PLANTING. Planting shall consist of trees, shrubs and ground cover. The use of drought tolerant plants is encouraged, as is the use of flowering vines on fences and walls. Trees shall be planted on a minimum ratio of one (1) tree per five (5) parking spaces, with at least two-thirds of the trees fifteen (15) gallon size or larger, and the balance not less than five (5) gallon.

8. CURB PROTECTION. Planters adjoining vehicular traffic areas shall be protected by concrete curbs or the equivalent, as approved by the Architectural Board of Review, or the 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. The minimum dimensions listed herein may include the protecting curb.

9. RETAINING WALLS. Retaining walls shall be set back at least three (3) feet from parking areas and driveways and the footing design shall allow for appropriate planting in such intervening spaces.

10. PARKING LOT LIGHTING. Parking lot light fixtures placement shall be subject to approval by the Architectural Board of Review, or the 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. Excessive glare shall not be permitted and the lights shall be arranged to reflect light away from adjoining residential property and streets.

11. IRRIGATION PLAN. A sprinkler system or drip irrigation system designed to provide complete coverage of all planted areas is required. (Ord. 5650, 2014; Ord. 4912, 1995; Ord. 4851, 1994; Ord. 4192, 1983; Ord. 4063, 1980.)

28.90.060 Availability of Parking Spaces and Maneuvering Areas.

All required parking spaces and areas for maneuvering of vehicles on all parking lots shall be available for parking and maneuvering of motor vehicles and shall not be used for storage of any items inconsistent with such availability. (Ord. 4063, 1980.)

28.90.070 Handicapped Facilities.

A. All parking areas, for other than one- and two-family dwellings, shall provide parking spaces which are accessible to handicapped persons in accordance with the requirements of the Public Works Department as set forth in the City Standard for Parking Design.

B. The conversion of an existing parking space to an accessible parking space or access aisle for an accessible parking space does not require a modification of the parking requirement pursuant to Section 28.92.110, even if the conversion results in fewer parking spaces on the lot than required under Section 28.90.100, as long as the accessible parking requirement is not triggered by a change of use or an expansion of the existing use. (Ord. 5459, 2008; Ord. 4063, 1980.)

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

2. 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.

3. 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, and/or disabled or handicapped persons 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 net floor area at the following rate:

1. Buildings containing 10,000 to 30,000 square feet of net floor area shall provide 90% of the required parking.

2. Buildings containing 30,000 to 50,000 square feet of net floor area shall provide 80% of the required parking.

3. Buildings in excess of 50,000 square feet of net floor area 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 for One Uncovered Space. 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, and

(2) If new pavement is proposed for the uncovered space and the site has an appropriate slope for permeable paving, then the new pavement shall be permeable.

(3) If the lot is located in the A, E, or R-1 zones and has less than 15,000 square feet of net lot area, the uncovered space may encroach up to three feet (3') into a required interior yard if a landscaped buffer is provided between the uncovered space and the adjacent interior lot line.

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

c. Exception for Two Uncovered Spaces. Any lot developed with less than 80% 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 two uncovered spaces under the following conditions:

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

(2) The uncovered spaces shall be screened from public view,

(3) If new pavement is proposed for any of the uncovered spaces and the site has an appropriate slope for permeable paving, then the new pavement shall be permeable,

(4) Storage space with exterior access of at least 150 square feet of net floor area shall be provided on the lot, and

(5) The location of the parking and the design of the screening shall be reviewed and approved by the Single Family Design Board or Historic Landmarks Commission, as applicable.

(6) If the lot is located in the A, E, or R-1 zones and has less than 15,000 square feet of net lot area, the uncovered spaces may encroach up to three feet (3') into a required interior yard if a landscaped buffer is provided between the uncovered spaces and the adjacent interior lot line.

(7) 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 nonresidential 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 nonresidential 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 net 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 net 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 net 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 net 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 net 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 1,000 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 1,000 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 net floor area.

2. C-X Zone: One (1) parking space for each two hundred fifty (250) square feet of net 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 net 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. (Ord. 5518, 2010; Ord. 5459, 2008; Ord. 5416, 2007; Ord. 4946, 1996; Ord. 4924, 1995; Ord. 4919, 1995; Ord. 4912, 1995; Ord. 4858, 1994; Ord. 4825, 1993; Ord. 4750, 1992; Ord. 4427, 1986; Ord. 4269, 1984; Ord. 4121, 1981; Ord. 4085, 1980; Ord. 4063, 1980; Ord. 3989, 1979; Ord. 3710, 1974; Ord. 3602, 1972; Ord. 3552, 1972; Ord. 3546, 1972; Ord. 3519, 1972; Ord. 2585, 1957.)

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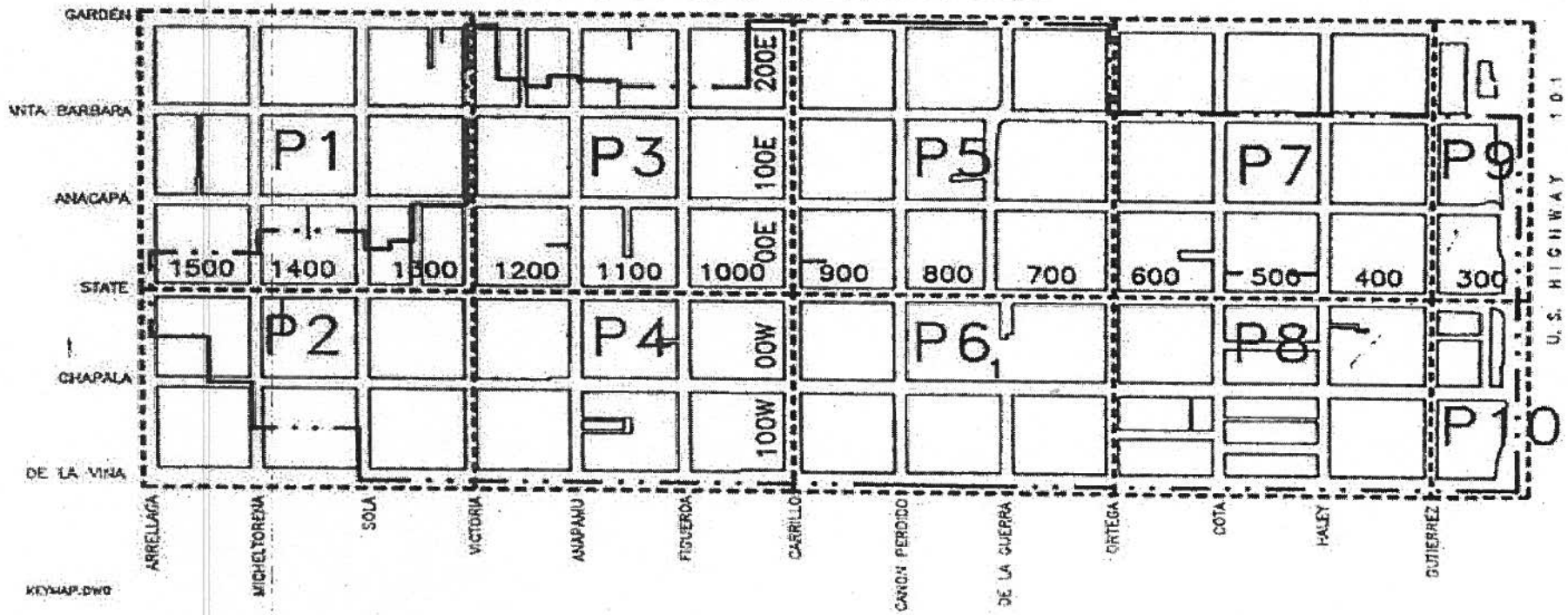
FIGURE A
KEYMAP
CITY OF SANTA BARBARA
PARKING ZONES OF BENEFIT

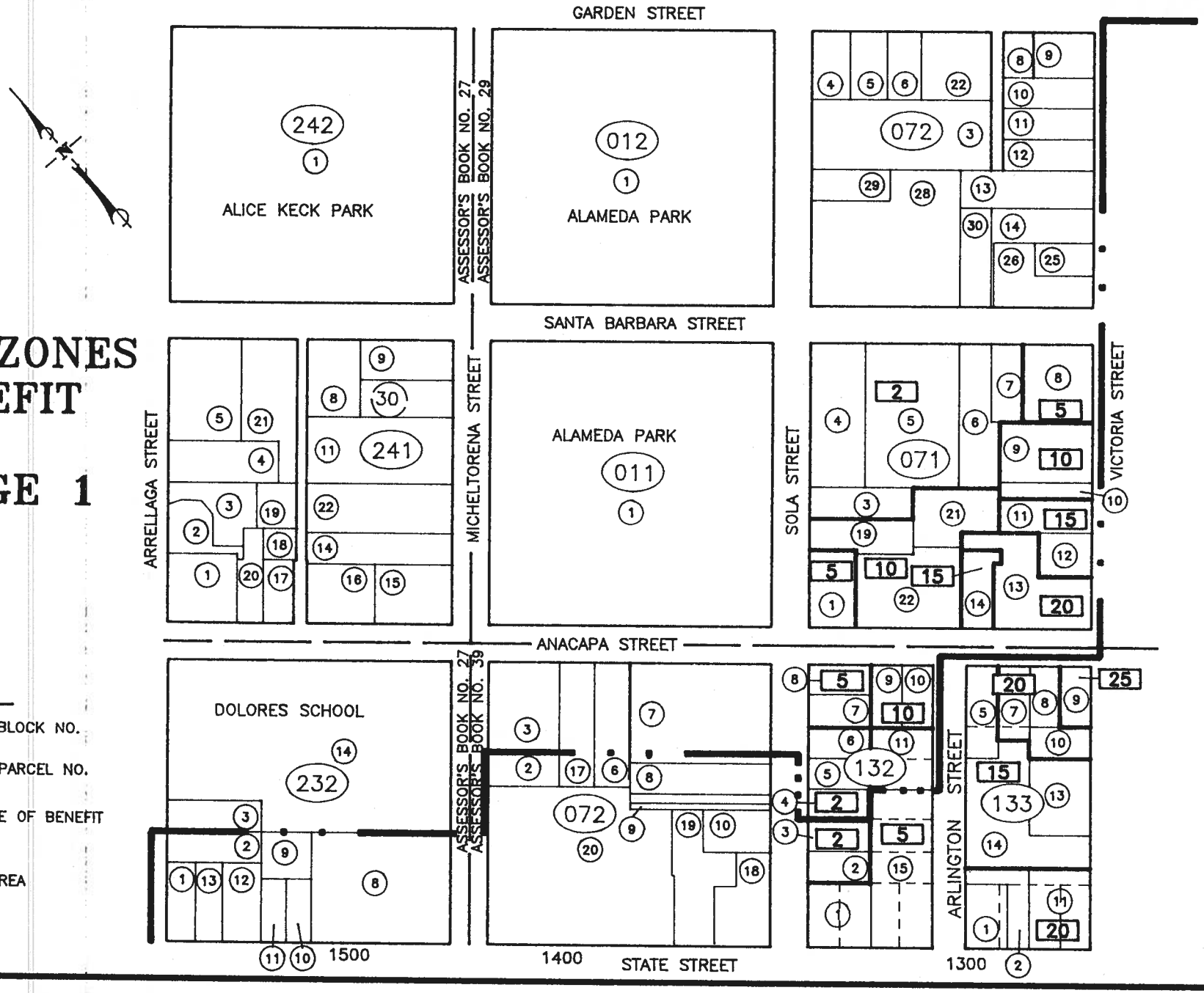
Locate the block in which the property is located and consult the appropriate following page for details on the Parking Zone of Benefit credit.



rev. 6/30/10

PARKING ZONES OF BENEFIT

MAP PAGE 1



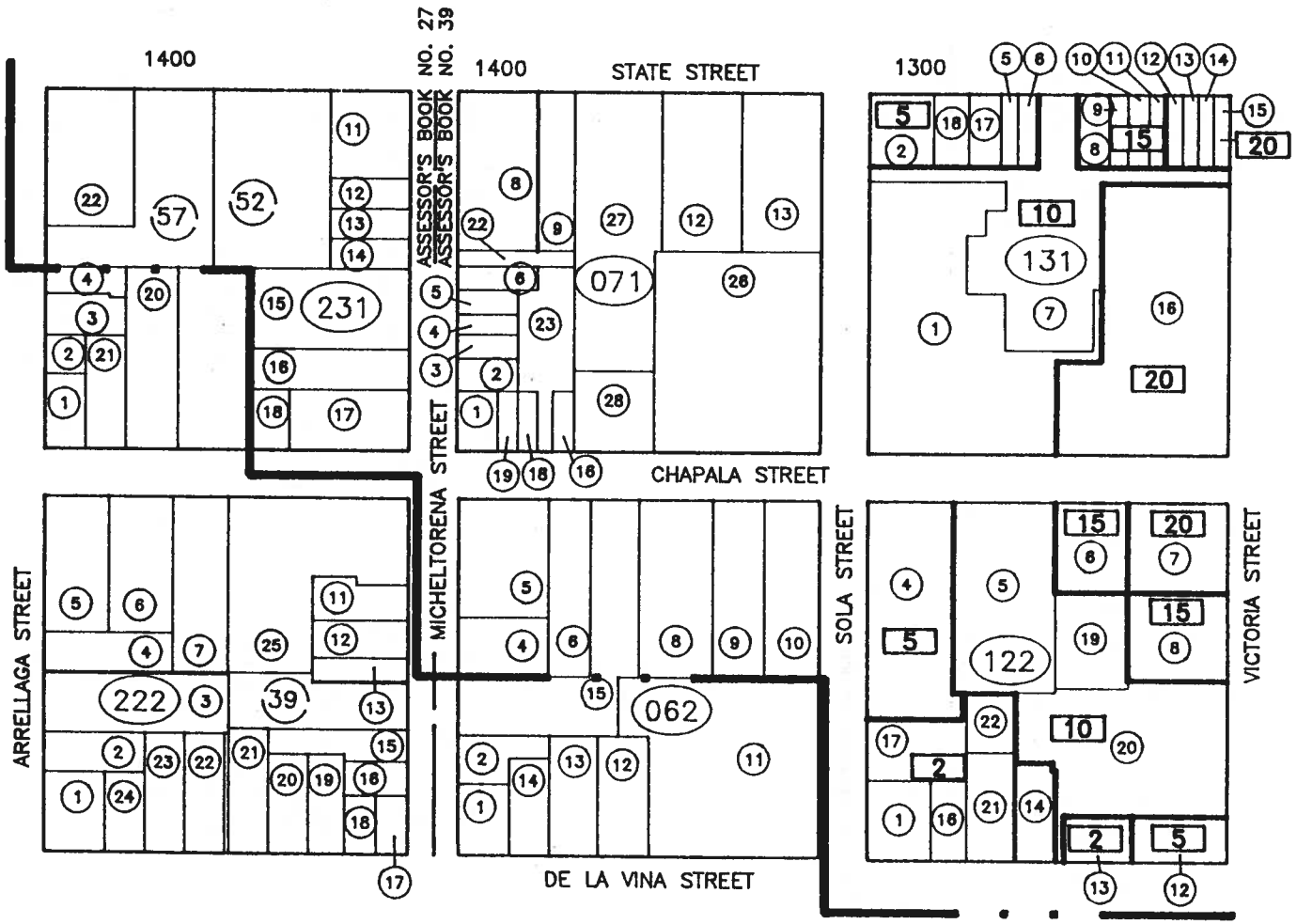
LEGEND

- (123) ASSESSOR'S BLOCK NO.
- (12) ASSESSOR'S PARCEL NO.
- [25] PARKING ZONE OF BENEFIT % CREDIT
- DELINEATED AREA

MAPPAGE1.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 2



LEGEND

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(12) ASSESSOR'S PARCEL NO.

[25] PARKING ZONE OF BENEFIT % CREDIT

DELINEATED AREA

MAPPAGE2.DWG

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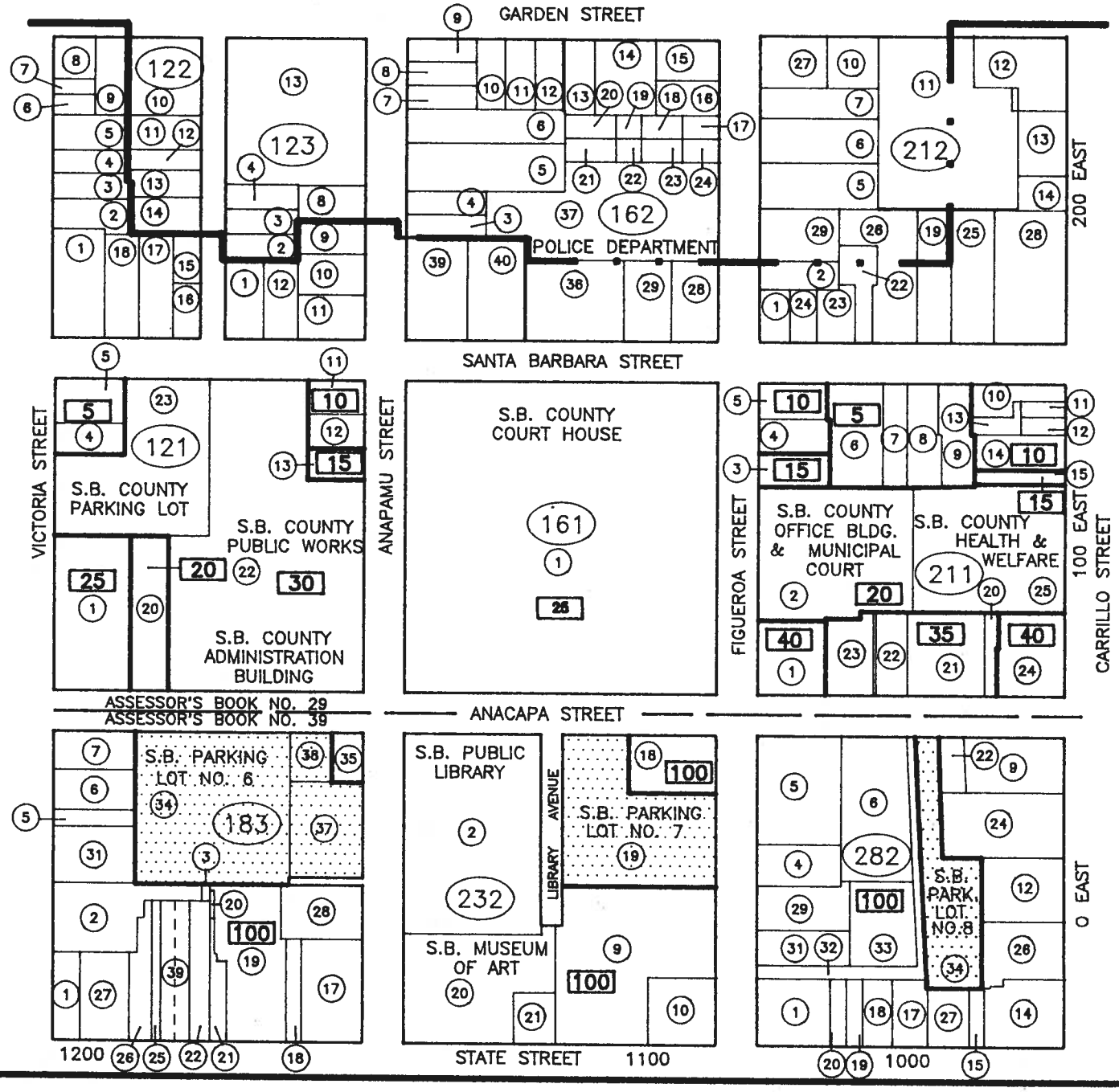
550-3

PARKING ZONES OF BENEFIT

MAP PAGE 3



LEGEND

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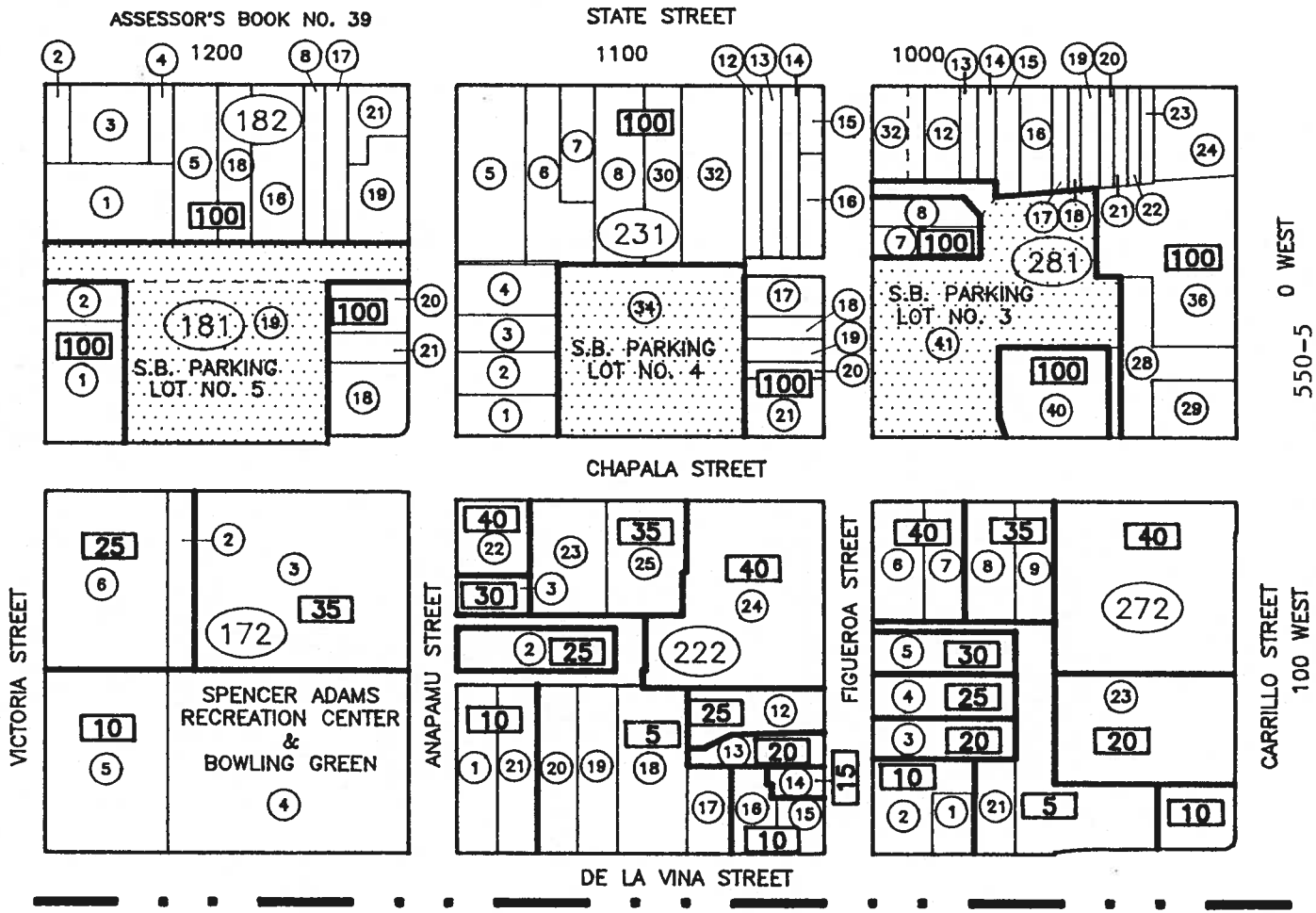
(12)	ASSESSOR'S PARCEL NO.
[25]	PARKING ZONE OF BENEFIT % CREDIT
— - - —	DELINEATED AREA

MAPPAGE3.DWG

rev. 9/30/92

PARKING ZONES OF BENEFIT

MAP PAGE 4



LEGEND

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(12) ASSESSOR'S PARCEL NO.

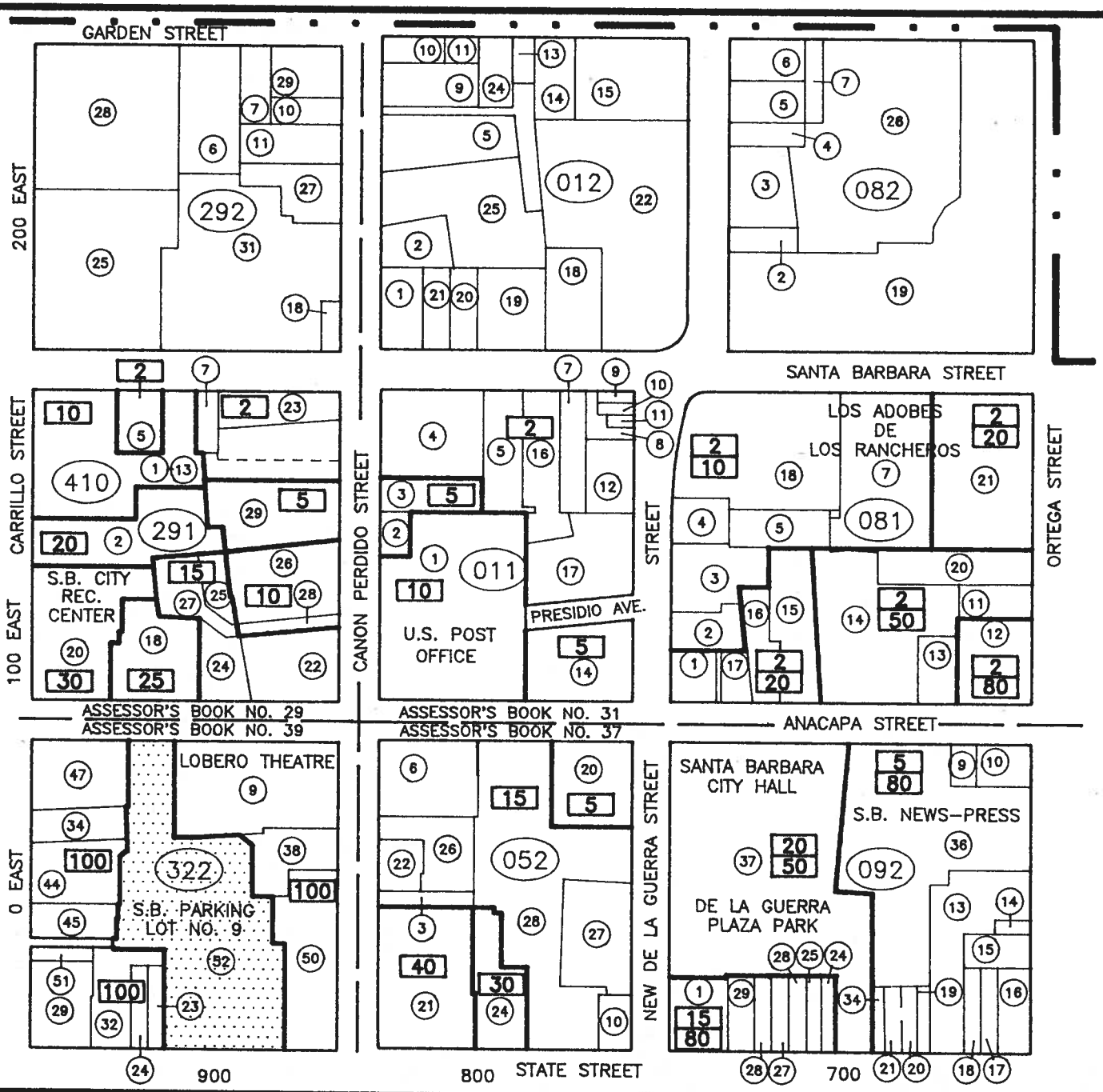
[25] PARKING ZONE OF BENEFIT % CREDIT

DELINEATED AREA

MAPPAGE4.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 5



LEGEND

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(12) ASSESSOR'S PARCEL NO.

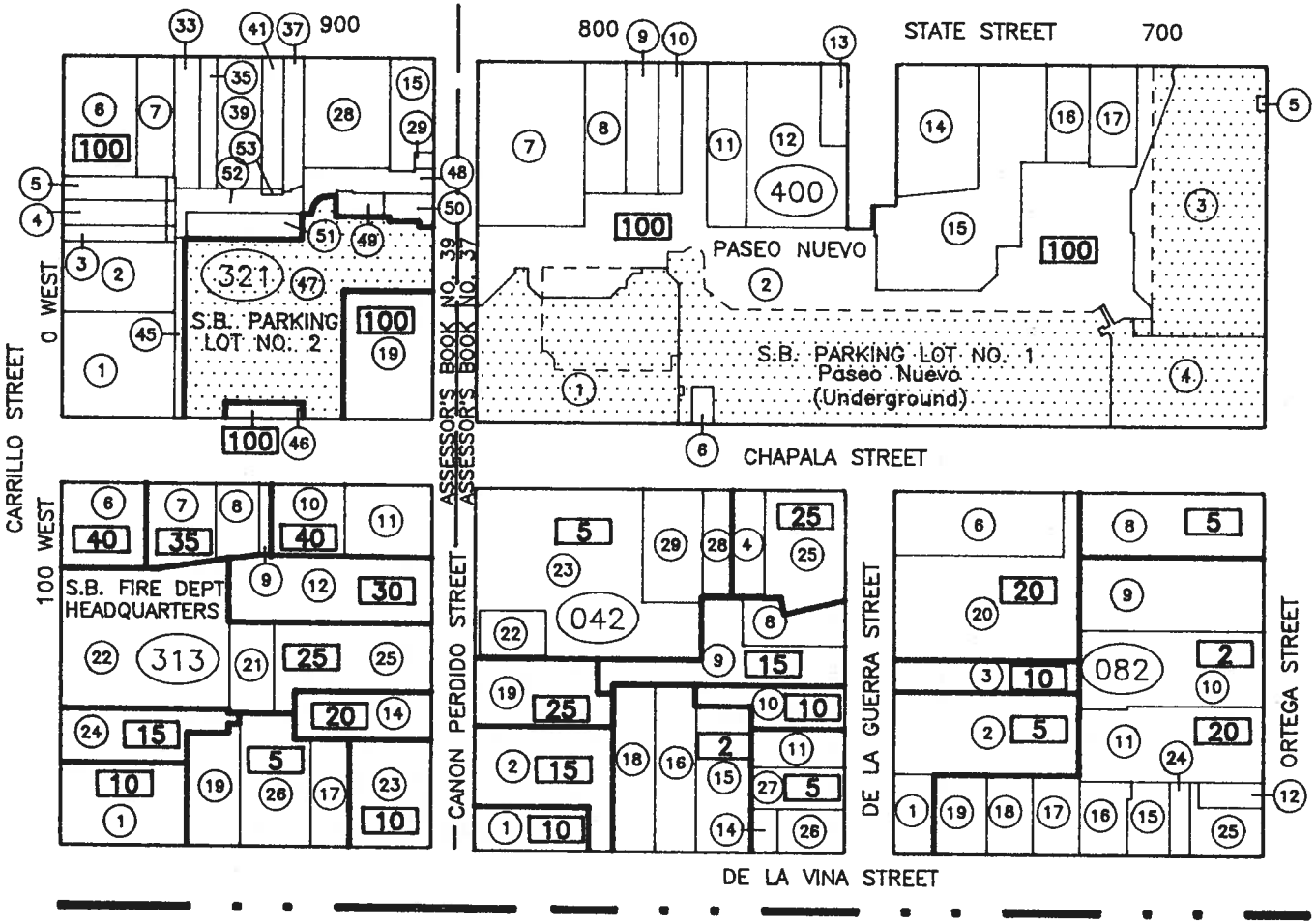
[25] PARKING ZONE OF BENEFIT % CREDIT

DELINEATED AREA

MAPPAGE5.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 6



LEGEND

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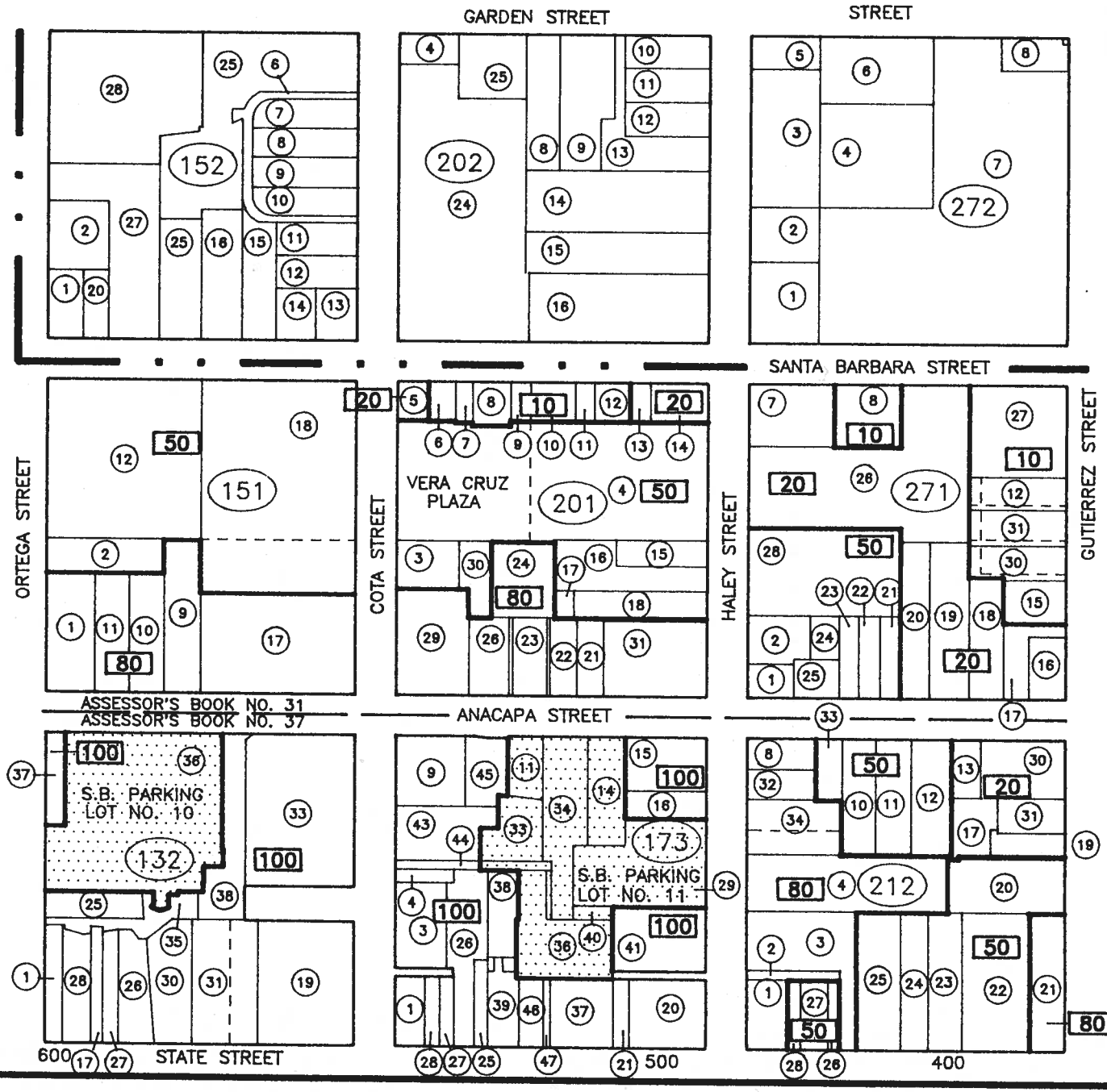
(12)	ASSESSOR'S PARCEL NO.
[25]	PARKING ZONE OF BENEFIT % CREDIT
— - - —	DELINEATED AREA

MAPPAGE6.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 7



LEGEND

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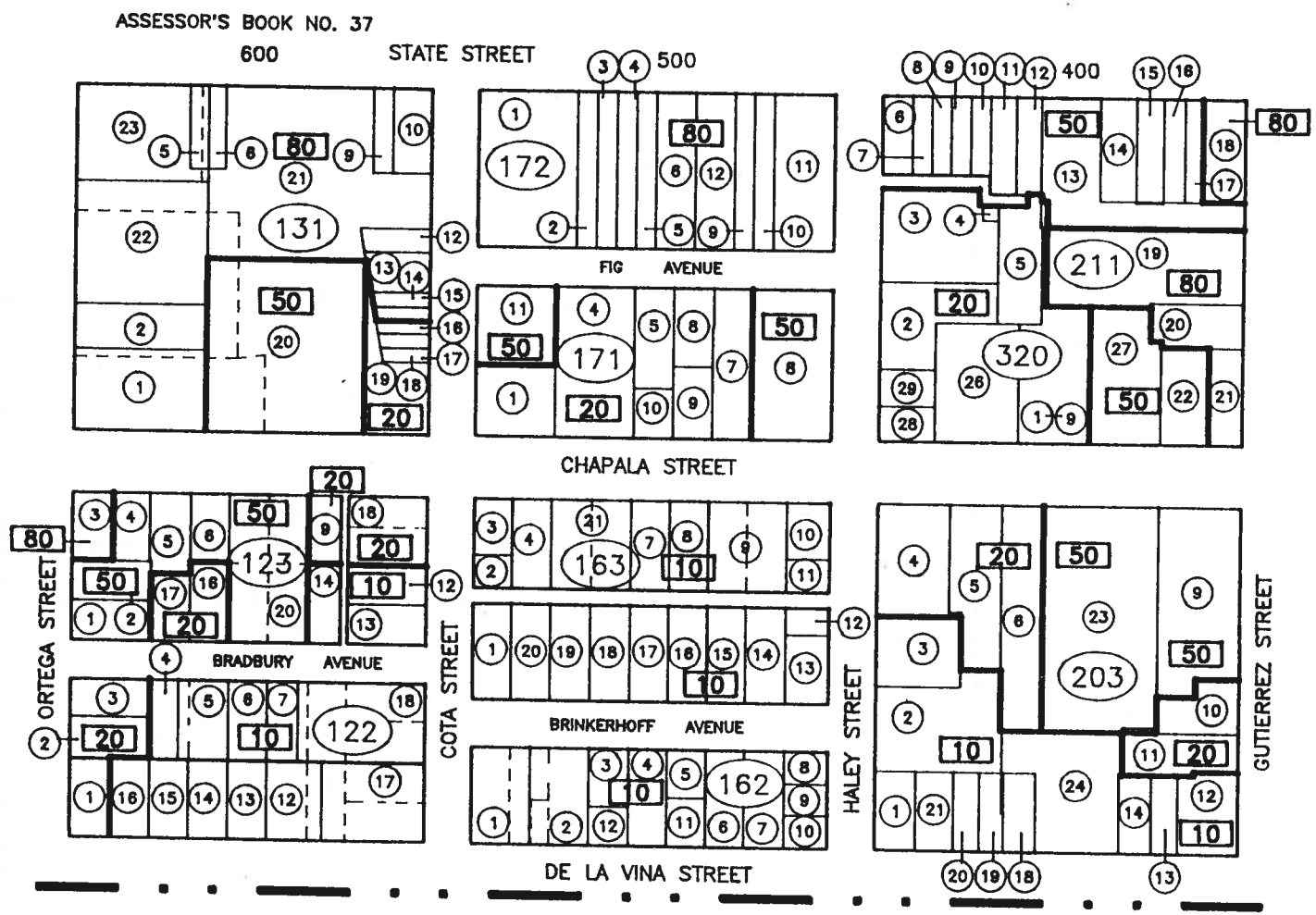
(12)	ASSESSOR'S PARCEL NO.
[25]	PARKING ZONE OF BENEFIT % CREDIT
— - - —	DELINEATED AREA

MAPPAGE7.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 8



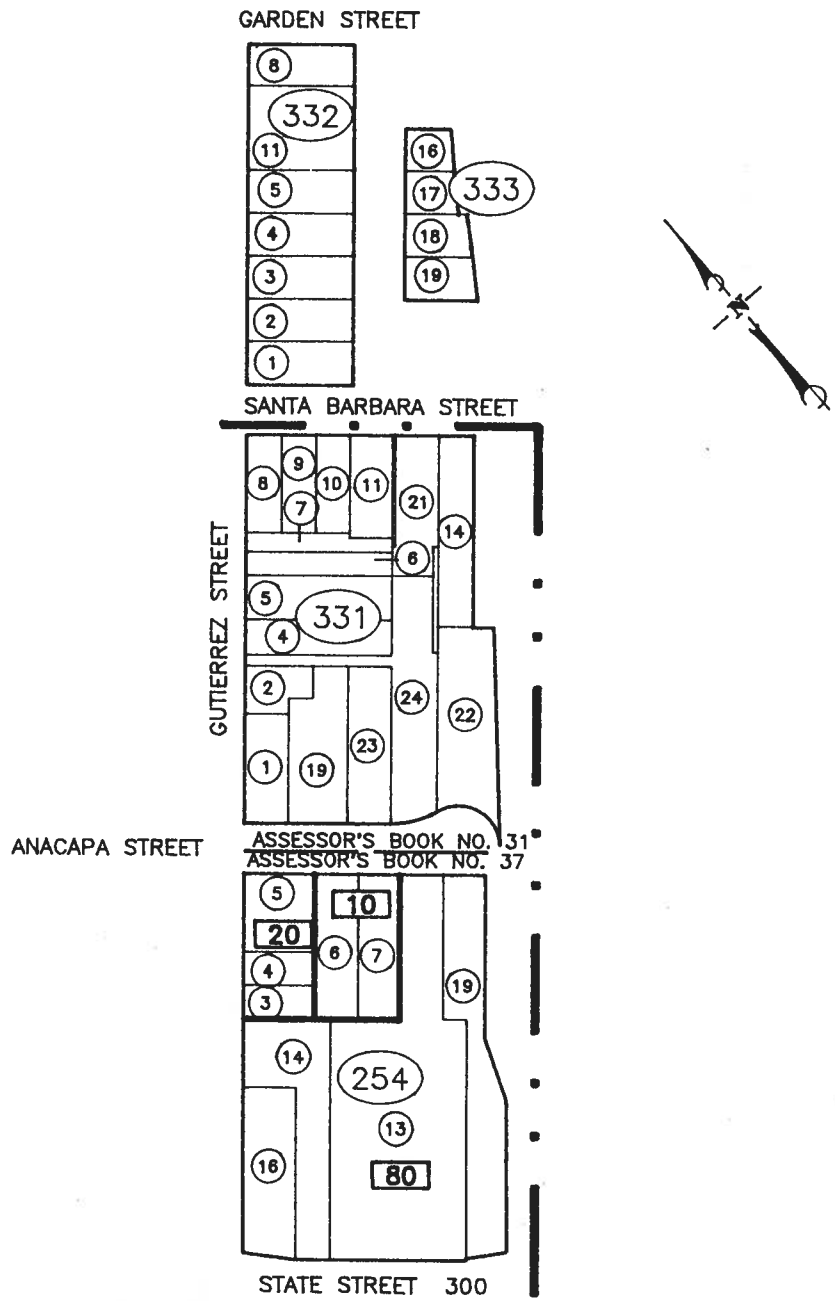
LEGEND

- (123) ASSESSOR'S BLOCK NO.
- (12) ASSESSOR'S PARCEL NO.
- [25] PARKING ZONE OF BENEFIT % CREDIT
- DELINEATED AREA

MAPPAGE8.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 9



LEGEND

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(12)	ASSESSOR'S PARCEL NO.
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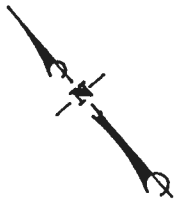
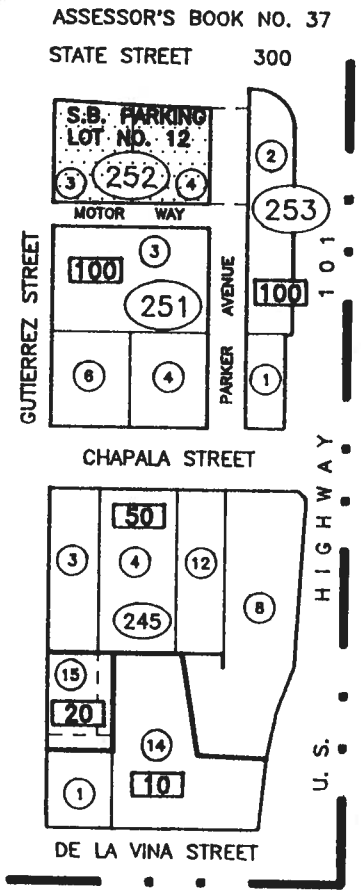
— - - —	DELINEATED AREA

MAPPAGE9.DWG

PARKING ZONES OF BENEFIT

MAP PAGE 10





LEGEND

123	ASSESSOR'S BLOCK NO.
12	ASSESSOR'S PARCEL NO.
25	PARKING ZONE OF BENEFIT % CREDIT
— · · —	DELINEATED AREA

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Chapter 28.92

VARIANCES, MODIFICATIONS AND ZONE CHANGES

Sections:

28.92.010 In General.
28.92.020 Initiation of Amendments and Changes of Zone Boundaries.
28.92.030 Applications.
28.92.040 Filing Fees.
28.92.050 Public Hearings.
28.92.060 Notices.
28.92.070 Community Development Department Report.
28.92.080 Resolution of Decision.
28.92.090 Variances.
28.92.100 Required Findings for Approval of Variances.
28.92.110 Modifications.
28.92.120 Limitations on Refiling.
28.92.130 Minor Zoning Exceptions for Errors in Zoning Information Reports.

28.92.010 In General.

The following regulations shall apply to the granting of variances, modifications and zone changes. (Ord. 5380, 2005.)

28.92.020 Initiation of Amendments and Changes of Zone Boundaries.

Whenever the public necessity, convenience, general welfare or good zoning practice justify such action, either the Planning Commission or City Council may, upon its own motion, or the Planning Commission upon the verified application of any property owner or authorized agent and following a public hearing, may initiate proceedings to amend, supplement or change the zones, regulations or districts established by this title.

With the exception of amendments changing property from one zone to another, or changing the boundary of any zone, amendments may be made in the same manner as this title was adopted. (Ord. 5380, 2005.)

28.92.030 Applications.

Applications for variances, modifications and changes of zone shall be made in writing to the Community Development Director. The Community Development Director may provide forms for such purposes and may prescribe the type of information to be provided thereon. No application shall be received unless it complies with such requirements. Applications filed pursuant to this chapter shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the City of Santa Barbara. (Ord. 5380, 2005.)

28.92.040 Filing Fees.

Before accepting any application for filing pursuant to this chapter, the City shall charge and collect the fees established by resolution of the City Council. (Ord. 5380, 2005.)

28.92.050 Public Hearings.

Prior to taking any action on an application for a variance, change of zone, or modification, a public hearing shall be held before the Staff Hearing Officer or Planning Commission as specified below:

A. VARIANCES. All applications for variances shall be heard and approved, conditionally approved or denied by the Planning Commission.

B. CHANGE OF ZONE. All applications for changes of zone shall be approved, conditionally approved or denied by the Planning Commission, which shall make a recommendation to the City Council regarding the change of zone, if approved or conditionally approved.

C. MODIFICATIONS. Unless the application for a modification requires a discretionary action by the Planning Commission under another provision of this Code, all applications for modifications shall be heard and approved, conditionally approved or denied by the Staff Hearing Officer. (Ord. 5380, 2005.)

28.92.060 Notices.

Notice of public hearings required pursuant to this Chapter 28.92 shall be provided in accordance with Section 28.87.380 of this Code. (Ord. 5380, 2005.)

28.92.070 Community Development Department Report.

At the public hearing, the Staff Hearing Officer, Planning Commission, or City Council on appeal, shall receive a report from the Community Development Department regarding the application and the application's consistency with the intent and purpose of this Title and with previous variances, changes of zone or modifications. (Ord. 5380, 2005.)

28.92.080 Resolution of Decision.

The decisions of the Staff Hearing Officer or Planning Commission shall be announced and recorded by a resolution reciting the findings on which the decision is based.

A. VARIANCES: Within five (5) days after final decision by the Planning Commission on an application for a variance, notice of the decision shall be mailed to the applicant at the address shown upon the application and to all other persons who have filed a written request therefor with the Community Development Department. The decision of the Planning Commission may be appealed in accordance with Chapter 1.30 of this Code. 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 Planning Commission regarding a variance shall be provided in the same manner as notice was provided for the hearing before the Planning Commission. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council.

No permit or license shall be issued for any use involved in an application for a variance until same shall have become final by reason of the failure of any person to appeal or by reason of the action of the City Council.

B. AMENDMENTS AND CHANGES OF ZONE: Within five (5) days after final decision by the Planning Commission on an application for an amendment or change of zone, notice of the decision shall be mailed to the applicant at the address shown upon the application and to all other persons who have filed a written request therefor with the Community Development Department.

1. Approval. Upon approval of an application for an amendment or change of zone by the Planning Commission, the Planning Commission shall submit its recommendation and complete record of the application to the City Council. The City Council shall hold a public hearing to consider the application for the amendment or change of zone and may approve, reverse or modify the action of the Planning Commission and may approve, reject or modify said ordinance accordingly. The City Attorney shall prepare an ordinance providing for the approved amendment or change of zone to the City Council for introduction and subsequent adoption.

2. Denial. The denial of an application for an amendment or change of zone by the Planning Commission shall be final unless appealed in accordance with Chapter 1.30 of this Code. 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 Planning Commission regarding a change of zone shall be provided in the same manner as notice was provided for the hearing before the Planning Commission. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council.

No permit shall be issued for any use involved in an application for a change of zone until the same shall have become final by the effective date of the ordinance.

C. MODIFICATIONS. Within five (5) days after final decision by the Staff Hearing Officer or Planning Commission on an application for a modification, notice of the decision shall be mailed to the applicant at the address shown upon the application and to all other persons who have filed a written request therefor with the Community Development Department.

1. Staff Hearing Officer. Decisions of the Staff Hearing Officer regarding modifications shall be final unless suspended or appealed in accordance with Section 28.05.020 of this Code.

2. Planning Commission. Decisions of the Planning Commission shall be final unless appealed in accordance with Chapter 1.30 of this Code. 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 Planning Commission regarding a modification shall be provided in the same manner as notice was provided for the hearing before the Planning Commission. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council.

No permit or license shall be issued for any use involved in an application for a modification until same shall have become final by reason of the failure of any person to appeal or by reason of the action of the City Council. (Ord. 5380, 2005.)

28.92.090 Variances.

When practical difficulties, unnecessary hardships or results inconsistent with the general purposes of this Title occur by reason of a strict interpretation of any of the provisions of this Title, either the Planning Commission or City Council may upon its own motion, or the Planning Commission upon the verified application of any property owner or authorized agent, may, in specific cases, initiate proceedings for the granting of a variance from the provisions of this Title under such conditions as may be deemed necessary to assure that the spirit and purposes of this chapter will be observed, public safety and welfare secured, and substantial justice done. All acts of the Planning Commission and City Council under the provisions of this section shall be construed as administrative acts performed for the purpose of assuring that the intent and purpose of this Title shall apply in special cases, as provided in this section, and shall not be construed as amendments to the provisions of this Title or map. Individual economic circumstances are not a proper consideration for the granting of a variance. (Ord. 5380, 2005.)

28.92.100 Required Findings for Approval of Variances.

Before a variance may be granted, all of the following findings shall be made:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity.

2. That the granting of such variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in such zone or vicinity in which the property is located.

3. That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by other property in the same zone and vicinity.

4. That the granting of such variance will not adversely affect the Comprehensive General Plan.

(Ord. 5380, 2005.)

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. **Setbacks, Lot Area, Floor Area, Street Frontage, Open Yard, Outdoor Living Space, and Distance Between Buildings.** A modification of setback, lot area, floor area, street frontage, open yard, outdoor living space, or distance between buildings requirements 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 containing affordable dwelling units rented or owned and occupied in the manner provided for in the City's Affordable Housing Policies and Procedures as defined in subsection (A) of Section 28.43.020 of this Code.

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 Single Family Design 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; and

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.

7. **Accommodation of Disabilities.** A modification of any zoning regulation where the modification is necessary to allow improvements to an existing building in order to provide reasonable accommodations to individuals with disabilities. This modification is not available in the case of new buildings, demolitions and rebuilds, or additions where the proposed construction precludes a reasonable accommodation that would not require a modification.

B. BY THE STAFF HEARING OFFICER. The Staff Hearing Officer may permit modifications in accordance with subsections 1., 2., 3., 4., 5., and 7. 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. (Ord. 5488, 2009; Ord. 5459, 2008; Ord. 5416, 2007; Ord. 5380, 2005.)

28.92.120 Limitations on Refiling.

Whenever the Staff Hearing Officer, Planning Commission or City Council has rendered a decision under the provisions of this chapter upon any application, petition or appeal, which has become final after hearing before the Staff Hearing Officer or Planning Commission, or if appeal is taken to the City Council, after hearing on such appeal, or after hearing before the City Council on matters required to be heard by said body, the party or parties presenting such application, petition or appeal, shall not thereafter file another application or petition for the same purpose or relief unless:

1. Twelve (12) months have elapsed from and after the date of the final decision in said matter; or
2. New evidence or proof of changed conditions is furnished to the Staff Hearing Officer, Planning Commission or City Council in the new application or petition. (Ord. 5380, 2005.)

28.92.130 Minor Zoning Exceptions for Errors in Zoning Information Reports.

A. Purpose.

A Minor Zoning Exception is a method of resolving a discrepancy or error in a Zoning Information Report (ZIR) prepared by the City pursuant to Section 28.87.220 of this Code. If a discrepancy or error in a ZIR involves one or more of the zoning violations specified in Subsection B, the property owner may request a Minor Zoning Exception to obtain relief from the zoning standard up to the maximum amount of relief specified for the particular zoning standard, subject to the findings specified in Subsection C.

In order to qualify, the discrepancy or error in the ZIR must involve a failure of City staff to properly identify a zoning violation, or a mischaracterization of the legality or illegality of an existing improvement on the real property, that is related to the relief requested. A decision on a requested Minor Zoning Exception is an administrative action of the Staff Hearing Officer, without public notice or hearing. In order to grant a Minor Zoning Exception, the Staff Hearing Officer must make the findings specified in Subsection C.

The actions of the Staff Hearing Officer pursuant to this Section 28.92.130 are not subject to the provisions of Chapter 28.05 of this Code.

B. Unpermitted Improvements Eligible for Minor Zoning Exceptions.

If a discrepancy or error in a ZIR involves one of the unpermitted improvements listed below, the property owner may request a Minor Zoning Exception:

1. Unpermitted Alterations to Properties with Legal Nonconforming Buildings. The following unpermitted additions or alterations to existing structures that are legal nonconforming as to setbacks, open yard area, residential density, or distance between buildings are eligible to apply for a Minor Zoning Exception, subject to the findings specified in Subsection C:

a. Conversion of an Encroaching Garage or Carport to Other Parking. Where a carport or garage encroaches into any setback or required open yard or does not meet the minimum separation between buildings, the conversion of the carport to a garage or the garage to a carport may be granted a Minor Zoning Exception, provided the number of parking spaces provided in the garage or carport is not increased and the proposed garage or carport meets required minimum interior dimensions or an exception from that standard is approved by the Public Works Director or his or her designee.

b. Conversion of an Encroaching Garage to Another Use. The conversion of a garage that encroaches into a setback to a use other than parking (such as storage, workshop, bedroom, or similar) may be granted a Minor Zoning Exception, subject to the finding specified below in Section 28.92.130.C.2.b.

c. Encroaching First Story Windows. If a building encroaches into an interior or rear setback, the addition of new windows to, or the enlargement or relocation of existing windows on, the first story of the encroaching wall may be granted a Minor Zoning Exception.

d. Exterior Alterations in the Front Setback. If a building encroaches into the front setback, exterior alterations (i.e., windows, doors, skylights, façade changes, etc.) to the portion of the building that encroaches within the front setback may be granted a Minor Zoning Exception.

e. Façade Alterations in the Interior Setback. If a building encroaches into the interior setback, façade alterations, excluding new doors and second floor windows, to the portion of the building that encroaches within the interior setback may be granted a Minor Zoning Exception.

f. Encroaching Ground Floor Additions. If a building encroaches into an interior setback, a ground floor addition that encroaches into the same interior setback may be granted a Minor Zoning Exception, so long as the total square footage of the addition does not exceed 250 square feet and the addition does not result in a new residential unit or an increase in residential density.

g. Alterations to Roof Height. If a structure encroaches into a setback, alterations to the roof height of the portion of the structure that is within a setback may be granted a Minor Zoning Exception as long as the alteration does not increase the building height of the portion of the building within the setback by more than one foot.

h. Cantilevered Architectural Features and Chimneys. New or altered cantilevered architectural features (such as awnings, cornices, canopies, or eaves) that are unsupported from the ground below and do not provide additional floor area within the building, or chimneys that encroach no more than an additional two feet into a setback may be granted a Minor Zoning Exception. However, no cantilevered architectural feature or chimney shall be located closer than three feet from any interior lot line or five feet from any front lot line, except roof eaves, which may be located as close as two feet from any lot line.

i. Uncovered Balcony in the Front Setback. An uncovered balcony within the front setback that does not provide additional floor area within the building and which does not extend more than an additional two feet into the front setback may be granted a Minor Zoning Exception. However, no balcony shall be located closer than five feet from the front lot line.

j. Bay Window in the Front Setback. A bay window within the front setback, that is at least three feet above adjacent grade or finished floor (whichever is higher), does not provide additional floor area within the building, and does not extend more than an additional three feet into the front setback may be granted a Minor Zoning Exception. However, no bay window shall be located closer than five feet to the front lot line.

k. Addition of an Encroaching Landing or Front Porch. In the front setback, a covered or uncovered front porch and any associated steps, not extending above the finished floor level of the ground floor, and not exceeding six feet wide by four feet deep may be granted a Minor Zoning Exception, as long as it is no closer than five feet from the front lot line. In the interior setback, an unenclosed, uncovered, entrance landing and outside steps not extending above the finished floor level of the ground floor may be granted a Minor Zoning Exception to encroach an additional three feet into a setback. However, no entrance landing shall be closer than two feet from the interior lot line, and the size of the landing and steps may not exceed the minimum area required by the building code.

2. "As-Built" Addition or Expansion of Hardscape, Landscape or Site Improvements. The "as-built" addition or expansion of the following hardscape, landscape, or site improvements that encroach into setbacks, required open yard area, or the minimum distance between buildings may be granted a Minor Zoning Exception, subject to the findings specified in Subsection C:

a. Decks with a total area of not more than 200 square feet, attached to a main building, not extending above the finished floor level of the ground floor, and no closer than two feet to an interior lot line;

b. Fountains, ponds, and similar water features;

c. Trash enclosures that are no closer than ten feet from a front lot line and two feet from an interior lot line; and,

d. Decorative features, mailboxes, flagpoles, sculptures. The cumulative area of all such features shall not exceed 50 square feet in the front yard or cover more than 20% of the required open yard. However, the exceptions under this paragraph 2 are not available to allow the encroachment of BBQs, exterior fireplaces, or raised fire pits into setbacks.

3. "As-Built" Detached Accessory Buildings. An "as-built" detached accessory building that encroaches into an interior or rear setback may be granted a Minor Zoning Exception if it satisfies all of the following criteria and subject to the findings specified in Subsection C:

a. The floor area of the building is not more than 120 net square feet; and

b. The accessory building is not a separate residential unit; and

c. The building was constructed prior to August 1, 1975; and

d. The building is not located within the front yard or required open yard or outdoor living space.

4. Oversized Accessory Buildings. Accessory building(s) or garage(s) which exceed the size limits established by Section 28.87.160.C of this Code by no more than 100 square feet and were built prior to August 1, 1975, may be granted a Minor Zoning Exception, provided the accessory building meets the open yard and building height standards of the Zoning Ordinance and subject to the findings specified in Subsection C.

5. Additions Exceeding the Maximum FAR. Additions of floor area to a residence that exceeded the maximum allowed Floor to Lot Area Ratio (FAR) in effect at the time the errant ZIR was prepared may be granted a Minor Zoning Exception, if the additional floor area is contained within the volume of the legally permitted building (i.e., a loft, cellar, etc.) and subject to the findings specified in Subsection C.

C. Findings.

1. In order to grant a Minor Zoning Exception, the Staff Hearing Officer must make all of the following five findings:

a. A material discrepancy or error has occurred in the preparation of a Zoning Information Report regarding the subject property, and the discrepancy or error directly involves the zoning standard from which relief is sought.

b. Substantial evidence has been provided that indicates the improvement for which relief is sought existed in its current form on the site prior to January 1, 1980, or, in the case of accessory structures, August 1, 1975.

c. The Minor Zoning Exception does not involve the permanent removal of a significant component or a character defining element from a historic resource, potential historic resource, or an un-surveyed building located in a Demolition Review Study Area which is more than 50 years old.

d. Any as-built additions that are uniform extensions of the legal nonconforming portion of the building and are generally no closer to the lot line in question than the legal non-onforming portions of the building.

e. The improvement is located in general compliance with the Single Family Design Board's Good Neighbor Guidelines.

2. The following additional findings shall be made, if applicable to the requested Minor Zoning Exception:

a. For improvements in the required open yard or minimum distance between buildings, the site will maintain adequate yard areas to provide light and air, separation of buildings, and privacy and enjoyment of occupants.

b. For garage conversions, the number and configuration of parking space(s) required at the time of the conversion is provided on site.

c. For improvements that increase the height of the building, the final height of the altered building complies with the maximum building height and building story limitations for the applicable zone.

d. For improvements within the front setback, the height and location shall comply with the corner lot and driveway sight line standards established by the Public Works Director.

D. Conditions.

In granting a Minor Zoning Exception, the Staff Hearing Officer may prescribe conditions necessary to minimize potential adverse impacts on neighboring properties that relate to the requested Minor Zoning Exception and are proportionate to the potential impacts on neighboring properties.

E. Decisions.

The Staff Hearing Officer shall issue a written decision on the Minor Zoning Exception request pursuant to this Section. The decision of the Staff Hearing Officer is final and effective when the decision is made, subject to appeal to the Community Development Director.

F. Appeals.

The decision of the Staff Hearing Officer regarding a Minor Zoning Exception may be appealed to the Community Development Director by the applicant. The appeal must be filed in writing with the Community Development Department within ten (10) calendar days of the date of the Staff Hearing Officer's decision. The appellant shall state specifically in the appeal how the decision of the Staff Hearing Officer is not in accord with the provisions of this Title or how it is claimed that there was an error or an abuse of discretion by the Staff Hearing Officer. The Community Development Director shall review the appellant's written appeal letter and the Staff Hearing Officer's written decision and shall affirm, reverse, or modify the decision of the Staff Hearing Officer. No hearing shall be conducted on the appeal. When granting a Minor Zoning Exception, the Community Development Director must make all applicable findings specified in Section 28.92.130.C. The Community Development Director shall issue a written decision on the appeal within ten (10) calendar days of receipt of the appeal. The decision of the Community Development Director is final without any right of further appeal. (Ord. 5730, 2016.)

Chapter 28.93

PERFORMANCE STANDARD PERMITS

Sections:

28.93.001 In General.
28.93.005 Legislative Intent.
28.93.010 Filing of Applications.
28.93.015 Filing Fees.
28.93.020 Performance Standard Permit Procedures.
28.93.030 Uses Permitted Upon Issuance of a Performance Standard Permit.

28.93.001 In General.

The following regulations shall apply to the granting of Performance Standard Permits. (Ord. 4858, 1994.)

28.93.005 Legislative Intent.

It is hereby declared that the uses permitted under this Chapter are relatively minor in nature but have unique features that make it impractical to establish their suitability in a given location prior to their proposal. Because of their nature, these uses warrant individual consideration and review for which performance standards specific to that use are applied. This Chapter establishes a process which allows for individual consideration and review of each project and which requires public notice to neighbors and an opportunity for a public hearing while providing an expedient and economical review process consistent with the proposed degree of development. (Ord. 4858, 1994.)

28.93.010 Filing of Applications.

Applications for Performance Standard Permits shall be made to the Community Development Director in such form as approved by the Community Development Director. The Community Development Director may provide forms for such purposes and may prescribe the type of information to be provided thereon, provided that such information is reasonably related to meeting the requirements of this Chapter. No application shall be accepted unless it complies with such requirements. (Ord. 4858, 1994.)

28.93.015 Filing Fees.

Before accepting any application for filing pursuant to this Chapter, the City shall charge and collect the fees established by resolution of the City Council. (Ord. 4858, 1994.)

28.93.020 Performance Standard Permit Procedures.

A performance standard permit is granted subject to the following procedures:

A. The Staff Hearing Officer may grant a performance standard permit if the Staff Hearing Officer finds that the proposed use complies with all standards for the proposed use set forth in Section 28.93.030 and all requirements of the Zoning Ordinance, and may revoke a performance standard permit if compliance with any such standards and requirements is discontinued.

B. Notice of the proposed use shall be given pursuant to Section 28.87.380 of this Code.

C. The denial or approval of any application for a permit under this Section may be suspended or appealed pursuant to Section 28.05.020 of this Code. (Ord. 5380, 2005; Ord. 4858, 1994.)

28.93.030 Uses Permitted Upon Issuance of a Performance Standard Permit.

The following use(s) may be permitted subject to the approval of a Performance Standard Permit:

A. State-licensed Large Family Day Care Homes in the A, E, R-1, R-2, R-3, R-4 and PUD zones and in the HRC-2 zone where residential uses are permitted provided that the following performance standards are met:

1. There are no other State-licensed Large Family Day Care Homes within a 300 foot radius of the proposed Large Family Day Care Home measured from the nearest property lines of the affected Large Family Day Care Homes. A waiver from the 300-foot spacing requirement may be granted if it can be found that certain physical conditions exist and if the waiver would not result in significant effects on the public peace, health, safety and comfort of the affected neighborhood. Examples of physical conditions that may warrant granting of a waiver include intervening topography that creates a barrier or separation between the facilities such as hillsides or ravines, the presence of major nonresidential uses or structures between facilities or the presence of a major roadway between the facilities.

2. The City finds that adequate off-street area or on-street area in front of the residence is available for passenger loading and unloading. The passenger loading and unloading area shall be of adequate size and configuration and shall allow unrestricted access to neighboring properties.

3. Outdoor play shall be limited to the hours between 8:00 a.m. and 6:00 p.m.

4. One additional parking space for employee parking shall be provided unless a finding is made that adequate on-street or off-street parking is available to support the proposed use.

B. Community care facilities, residential care facilities for the elderly, and hospices serving 7 to 12 individuals in the A, E, R-1, R-2, R-3, R-4, and PUD zones and in the HRC-2 zone where residential uses are permitted, provided that the following performance standards are met:

1. Adequate off-street parking is provided pursuant to Section 28.90.100 or as modified pursuant to Section 28.92.110.

2. The facility conforms to the extent feasible to the type, character and appearance of other residential units in the neighborhood in which it is located. This provision shall in no way restrict the installation of any special feature(s) necessary to serve disabled residents (e.g., ramps, lifts, handrails).

3. The intensity of use in terms of number of people, hours of major activities and other operational aspects of the proposed facility is compatible with any neighboring residential use.

C. Public works treatment and distribution facilities that are greater than 500 square feet and no more than 1,000 square feet in the R-3, R-4, and P-R zones subject to the requirements of Section 28.37.010.B., and less restrictive zones, provided that the following performance standards are met:

1. The setbacks of the proposed facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding residential properties is avoided.

2. The operation of the proposed facility is such that the character of the area is not significantly altered or disturbed.

3. The design and operation of non-emergency outdoor security lighting and equipment will not be a nuisance to the use of property in the area.

4. Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays, and holidays observed by the City of Santa Barbara.

5. If construction work is necessary before 8:00 a.m. or after 5:00 p.m., Monday through Friday, it must be approved by the Chief Building Official. If approved by the Chief Building Official, the applicant shall provide written notice to all property owners and residents within 300 feet of the project and the City Planning and Building Divisions at least 48 hours prior to commencement of any noise-generating construction activity.

6. The project will incorporate standard dust control measures to minimize air quality nuisances to surrounding properties.

D. Rehabilitation of existing water storage reservoirs or sludge basins in any zone, that are owned and operated by the City, provided that the following performance standards are met:

1. That the design and operation of non-emergency outdoor lighting and equipment will not be a nuisance to the use of property in the area.

2. Construction (including preparation for construction work) is prohibited Monday through Friday before 8:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara.

3. If construction work is necessary before 8:00 a.m. or after 5:00 p.m., Monday through Friday, it must be approved by the Chief Building Official. If approved by the Chief Building Official, the applicant shall provide written notice to all property owners and residents within 300 feet of the project and the City Planning and Building Divisions at least 48 hours prior to commencement of any noise-generating construction activity.

4. The project will incorporate standard dust control measures to minimize air quality nuisances to surrounding properties.

E. Additional dwelling units. Notwithstanding any other provisions of this title, where a lot in an A-1, A-2, E-1, E-2, E-3, or R-1 Zone has an area of more than the required lot area for that zone and adequate provisions for ingress and egress, a Performance Standard Permit may be granted by the Staff Hearing Officer for the construction of additional one-family dwellings and allowable accessory buildings in these zones. However, the minimum site area per dwelling unit in these zones shall be the minimum lot area required for that zone, and the location of such additional dwellings shall comply with the provisions of all other applicable ordinances.

F. Solar Energy Systems. In the case where the Building Official makes a finding, based on substantial evidence, that a solar energy system could have a specific, adverse impact upon the public health and safety (as defined in Chapter 22.91 of this Code), the solar energy system shall not be issued a building permit until a Performance Standard Permit has been issued for the solar energy system.

1. Conditions of Approval. The Performance Standard Permit shall require the installation or incorporation of measures or conditions necessary to minimize or avoid the specific, adverse impact.

2. Grounds for Denial. The City shall not deny an application for a Performance Standard Permit to install a solar energy system unless it makes written findings based upon substantial evidence in the record that the proposed installation would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily minimize or avoid the specific, adverse impact. If the applicant proposes any potentially feasible alternatives for preventing the specific adverse impact, the findings accompanying the denial of the Performance Standard Permit shall include the basis for the rejection for potential feasible alternatives of preventing the specific, adverse impact.

3. Appeal. The decision of the Staff Hearing Officer to deny an application for a Performance Standard Permit is appealable according to the following procedures:

a. Who May Appeal. The decision of the Staff Hearing Officer may be appealed to the Planning Commission by the applicant. No other persons can appeal.

b. Timing for Appeal. The applicant may appeal a decision of the Staff Hearing Officer by filing an appeal with the Community Development Director no more than 10 calendar days following the decision. The application shall include the grounds for appeal.

c. Grounds for Appeal. The decision of the Staff Hearing Officer may be appealed on the grounds that the stated findings to deny the permit are not supported by substantial evidence.

d. Scheduling an Appeal Hearing. The Community Development Department shall assign a date for an appeal hearing before the Planning Commission no earlier than 10 calendar days after the date on which the appeal is filed with the Community Development Director. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing.

e. Power to Act on the Decision at Appeal Hearing. The Planning Commission may affirm, reverse, or modify the Staff Hearing Officer's decision to deny a solar energy system in accordance with the following:

i. A decision to affirm the decision of the Staff Hearing Officer shall require a finding based on substantial evidence in the record that the proposed solar energy system would have a specific, adverse impact upon the public health and safety.

ii. If the Planning Commission determines that there is not substantial evidence that the solar energy system would have a specific adverse impact upon the public health and safety, then the decision of the Staff Hearing Officer shall be reversed and the project shall be approved.

iii. If the Planning Commission determines that conditions of approval would mitigate the specific adverse impact upon the public health and safety, then the decision of the Staff Hearing Officer shall be reversed and the project shall be conditionally approved. Any conditions imposed shall mitigate at the lowest cost possible, which generally means the permit condition shall not cause the project to exceed 10 percent of the cost of the small rooftop solar energy system or decrease the efficiency of the small rooftop solar energy system by an amount exceeding 10 percent.

f. The decision of the City Planning Commission is final. (Ord. 5713, 2015; Ord. 5380, 2005; Ord. 4858, 1994.)

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Chapter 28.94

CONDITIONAL USE PERMITS

Sections:

28.94.001 In General.
28.94.005 Legislative Intent.
28.94.017 Filing of Applications.
28.94.020 Findings.
28.94.030 Uses Permitted in Specific Zones.
28.94.034 Uses Prohibited.
28.94.035 Mobilehome and Permanent Recreational Vehicle Parks.
28.94.040 Standards for Mobilehome Parks and Permanent Recreational Vehicle Parks.
28.94.045 Standards for Mobilehome and Permanent Recreational Vehicle Spaces.
28.94.050 Overnight Recreational Vehicle Parks.
28.94.055 Overnight Recreational Vehicle Park Standards.
28.94.060 Standards for Overnight Recreational Vehicle Spaces.
28.94.065 Findings.
28.94.070 Development Potential.
28.94.080 Notice of Decision; Appeals from the Planning Commission to the City Council.

28.94.001 In General.

Uses permitted by Conditional Use Permits and all matters directly related thereto are hereby declared to be special uses, and authority for the location and operation thereof, in certain zones, shall be granted only under the provisions of and upon compliance with the procedure outlined herein. (Ord. 4152, 1982.)

28.94.005 Legislative Intent.

It is hereby declared that in addition to being special uses, the uses permitted under this section are of such a nature that it is impractical in many cases to establish, prior to development, the minimum requirements for parking, site area, setbacks, landscaping or other standards usually applied to classes or types of uses, and that distinct and different performance and development standards must be applied to each individual facility proposed to be established under these provisions. Setback requirements for individual projects shall be established by the Planning Commission by increasing the basic setback requirements of the zone in proportion to the mass of the proposed building or buildings. This declaration is based on the fact that the type of use permitted by these provisions will usually be unique to the zone in terms of the facilities provided, activities conducted, method and intensity of operation, relationship to topography and impact on surrounding urban development and potential, and that meaningful minimum standards can only be established in relation to the particular features of each individual development. (Ord. 4152, 1982.)

28.94.017 Filing of Applications.

The procedure for filing applications, filing fees, investigation, notices, public hearings, findings and appeal shall be the same as herein provided for variances. The amount of fees shall be set by resolution of the City Council. (Ord. 4152, 1982; Ord. 3955 §2, 1978; Ord. 3710, 1974.)

28.94.020 Findings.

In keeping therewith, the Planning Commission may permit, by issuance of a conditional use permit, any of the uses specifically enumerated in Section 28.94.030 upon a finding that:

1. Any such use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan;
2. Such uses will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved;
3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided.
4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time.

5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purpose set forth in this title.

6. Compliance with any additional specific requirements for a conditional use permit.

The Planning Commission may impose such other conditions and restrictions upon the proposed use consistent with the Comprehensive General Plan and may require security to assure satisfactory performance of all conditions and restrictions. (Ord. 4945, 1996; Ord. 4152, 1982; Ord. 3710, 1974; Ord. 3045, 1965.)

28.94.030 Uses Permitted in Specific Zones.

The following uses may be permitted in the zones herein indicated upon the granting of a Conditional Use Permit, except that where another section of this Title specifically allows such use in a zone in conflict with this section, the provision of such other section shall apply and a Conditional Use Permit shall not be required.

A. Church in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3, R-4, C-1, C-P, C-L, C-O, R-O, C-X, H-C, HRC-1, HRC-2, OM-1 and OC zones.

B. Convent and monastery in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, C-X, H-C, HRC-1, HRC-2, OC, M-1, and OM-1 zones.

C. Educational institution in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3, R-4, C-1, C-P, C-L, C-O, R-O, C-X, H-C, HRC-1, HRC-2, OC, M-1, and OM-1 zones.

D. Golf course or driving range (but excluding miniature golf) in any zone.

E. Outdoor tennis club and lawn bowling club in the A, E and R Zones. Normal clubhouse facilities such as pro shop, coffee shop, administrative offices, lounge, etc. may be allowed in connection with a private club only, provided that such uses shall be clearly shown to be incidental and accessory to the outdoor recreational use of the premises, and that the clubhouse facilities shall be available only to the club members and their guests.

It is hereby declared that in addition to being special uses as set forth in Sections 28.94.001 and 28.94.005, the uses permitted under this subsection are of such a nature that it is impractical to establish in advance of development the minimum requirements for parking, site area, setbacks, hours or manner of operation, lighting, landscaping, or other standards usually applied to classes or types of use, and that distinct and different performance and development standards must be applied to each individual facility proposed to be established under these provisions.

This declaration is based on the fact that the type of club permitted by these provisions will usually be within the City area, unique in terms of the facilities provided, activities conducted, method and intensity of operation, relationship to topography and impact on surrounding urban development and potential, and that meaningful minimum standards can only be established in relation to the particular features of each individual development.

In lieu of prescribing herein minimum performance and development standards, the Planning Commission shall, as a part of any Conditional Use Permit issued to permit the establishment of outdoor tennis or lawn bowling clubs under this subsection, make the following findings and impose conditions necessary to secure and perpetuate the bases for such findings:

1. That the total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided.

2. That the prescribed hours and days of operation of the various facilities of the club are such that the character of the area is not altered or disturbed.

3. That the design and operation of outdoor lighting equipment will not be a nuisance to the use of property in the area.

4. That adequate access and off-street parking is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time.

5. That the appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area.

F. Planned unit development in A, E and R-1 Zones in accordance with the provisions of Chapter 28.36 of this Title.

G. Planned residence development in the A, E and R-1 Zones, subject to provisions of Chapter 28.33 of this Title.

H. Child care centers in the A, E, R-1, R-2, R-3, R-4, R-O, C-O and C-X zones, subject to the following conditions, standards and limitations:

1. Location of play areas. Outdoor play areas shall be located in a manner that is compatible with the character of the surrounding area, that minimizes significant detrimental noise impacts to adjacent properties, and that complies with the minimum standards of State Law.

2. Passenger loading. Facilities shall be provided for loading and unloading passengers, and shall be subject to the review and approval of the Planning Commission taking into consideration the recommendation of the Transportation Engineer.

I. Driveways and parking areas for nonresidential uses in residential zones.

J. Boarding house in the R-2, R-3 and R-4 Zones.

K. Club and lodge in the R-3, R-4 and R-O Zones.

L. Garden apartments in the R-2 Zone, subject to the provisions of Chapter 28.30 of this Title.

M. Hospitals, skilled nursing facilities and other similar buildings and facilities for the treatment of human ailments where facilities are provided for the keeping of patients overnight or longer, in the R-4, C-O, C-P, C-1, C-2 and C-M Zones.

N. Restaurant in the R-4 Zone, provided there is a minimum of one hundred (100) established hotel-motel guest rooms within five hundred feet (500') from the boundary of the proposed restaurant site. The one hundred (100) established hotel-motel guest rooms within five hundred feet (500') may be used to support any number of restaurants within the affected area.

O. Establishment or enterprises which involve large assemblages of people on more than four occasions per year, including, but not limited to, any open air theater, Certified Farmers Market, street market, trade fair, trade exchange, recreational or sport center, in the C Zones.

P. Automobile wrecking in the C-M and M-1 Zones.

Q. Car wash, auto polishing, auto steam cleaning establishment in the C-1, C-P and C-2 Zones, provided that such installation shall be subject to the noise restrictions established in Chapter 28.60 of this Title.

R. State-licensed residential care facilities for the elderly, community care facilities and hospices serving more than 12 individuals in the A, E, R, and C Zones.

1. STANDARDS.

a. If a new residential care facility for the elderly, community care facility or hospice which is subject to a Conditional Use Permit includes a staffed congregate kitchen and dining facility providing regular meals to residents, living units may include modular cooking units without being counted as residential units.

b. If an existing residential care facility for the elderly, community care facility or hospice as of the effective date of this Ordinance, which is subject to a Conditional Use Permit includes a staffed congregate kitchen and dining facility providing regular meals to residents, living units may be converted to include modular cooking units without being counted as residential units under the provisions of a new Conditional Use Permit.

c. If a new or existing residential care facility for the elderly, community care facility or hospice as of the effective date of this Ordinance, which is subject to a Conditional Use Permit does not include a congregate dining facility, but does include kitchens in its living units, living units shall be counted as residential units.

d. Recreational facilities and skilled nursing facilities intended primarily for the residents may be allowed in connection with residential care facilities for the elderly, community care facilities or hospices provided that such uses are incidental and accessory thereto. The use of the facilities by persons other than residents and staff may be limited.

2. FINDINGS:

a. For new State licensed residential care facilities for the elderly, community care facility or hospice, in addition to the findings required under Section 28.94.020, the Planning Commission or City Council on appeal must find upon a showing of adequate information that:

(1) The facility will generate a demand for resources such as water, traffic, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, and such resources are available in amounts adequate to service the proposed facility.

(2) The intensity of use in terms of the number of people, hours of operation, hours of major activities, and other operational aspects of the proposed facility is compatible with any neighboring residential use.

(3) The proposed facility shall be able to be converted to a density which conforms to the residential unit density of the underlying zone. Sufficient land area has been shown to be available to meet the parking demand of a future use.

b. For existing State-licensed residential care facilities for the elderly, community care facility or hospice as of the effective date of this Ordinance requesting an alteration or modification, in addition to the findings required under Section 28.94.020, the Planning Commission or City Council on appeal must find upon a showing of adequate information that:

(1) The proposal has been reviewed and approved by the City Fire Marshall and the City Building Official.

(2) The facility will generate a demand for resources such as water, traffic and parking capacity, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, or if existing resource use exceeds the underlying zone, then resource use shall be equivalent to no more than that of the existing use.

(3) The intensity of use in terms of the number of people, hours of operation, hours of major activities and other operational aspects of the proposed facility is compatible with any neighboring residential use.

S. Facilities and equipment, not to include offices, used by public utilities or quasi-public utilities, e.g., cable television, to provide services to the general public in any zone, except for Radio and Television Antennas, Cellular Telephone Antennas and Emergency Service Antennas and any facilities or equipment expressly permitted in the zone or authorized pursuant to Chapter 28.93 of this Code.

T. Medical equipment and supply stores of more than 3,000 square feet of net floor area in the C-O Zone, subject to the following special provisions:

The Planning Commission shall find that the use is supportive and directly related to the providing of medical and related services. The Commission may permit a portion of the space to be used for non-medically related sales and/or a percentage of dollar volume of business for non-medically related sales, provided that said amount of non-medically related use is set forth in the Conditional Use Permit.

U. Banks of more than 1,000 square feet of net floor area in the C-O Zone, subject to the following:

The intent is to allow branch banks as a convenience to the medical community and neighborhood, so that there will be less traffic into the commercial areas for deposits, and as a cash source for patients in the area. It is not the intent to establish a banking community in the area. As a result, the limitations set forth below shall apply.

Prior to issuance, the Planning Commission shall find the following:

1. No similar facility is located on adjacent property or on a parcel within three hundred (300) feet of the subject property.
2. There shall not be more than one thousand (1,000) square feet of space accessible to customers for services.
3. There shall be no drive-up window, but a walk-up window may be permitted.
4. The signing of the operation is in a manner as to identify but not advertise, and to blend in with the neighborhood.
5. Services are limited to deposits, check cashing, cashier and travelers checks, acceptance of loan applications, and night deposits. The following services are excluded: loan applications processing and safety deposit boxes.
6. The permitted number of employees is consistent with the above.

V. Automobile service station, automobile service station/mini-market or conversion to an automobile service station/mini-market shall be subject to the following conditions, standards and limitations:

1. Conditions. Specific conditions may be imposed to carry out the purposes of this Code.
2. Lot Area. The minimum area of the parcel or lot shall not be less than eight thousand (8,000) square feet.
3. Street Frontage. Each lot shall have a minimum frontage of not less than one hundred (100) feet on one abutting street.
4. Architecture. The architecture of the service station structures and landscaping shall be reviewed and approved by the Architectural Board of Review, or the 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. The architectural theme shall be integrated into the design of all improvements of the site including canopies and fencing.
5. Driveways.
   a. New Service Stations. For service stations constructed after the effective date of this Subsection, driveway entrances to the service station shall not be within twenty (20) feet of the curb return (beginning of curve) on corner lots.
   b. Existing Service Stations. For driveway entrances of service stations that have been constructed prior to the effective date of this Subsection, relocation of driveway entrances may be required to minimize interference with the movement and safety of vehicular and pedestrian traffic.
6. Internal Circulation. Where access from an internal circulation system of a shopping center or public parking area is available, direct street access to a service station may be prohibited or restricted.
7. Parking. Parking shall conform to the minimum parking requirements as outlined in Section 28.90.100 or a minimum of five (5) parking spaces shall be provided or one (1) parking space for each two hundred fifty (250) square feet of gross floor area used for mini-market use and one (1) space for each employee shall be provided; whichever is greater.
8. Lighting. Any perimeter flood lighting shall be hooded or shielded so that no direct beams fall upon adjacent residential property. Indirect soft lights and low garden lights shall be used wherever possible, and shall be required as necessary to assure compatibility with adjacent and surrounding properties.
9. Landscaping. All landscaped areas shall be as follows:
   a. A planter shall be provided along all street-side property lines except for driveway openings.
   b. On corner lots, a minimum of one hundred fifty (150) square feet of planter area shall be provided on the property adjacent to the corner intersection.
   c. At least ten percent (10%) of the area not covered by buildings on the parcel shall be landscaped.
10. Restrooms. The entrance to all restrooms shall be screened from abutting properties by a decorative screen.
11. Fencing. A decorative fence six (6) feet in height from finished grade shall be provided on all property lines that do not abut a street, alley or parking area, with the exception that a fence may not be required for a service station that is an integral part of a commercial, industrial or office center or where combined landscaping will be achieved with such adjacent properties.
12. Operations and Storage.
   a. Repair of vehicles is only permitted within an enclosed building.
   b. All servicing of vehicles other than minor servicing shall be conducted within an enclosed building.

c. All materials, products and merchandise shall be stored and displayed only within an enclosed building.

d. No used or discarded automotive parts or equipment or visible junk or wrecked vehicles shall be located or stored outside the service station building.

e. Trash shall be stored in areas screened from public view by a fence with a minimum height of six (6) feet. Trash shall not be stored or piled above the height of the fence.

13. Fire Department Approval. Prior to the issuance of any building permit for a service station or any portion thereof, the Fire Department shall review the plans and approve said plans if they comply with applicable Fire Department ordinances and regulations.

W. Public or quasi-public facility, including homeless shelters providing services and programs beyond the definition of minimal supportive services specified in Section 28.04.273 (subject to a separation of at least 300 feet from another emergency shelter or homeless shelter), in any zone, except those expressly permitted in the zone or authorized pursuant to Chapter 28.93 of this Code, and Radio and Television Antennas, Cellular Telephone Antennas and Emergency Service Antennas.

X. Any use other than those permitted by Section 28.73.030.A of the OM-1 Zone and permitted in the M-1 Zone and subject to those findings required in Section 28.73.030.B and Section 28.94.020.

Y. General office uses in the HRC-2 Zone as permitted by Subsection 28.22.030.2.c, and subject to the findings required in Subsection 28.22.030.2.c and Section 28.94.020.

Z. Secondary Dwelling Units in any A, E or R-1 Zone, subject to the following provisions:

1. The minimum lot size for any parcel containing a Secondary Dwelling Unit shall be seven thousand (7,000) square feet.

2. There shall be no more than one (1) existing single-family dwelling, hereinafter referred to as the primary dwelling, on the parcel.

3. The Secondary Dwelling Unit shall be attached to the primary dwelling by a common wall, floor or ceiling and not simply by an attached breeze-way or porch. Said unit shall involve no more than a ten percent (10%) increase in the square footage of the primary dwelling nor shall it constitute more than forty percent (40%) of the combined floor area of the primary dwelling and Secondary Dwelling Unit, exclusive of the garage or carport.

4. The maximum floor area of the Secondary Dwelling Unit shall not exceed six hundred (600) square feet.

5. Setbacks and height limitations for the Secondary Dwelling Unit shall be the same as for the primary dwelling.

6. One (1) off-street parking space, covered or uncovered, shall be required for a Secondary Dwelling Unit. In addition, if the primary dwelling does not provide parking as required by Subsection 28.90.100.G.1 of this Title, such parking shall be provided. The garage or carport for the primary dwelling shall not be converted to provide a Secondary Dwelling Unit.

7. There shall be no more than four (4) separate rooms in a Secondary Dwelling Unit, one of which shall be a kitchen and one a bathroom. The total number of rooms on the parcel shall not be increased by more than two (2), including the bathroom and kitchen for the Secondary Dwelling Unit. The Secondary Dwelling Unit shall also provide a separate entrance.

8. Both the primary dwelling and the Secondary Dwelling Unit shall comply with all requirements of the housing code in effect on the date of issuance of the building permit for the Secondary Dwelling Unit. Any alteration or addition shall comply with all requirements of the California Building Code as adopted and amended by the City.

9. A separate water meter shall be provided for the Secondary Dwelling Unit. The primary dwelling shall be retrofitted with water-conserving devices to the same extent as if the dwelling were being built under the California Building Code as adopted and amended by the City.

10. Before obtaining a building permit for a Secondary Dwelling Unit, the property owner shall file with the County Recorder, upon approval by the City Attorney as to form and content, a covenant containing a reference to the deed under which the property was acquired by the present owner and stating that:

a. The Secondary Dwelling Unit shall not be sold separately from the primary dwelling.

b. The Secondary Dwelling Unit is restricted to the approved size.

c. The conditional use permit for the Secondary Dwelling Unit shall be in effect only so long as either the primary dwelling or the Secondary Dwelling Unit is occupied by the owner of the lot on which the Secondary Dwelling Unit is located, except for bona fide temporary absences. The conditional use permit shall remain valid if disability or infirmity require the institutionalization of the owner.

d. The Secondary Dwelling Unit shall be rented at a rate that is affordable to low and moderate income families or to immediate family members as required under Subsection 28.94.030.Z.12 of this Title.

e. The conditional use permit, and any conditions imposed by said permit, shall lapse upon removal of the Secondary Dwelling Unit.

f. There shall be no more than two (2) inhabitants in any Secondary Dwelling Unit.

g. The above declarations are binding upon any successors in ownership of the property; any lack of compliance shall revoke the conditional use permit.

11. Secondary Dwelling Units shall be prohibited in High Fire Hazard Areas (as defined in the Fire Master Plan.)

12. The Secondary Dwelling Unit, or the primary dwelling if the owner chooses to live in the Secondary Dwelling Unit, shall be leased or rented to a person or persons falling within one or more of the following categories:

a. A household whose head is a member of the owner's immediate family. For purposes of this Section, "immediate family" shall be defined as parents, grandparents, children, grandchildren, sisters, brothers, and equivalent in-laws.

b. Low income households (incomes less than 80 percent of the median income for the City), as determined by the United States Department of Housing and Urban Development (HUD). The rent level will be no more than the Fair Market Rent levels for the City as determined and adjusted from time to time by HUD, and the owner shall give priority for occupancy to households referred by the Santa Barbara Housing Authority. If the unit is rented or leased to households not referred by the Housing Authority, the income level of the renter selected must be certified by the Housing Authority as to eligibility and this certification must be submitted to the Community Development Director. The Housing Authority may assess a fee for certification of renters other than those referred by the Housing Authority. The rent level for such low-income renters shall not exceed one twelfth (1/12) of thirty percent (30%) of the certified income of the renter. In addition, the owner must submit annually to the Housing Authority a copy of the lease or rental agreement in effect that identifies the rent level and the name and income level of the lessee/renter.

c. Moderate income households (incomes between 81 and 120 percent of the median income of the City), if the owner chooses not to rent to a family member and a sworn declaration supported by written documentation, such as loan documents, setting forth the financial reasons why the unit will not be rented to a low-income household is submitted to the City. Generally, the only acceptable financial reason would be that higher rent is required in order to meet the carrying costs of new construction. The rent levels will be not more than one-twelfth (1/12) of thirty percent (30%) of the median income for a family of four in the City adjusted for household/unit size according to the following factors:

Unit Size	Factor
Studio	.70
One-Bedroom	.80
Two-Bedroom	.95
Three-Bedroom	1.065

Prior to the rental or leasing of the unit, the income level of the household shall be certified by the Housing Authority. The Housing Authority may assess a fee for certification of renters other than those referred by the Housing Authority. In addition, the owner must submit annually to the Housing Authority a copy of the lease or rental agreement in effect that identifies the rent level and name and income of the lessee/renter.

13. Approved Secondary Dwelling Units shall be subtracted from the Density Reserve established by Policy 5-1.0 of the City's Housing Element, as adopted by the City of Santa Barbara on June 8, 1982. When there are no units available in the Density Reserve, no conditional use permits shall be granted for Secondary Dwelling Units.

14. Secondary Dwelling Units shall be prohibited if there is an accessory building containing additional dwelling space, an additional dwelling unit approved under Section 28.93.030.E, caretaker's residence or similar use on the parcel. Furthermore, no accessory building intended to provide additional dwelling space, additional dwelling unit under Section 28.93.030.E, caretaker's residence or similar use shall be constructed on a lot where there is an approved Secondary Dwelling Unit.

15. The Architectural Board of Review, or the 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, shall review all Secondary Dwelling Units which require exterior change to the primary dwelling to assure that there is minimal evidence of occupancy of the parcel by more than one (1) family and that any changes or additions to the exterior of the primary dwelling necessary to establish the Secondary Dwelling Unit blend architecturally with the primary dwelling.

16. In order to encourage the development of housing opportunities for disabled and handicapped individuals, the Planning Commission may allow reasonable deviation from the stated physical requirements where necessary to install features that facilitate access and mobility for disabled persons. Otherwise, no modification of the requirements for a Secondary Dwelling Unit shall be allowed unless specifically stated in this Section.

17. In addition to the findings required under Section 28.94.020, the Planning Commission, or City Council on appeal, must find that:

a. The Secondary Dwelling Unit does not overload the capacity of the neighborhood to absorb it or cause a concentration of such units sufficient to change the character of the single-family neighborhood in which it is located.

b. The Secondary Dwelling Unit does not detract from the privacy of the surrounding residents.

18. Modifications.

a. Parking. No modification of the required number of parking spaces shall be allowed. Modification of other parking-related requirements may be allowed subject to the provisions of Section 28.92.110 of this Code.

b. Setbacks and height limitations. Modification of these requirements may be allowed subject to the provisions of Section 28.92.110 of this Code.

AA. Any interim use deemed appropriate by the Planning Commission in those areas identified by resolution of the City Council as impacted by governmental action. Such interim uses shall be limited in duration as specified by the Planning Commission, provided all such uses are discontinued within two (2) years of the completion of the governmental action. Any authorization granted by the conditional use permit shall terminate at that time.

The conditional use permit granted pursuant to this Subsection shall not be effective until the property owner has duly executed and recorded an instrument binding itself, its successors in interest and any person holding thereunder, which contains (i) notice of the conditional use permit, (ii) notice of any conditions established thereunder, (iii) an agreement to comply with the terms and conditions of the conditional use permit, (iv) a waiver of any claim that a temporary use or any improvements on real property creates any vested right to continue a non-conforming use after completion of the governmental action, and (v) any other conditions as deemed necessary to comply with the purposes and intent of this Subsection. This instrument shall be subject to the review and approval of the City Attorney and the Community Development Director.

BB. Bed and Breakfast Inns in Designated Historic Structures.

1. R-O Zone

a. Bed and Breakfast Inns in Structures of Merit or Landmarks in the R-O zone, in accordance with the provisions of Chapter 22.22 of this Title.

b. Bed and Breakfast Inns in a structure located on a lot in the R-O zone, on which a Structure of Merit or Landmark used as a Bed and Breakfast Inn is also located.

2. R-3 Zone

a. Bed and Breakfast Inns in Structures of Merit or Landmarks in the R-3 zone, in accordance with the provisions of Chapter 22.22 of this Title, subject to the following conditions.

(1) The owner or manager of the Bed and Breakfast Inn shall maintain his or her primary residence on the property that contains the Bed and Breakfast Inn.

(2) No meals shall be served to persons other than guests and residents of the Bed and Breakfast Inn.

(3) No conference or meeting rooms/facilities shall be provided.

(4) No outdoor swimming pool shall be provided; however, outdoor spas, hot tubs or similar facilities may be provided.

(5) Other conditions imposed by the Planning Commission in order to ensure compatibility with the surrounding neighborhood.

b. Bed and Breakfast Inns in a structure located on a lot in the R-3 zone, on which a Structure of Merit or Landmark used as a Bed and Breakfast Inn is also located, subject to the conditions listed in §28.94.030.BB.2.a. above.

3. Review by the Historic Landmarks Commission. Plans for new structures or alterations to existing structures under 1 and 2 above shall be submitted to the Historic Landmarks Commission for review and action in accordance with the provisions of Chapter 22.22 of this Title.

CC. Offsite Hazardous Waste Management Facilities in the C-M, M-1, and OM-1 zones, subject to the provisions in Chapter 28.75, HWMF Overlay Zone.

DD. Television, Radio and Cellular Telephone Antennas in all zones, subject to the following provisions:

1. Exemptions. The following are exempt from the requirement of a Conditional Use Permit, and shall be considered a permitted use in all zones:

a. Repairs and maintenance of existing facilities, whether emergency or routine, or replacement of transmitters, antennas, or other components of existing permitted facilities, provided there is little or no change in the visual appearance or any increase in radio frequency emission levels.

b. Satellite Dish Antennas designed or used for the reception of television or other electronic communications signal broadcast or relayed from an earth satellite.

c. One or more cellular telephone antennas or paging antennas, provided that the Community Development Director finds as follows:

(1) Height: The height of the antenna and supporting structure does not exceed Municipal Code height limits set forth in Sec. 28.87.260, except where said antenna is being installed on an existing structure, in which event the height limit is measured from the highest point of the building and cannot exceed 15 feet above the building height.

(2) Separation: There is at least 100 feet between the base of the antenna support structure and the nearest dwelling unit.

(3) Access Control: The applicant establishes that the general public will be excluded from an area at least 50 feet in all directions from the antenna if antenna is not at least 10 feet off the ground. If the antenna is at least 10 feet above grade, this distance may be reduced to 30 feet.

(4) No Resource Impacts: The project will have no significant impact on any biological or archeological resources and will not generate additional traffic. The applicant may be required to provide information to the Community Development Director regarding these matters.

(5) No Visual Impacts: The project has been reviewed by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located in the El Pueblo Viejo Landmark District or another landmark district or if the property contains a designated City Landmark. The Board and Commission may take action regarding the location of the antenna(s) on the site, color and size of the proposed antennas so as to minimize any adverse visual impacts.

d. A microcell, provided it has been reviewed by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located in the El Pueblo Viejo Landmark District or another landmark district or if the property or a structure thereon is a designated City Landmark. The Board and Commission may take action regarding the location of the antenna(s) on the site, color and size of the proposed antennas so as to minimize any adverse visual impacts.

2. Conditional Use Permit by Planning Commission. A Radio or Television Antenna shall be permitted only upon issuance of a conditional use permit by the Planning Commission, and only if each of the following findings has been made:

a. Shared Use of Support Structure. The applicant had made a good faith effort to demonstrate that no existing or planned support structure, including an antenna tower, is available to accommodate the proposed antenna.

b. Site Size. The site is of a size and shape sufficient to provide an adequate setback from the base of the antenna support structure to any property line abutting a residential use.

c. Visual Impact. The project has been reviewed by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located in the El Pueblo Viejo Landmark District or another landmark district or if the property contains a designated City Landmark. The Board and Commission may take action on the location of the antenna(s) on the site, color and size so as to minimize any adverse visual impacts by requiring that the antenna and its supporting structure be designed and placed so as to be as visually unobtrusive as feasible, taking into consideration technical engineering and other pertinent factors. The Planning Commission may grant a waiver from height limitations if it finds that no feasible alternative location or design would not require such a waiver.

d. Non-ionizing Electromagnetic Radiation (NIER) Emissions. Any new transmitters and/or antennas, when combined with existing sources of NIER emissions on or adjacent to the site and when operating as designed and licensed, shall not expose the general public to ambient radiation emissions which exceed American National Standards Institute (ANSI) C95.1-1992 standard (if the Federal Communications Commission (FCC) rulemaking committee adopts a revised standard, said standard shall apply).

EE. Outdoor performance areas involving structures such as bandshells or amphitheaters in the PR Zone. (Ord. 5662, 2014; Ord. 5459, 2008; Ord. 5451, Section 5, 2008; Ord. 5380, 2005; Ord. 5072, 1998; Ord. 4919, 1995; Ord. 4912, 1995; Ord. 4891, 1994; Ord. 4878, 1994; Ord. 4858, 1994; Ord. 4851, 1994; Ord. 4827, 1993; Ord. 4825, 1993; Ord. 4751, 1992; Ord. 4697, 1991; Ord. 4582, 1989; Ord. 4429, 1986; Ord. 4414, 1986; Ord. 4413, 1986; Ord. 4374, 1986; Ord. 4320, 1985; Ord. 4225, 1983; Ord. 4172, 1982; Ord. 4171, 1982; Ord. 4152, 1982; Ord. 4068, 1980; Ord. 4033 §8, 1980; Ord. 3943, 1978; Ord. 3882, 1977; Ord. 3862, 1976; Ord. 3854, 1976; Ord. 3710, 1974; Ord. 3613, 1974; Ord. 3546, 1972; Ord. 3539, 1972; Ord. 3399, 1970; Ord. 3398, 1970; Ord. 3272, 1968; Ord. 3060, 1965; Ord. 3045, 1965; Ord. 3025, 1965; Ord. 2967, 1964; Ord. 2892, 1962.)

28.94.034 Uses Prohibited.

Shooting clubs, any activities involving the discharge of firearms, and clubs providing primarily indoor recreation facilities rather than outdoor facilities are prohibited. (Ord. 4152, 1982; Ord. 3710, 1974.)

28.94.035 Mobilehome and Permanent Recreational Vehicle Parks.

The construction or expansion of a mobilehome or permanent recreational vehicle park (as those terms are defined in Sections 28.04.470 and 28.04.570 of this code, respectively) may be permitted in all zones where residential uses are allowed, except a city-designated high fire hazard area and a city landmark district established under Chapter 22.22 of this Code upon the granting of a conditional use permit. (Ord. 5459, Section 3, 2008; Ord. 4269, 1984.)

28.94.040 Standards for Mobilehome Parks and Permanent Recreational Vehicle Parks.

The following standards shall apply to the construction of a new mobilehome or permanent recreational vehicle park or the expansion of an existing park in the City.

A. MINIMUM SIZE. Any mobilehome or permanent recreational vehicle park developed under the provisions of this Chapter shall be located on a site of not less than two (2) acres.

B. DENSITY. Maximum density in a mobilehome or permanent recreational vehicle park shall not exceed the density allowable for any residential use in the same zone. Any restrictions applicable to standard residential development (for example, the slope density provisions of Section 28.15.080 of this Code) shall also apply when computing density for a mobilehome or permanent recreational vehicle park, except that Section 28.21.080.7 of this Code shall not apply in the R-3 and R-4 zones.

C. SETBACKS AND PERMITS. A mobilehome or permanent recreational vehicle park shall comply with the minimum setback regulations applicable to other residential developments in the zone in which the development is located.

D. INTERNAL ROADWAY WIDTH. Internal roadways shall provide direct access to each mobilehome or recreational vehicle space and shall be provided in such a pattern as to provide convenient and safe traffic circulation within the mobilehome or permanent recreational vehicle park. Such roadways shall be built to the following standards:

1. No roadway shall be less than twenty-six (26) feet in width if automobile parking is not permitted on the roadway; not less than thirty-two (32) feet if automobile parking is allowed on one (1) side of the roadway and not less than forty (40) feet in width if automobile parking is permitted on both sides of a roadway.

2. There shall be rolled concrete curbs and gutter installed on both sides of the roadway in accordance with standards established by the Public Works Department.

3. The roadways shall be paved according to standards established by the Public Works Department.

E. LIGHTING. Internal roadways and walkways shall be lit using low-intensity lighting directed away from surrounding residential uses.

F. LANDSCAPING REQUIREMENTS.

1. Wall, fence or screen. An ornamental wall, fence or screen planting acceptable to the Planning Commission and not less than six (6) feet in height shall be erected and maintained along the side and rear boundaries of a mobilehome or permanent recreational vehicle park. Where, in the opinion of the Planning Commission, it is unreasonable to require a wall, fence or screen planting due to the nature of the existing topography or other existing conditions that might render such wall, fence or screen ineffective, the Commission, at its discretion, may waive or modify the requirements as specified in this Section.

2. Ornamental planting. Ornamental planting at least six (6) feet in depth along the full width of the front of the mobilehome or permanent recreational vehicle park property, and acceptable to the Architectural Board of Review, or the 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, shall be installed and maintained whether or not the property fronts along a public street. An ornamental wall or fence may be erected in conjunction with the above-mentioned ornamental planting, but shall not take the place of said ornamental planting.

3. Street trees and parkway planting. Street trees and parkway planting shall be installed and maintained along the full width of the front of the mobilehome or permanent recreational vehicle park property when said property fronts on a public street. All trees and plants installed within the street right-of-way shall be approved by the Parks Department.

G. GUEST PARKING. Guest parking shall be provided in accordance with Section 28.90.100.7 of this Code.

H. LAUNDRY FACILITIES. Common laundry facilities shall be provided. Such facilities shall consist of one (1) automatic washer and one (1) dryer for each ten (10) mobilehome or recreational vehicle spaces or fraction thereof. In such cases where the applicant can demonstrate that this standard cannot or should not reasonably be met, this standard may be modified by the Planning Commission. (Ord. 4851, 1994; Ord. 4269, 1984.)

28.94.045 Standards for Mobilehome and Permanent Recreational Vehicle Spaces.

The following standards shall apply to any newly constructed mobilehome or permanent recreational vehicle park.

A. SPACE DIMENSIONS. Each mobilehome and recreational vehicle space shall be a minimum of twenty-six (26) feet wider and ten (10) feet longer than the mobilehome or recreational vehicle placed in that space.

B. SPACE SETBACKS. Each mobilehome and recreational vehicle space shall have a minimum side setback of not less than three (3) feet and a front and rear setback of not less than five (5) feet.

C. LOT COVERAGE. In no case shall the area of a mobilehome or recreational vehicle space occupied by a mobilehome, recreational vehicle, cabana, carport, ramada or any accessory structure or awnings or combination thereof exceed sixty percent (60%) of the total area of that space.

D. ONE (1) MOBILEHOME OR RECREATIONAL VEHICLE PER SPACE. Not more than one (1) mobilehome or recreational vehicle shall be allowed on any mobilehome or recreational vehicle space.

E. DISTANCE BETWEEN STRUCTURES. The minimum distance required between mobilehomes or recreational vehicles and a building, or between mobilehomes or recreational vehicles and other mobilehomes or recreational vehicles shall be as established by Section 18611 of the California Health and Safety Code, as amended from time to time.

F. OBSTRUCTIONS. No obstruction of any kind shall be erected, placed or maintained on or about the mobilehome or recreational vehicle space which would impede the movement of a mobilehome or recreational vehicle to or from a space or prevent inspection of plumbing or electrical facilities.

G. OPEN SPACE. All mobilehome and recreational vehicle parks and spaces shall meet the minimum open space requirements of the zone in which the development is proposed.

H. PAD AND SURFACE. Each mobilehome and recreational vehicle shall be placed on a pad at least large enough to cover the entire area underneath any mobilehome or recreational vehicle placed thereon. Each such pad shall be surfaced with asphaltic concrete of minimum thickness of two inches, or an equivalent surfacing material to the length and width of the mobilehome or recreational vehicle placed on the space. There shall be provided on each mobilehome and recreational vehicle space a concrete patio of at least one hundred forty (140) square feet in area, and in no event less than nine (9) feet in width.

I. PARKING. Parking shall be provided in accordance with Section 28.90.100.7 of this Code.

J. SKIRTING. The underneath of all mobilehomes and recreational vehicles shall be enclosed from the bottom of the mobilehome or recreational vehicle to the ground with a solid metal skirt, wood skirt, block wall or equivalent material approved by the Community Development Director. (Ord. 5459, 2008; Ord. 4269, 1984.)

28.94.050 Overnight Recreational Vehicle Parks.

The construction or expansion of an overnight recreational vehicle park, as that term is defined in Section 28.04.565 of this Code, may be permitted in P-D, C-P, C-L, C-1, C-2, C-M and R-4 zones upon the granting of a conditional use permit subject to the requirements of this section and Sections 28.94.055, 28.94.060 and 28.94.065. (Ord. 5459, Section 3, 2008; Ord. 4269, 1984.)

28.94.055 Overnight Recreational Vehicle Park Standards.

The following standards shall apply to the construction of a new overnight recreational vehicle park or the expansion of an existing park in the City.

A. TEMPORARY USE. No overnight recreational vehicle park shall be occupied for more than thirty (30) days within a 60 day period by any park guest, nor shall any recreational vehicle space be occupied by other than a recreational vehicle or tent, except that a mobilehome, apartment or other dwelling unit may be located in the park for residential use by one park manager or caretaker and his family.

B. MINIMUM SIZE. Any overnight recreational vehicle park developed under these provisions shall be located on a site of not less than two (2) acres.

C. DENSITY. Maximum density in an overnight recreational vehicle park shall not exceed thirty (30) recreational vehicle spaces per acre.

D. SETBACKS. All recreational vehicles, buildings, and other structures shall be set back a minimum of twenty (20) feet from any street right-of-way and a minimum of ten (10) feet from any interior lot line, except that an ornamental screen wall or fence may be constructed within the setback area.

E. LANDSCAPING AND SCREEN PLANTING.

1. An ornamental wall, fence or screen planting acceptable to the Planning Commission and not less than six (6) feet in height shall be erected and maintained along the side and rear boundaries of an overnight recreational vehicle park. Where, in the opinion of the Planning Commission, it is unreasonable to require a wall, fence or screen planting due to the nature of the existing topography or other existing conditions that might render such wall, fence or screen ineffective, the Commission, at its discretion, may waive or modify the requirements as specified in this Subsection.

2. Ornamental planting, acceptable to the Architectural Board of Review, or the 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, shall be installed and maintained in all setback areas. Along the front property line, an ornamental wall or fence may be erected in conjunction with the above-mentioned ornamental planting.

3. Street trees and parkway planting shall be installed and maintained along the full width of the front of the overnight recreational vehicle park property when said park fronts on a public street. All trees and plants within the street right-of-way shall be approved by the Parks Department.

F. INTERNAL ROADWAY WIDTH. Internal roadways shall provide direct access to each recreational vehicle space and shall be provided in such a pattern as to provide convenient and safe traffic circulation within the overnight recreational vehicle park. Such roadways shall be built to the following standards:

1. No roadway shall be less than twenty (20) feet in width if automobile parking is not permitted on the roadway, not less than twenty-six (26) feet if automobile parking is allowed on one (1) side of the roadway only, and not less that thirty-two (32) feet in width if automobile parking is allowed on both sides of the roadway.

2. The roadways shall be paved according to standards established by the Public Works Department.

3. There shall be rolled concrete curbs and gutters installed on both sides of the roadway in accordance with standards established by the Public Works Department.

G. RECREATIONAL FACILITIES. Recreational facilities may be provided as part of the recreational vehicle park. If said facilities are constructed, they shall be available for use only by the occupants and their guests.

H. GUEST PARKING. Guest parking shall be provided in accordance with Section 28.90.100.9 of this Code.

I. LAUNDRY FACILITIES. Shall be required in the park at a ratio of one (1) washer/dryer combination per ten (10) recreational vehicle spaces or fraction thereof.

J. LIGHTING. Internal roadways and walkways shall be lit using low-intensity lighting directed away from surrounding uses. (Ord. 4851, 1994; Ord. 4269, 1984.)

28.94.060 Standards for Overnight Recreational Vehicle Spaces.

The following standards shall apply to any newly constructed overnight recreational vehicle space:

A. SPACE DIMENSIONS. Recreational vehicle spaces shall be a minimum of sixteen (16) feet wide and fifty (50) feet long.

B. SETBACKS. Each recreational vehicle space shall have a minimum setback of not less than three (3) feet on all sides.

C. LOT COVERAGE. In no case shall the area of a recreational vehicle space occupied by a recreational vehicle, automobile, storage locker or any accessory structure or awnings or combination thereof exceed seventy-five percent (75%) of the total space area.

D. ONE RECREATIONAL VEHICLE PER SPACE. Not more than one (1) recreational vehicle shall be allowed on a single recreational vehicle space, except that a camper or motor home towing another recreational vehicle may occupy a single space.

E. DISTANCE BETWEEN STRUCTURES. The minimum separation between recreational vehicles or between a recreational vehicle and a building shall be six (6) feet.

F. PARKING. Parking shall be provided in accordance with Section 28.90.100.9 of this Code.

G. LANDSCAPING. Any portion of a recreational vehicle space not occupied by an automobile or recreational vehicle parking space or other structure shall be planted with grass or other plant material approved by the Architectural Board of Review, or the 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. A minimum of one (1) shade tree of a minimum fifteen (15) gallon size shall be planted on each space. In addition, the use of landscaping to screen spaces from each other is encouraged. (Ord. 5459, 2008; Ord. 4851, 1994; Ord. 4269, 1984.)

28.94.065 Findings.

In addition to the findings required by Section 28.94.020 of this Chapter, the Planning Commission shall, prior to approving the construction, expansion or enlargement of an overnight recreational vehicle park, find that said park is located in close proximity to major streets and highways and will not encourage park occupants or prospective occupants to travel through residential neighborhoods or on streets with parking or traffic circulation problems in order to arrive at or to depart from said park. (Ord. 4269, 1984.)

28.94.070 Development Potential.

Notwithstanding any provision of law to the contrary, no application for a conditional use permit for a nonresidential construction project will be accepted or approved on or after December 6, 1989 unless the project complies with the provisions outlined in Development Plan Approval, Chapter 28.85. (Ord. 5609, 2013; Ord. 4670, 1991.)

28.94.080 Notice of Decision; Appeals from the Planning Commission to the City Council.

A. NOTICE OF DECISION. Within five (5) days after final decision by the Planning Commission on an application for a conditional use permit, notice of the decision shall be mailed to the applicant at the address shown upon the application and to all other persons who have filed a written request therefor with the Community Development Department.

B. APPEALS FROM THE PLANNING COMMISSION TO THE CITY COUNCIL. Any decision of the Planning Commission made pursuant to this Chapter 28.94 may be appealed to the City Council in accordance with Chapter 1.30 of this Code.

C. 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 Planning Commission regarding a Conditional Use Permit shall be provided in the same manner as notice was provided for the hearing before the Planning Commission.

D. FEE FOR APPEAL. At the time of filing an appeal, the appellant shall pay a fee in the amount established by resolution of the City Council. (Ord. 5380, 2005.)

Chapter 28.95

TRANSFER OF EXISTING DEVELOPMENT RIGHTS

Sections:

28.95.010 Purposes.
28.95.020 Definitions.
28.95.030 Approval of Transfer of Existing Development Rights.
28.95.040 Amount of Existing Development Rights That Can Be Transferred from a Sending Site to a Receiving Site.
28.95.050 Development Plan Approval.
28.95.060 Review and Findings.
28.95.070 Conditions of Approval.
28.95.080 Elimination of Existing Development Rights from Sending Site.
28.95.090 Recordation and Disclosure to Transferees of Transfer of Existing Development Rights.
28.95.100 Expiration and Termination of Necessary Approvals.
28.95.110 Appeal Procedures.
28.95.115 Waterfront Hotel Development Agreement.
28.95.120 Enforceability.
28.95.130 Penalty.

28.95.010 Purposes.

A. To ensure a strong economy by providing a voluntary mechanism which would allow the transfer of existing nonresidential development rights from certain properties to certain other properties within the City, thereby encouraging economic vitality.

B. To encourage new development, but not new floor area, in a manner consistent with the City Nonresidential Growth Management Program Ordinance (SBMC Chapter 28.85) and Traffic Management Strategy (as approved by City Resolution No. 13-010 and dated as of March 12, 2013).

C. To promote the efficient use of under used space, and creative re-use of existing buildings.

D. To encourage uses compatible with surrounding areas.

E. To provide flexibility and opportunities for redirecting growth within the growth cap.

F. To encourage the development of a balanced community with economic diversity.

G. To stimulate revitalization of existing commercial areas of the City.

H. To accommodate large scale development that is consistent with the City Nonresidential Growth Management Program Ordinance (SBMC Chapter 28.85) and Traffic Management Strategy (as approved by City Resolution No. 13-010 and dated as of March 12, 2013).

I. To encourage the construction of housing. (Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.020 Definitions.

A. Existing Development Rights consist of the following:

1. Existing Floor Area. The amount of nonresidential floor area of existing structures on a sending site; and

2. Approved Floor Area. Nonresidential floor area which has received all discretionary approvals from the City prior to the date of application for a transfer, provided that none of those approvals has expired prior to the date of such application; and

3. Demolished Floor Area. Nonresidential floor area of a structure, demolished after October 1988 and not subsequently reconstructed, and

4. Converted Floor Area. Nonresidential floor area of a structure, which has been permanently converted from nonresidential use to a residential use after October 1988.

Existing Development Rights may be aggregated from the above four categories but not so as to increase floor area above the amount allowed by the City Nonresidential Growth Management Program Ordinance (SBMC Chapter 28.85).

A transfer of Existing Development Rights shall transfer to the receiving site only nonresidential floor area regulated by the City Nonresidential Growth Management Program Ordinance (SBMC Chapter 28.85), and shall not transfer any other right, permit or approval. A transfer of Existing Development Rights shall not transfer credit for resource use by existing development on the sending site to the receiving site for purposes including, but not limited to, environmental review, development fees, or conditions of approval. The traffic impacts of a proposed transfer of Existing Development Rights shall be analyzed using the approved "City of Santa Barbara Traffic Model" as such Model has most recently been approved by a resolution of the City Council. Existing Development Rights shall be measured in square feet of floor area, except that hotel and motel rooms may be measured by room when Existing Development Rights are developed as hotel or motel rooms on the receiving site. Hotel and motel rooms which are approved but not constructed at the time of transfer approval shall be measured only in square feet of floor area.

B. Floor Area. "Floor area" is defined in Section 28.85.020.

C. Hotel or Motel Room. A hotel or motel room includes only that floor area within the walls of rooms let for the exclusive use of individuals as a temporary abiding place, and does not include any other areas. No replacement room shall be designed for rental or rented as more than one separate accommodation. D. Nonresidential Floor Area. Floor area is "nonresidential" if the Community Development Director determines that the floor area was used exclusively for nonresidential purposes in October, 1988; or that the floor area was vacant in October of 1988, and the last use of the floor area prior to the proposed transfer was nonresidential; or that the floor area was approved for nonresidential purposes as described in Paragraph A.2 above.

E. Receiving Site. A site to which Existing Development Rights are transferred.

F. Sending Site. A site from which Existing Development Rights are transferred.

G. Transfer of Existing Development Rights. The transfer of Existing Development Rights as defined in Subsection A above from a sending site to a receiving site. Existing Development Rights may be transferred by sale, exchange, gift or other approved legal means, but such transfer shall not be effective until the City has approved the transfer in accordance with the provisions of this Chapter and the City's Nonresidential Growth Management Program, as specified in SBMC Chapter 28.85, and the conditions of the transfer have been duly satisfied. (Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.030 Approval of Transfer of Existing Development Rights.

A. Application Review. The application(s) and supporting documentation submitted by the applicant(s) shall be reviewed by the Community Development Department. If the application(s) for processing are determined to be complete by the Community Development Department, the applicant(s) shall proceed in accordance with the standard application process in place at the time of submittal.

B. Transfer Approval. Existing Development Rights may be transferred from Sending Site(s) to Receiving Site(s) pursuant to the provisions of this Chapter and any guidelines adopted by a resolution of the City Council in order to effectuate the purposes of this Chapter.

After approval, any change in the project, at either the Sending Site(s) or Receiving Site(s), which is not determined by the Planning Commission and/or the Community Development Director to be in substantial conformity with the approved project, shall be a new project and require a new application, review, and approval and/or disapproval. No transfer or receipt of Existing Development Rights shall be valid or effective unless the transfer and receipt, and development plans for both the Sending Site(s) and Receiving Site(s) comply with all requirements of this Municipal Code and have been reviewed and approved by the City in accordance with the provisions of this Chapter and the City's Nonresidential Growth Management Program, as specified in SBMC Chapter 28.85, and all applicable conditions to the transfer have been satisfied.

C. Community Priorities. Any Existing Development Rights approved as a community priority on a sending site may be transferred only if the new development on the receiving site is also approved as a community priority.

D. Multiple Sending and Receiving Sites. Existing Development Rights may be transferred from more than one sending site to a single receiving site. Existing Development Rights may be transferred from one sending site to more than one receiving site.

E. Compliance with Approved Traffic Management Strategy. Every transfer of Existing Development Rights must comply with the City's Council-approved Traffic Management Strategy as implemented in Section 28.85.050 of this Code. Any Existing Development Rights proposed for transfer must qualify for allocation at the Receiving Site. (Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.040 Amount of Existing Development Rights That Can Be Transferred from a Sending Site to a Receiving Site.

A. The total amount of Existing Development Rights that can be transferred to a receiving site is subject to the applicable zoning of that receiving site, provisions of the Municipal Code, and any and all other applicable City rules and regulations.

B. The total amount of Existing Development Rights that can be transferred from a sending site is equal to the difference between the eliminated floor area on the sending site and the floor area of all nonresidential structures constructed or proposed to be constructed on the sending site. (Ord. 4790, 1992.)

28.95.050 Development Plan Approval.

The following Transfers of Existing Development Rights must receive Development Plan approval by the Planning Commission or the City Council on appeal:

A. Any transfer of more than 1,000 square feet of Existing Development Rights from a sending site,

B. Any transfer that involves the transfer of a hotel room on a room-for-room basis, and

C. Any project that is constructing, adding, or converting more than 1,000 square feet of nonresidential floor area on a Receiving Site and which includes any amount of transferred Existing Development Rights. Once a Development Plan is approved for a Sending Site, the Sending Site Development Plan approval may be used for subsequent transfers of Existing Development Rights from the Sending Site as long as the Community Development Director determines that the condition of the Sending Site following such subsequent transfers will substantially conform to the original Development Plan approval. (Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.060 Review and Findings.

The Planning Commission, or the City Council on appeal, shall review each application for a transfer of Existing Development Rights and shall not approve any such transfer unless it finds that:

A. The proposed development plans for both the sending and receiving sites are consistent with the goals and objectives of the General Plan of the City of Santa Barbara and the Municipal Code; and

B. The proposed developments will not be detrimental to the site(s), neighborhood or surrounding areas; and

C. The floor area of proposed nonresidential development on the receiving site does not exceed the sum of the amount of Existing Development Rights transferred when added to the amount of Existing Development Rights on the receiving site, and does not exceed the maximum development allowed by the applicable zoning of the receiving site.

D. Each of the proposed nonresidential developments on the respective Sending Site(s) and Receiving Site(s) will meet all standards for review as set forth in Section 28.85.040 of the Municipal Code and all provisions of this Chapter, and will comply with any additional specific conditions for a transfer approval.

E. Development remaining, or to be built, on a sending site is appropriate in size, scale, use, and configuration for the neighborhood and is beneficial to the community. (Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.070 Conditions of Approval.

A. The Planning Commission, or the City Council on appeal, shall require conditions of development plan approval for plans submitted for sending and receiving sites. Conditions may include, but are not limited to a development agreement, as defined in State law, executed by the City and the sending site owner or the receiving site owner, or both. The Planning Commission, or the City Council on appeal, may impose other conditions and restrictions upon the proposed development plans and transfer approval consistent with the General Plan and may require security to assure performance of all conditions and restrictions.

B. The Planning Commission, or City Council on appeal, shall require as conditions of development plan approval for plans submitted for the sending and receiving sites that:

1. Whenever a sending site owner is required by this Chapter to offer to dedicate the sending site to the City or other governmental entity approved by the City, and the floor area to be transferred will be eliminated by demolition, a sending site owner shall make such offer prior to issuance of a demolition permit for the sending site. If the City or other governmental entity approved by the City rejects said offer of dedication, the Planning Commission approval will be considered null and void; and

2. Any Existing Development Rights, measured in square feet of floor area, and/or number of hotel or motel rooms when appropriate, and whether such Existing Development Rights derive from existing, approved, demolished or converted floor area, shall be clearly and accurately designated on both the sending and receiving site development plans; and

3. Prior to issuance of any necessary permit relating to any Existing Development Rights approved for transfer from a sending site, the option, deed, easement, covenant, or other legal instrument by which the existing development rights are being transferred, and proof of recordation of the development plan for both sending and receiving sites shall be reviewed and approved by the Community Development Director.

4. Proof of the elimination of the transferred floor area from the sending site must be reviewed and approved by the Community Development Director prior to recordation of the approved instrument of transfer. The City shall be a party to the instrument of transfer in a manner acceptable to the City Attorney; and

5. Prior to the issuance of any building permit for the project proposed on the receiving site pursuant to this Chapter, proof of recordation of the transfer instrument, and proof of elimination of the Existing Development Rights on the sending site shall be accepted as satisfactory by the Community Development Director.

C. The Community Development Director, or the Director's designee, shall require the satisfaction of the following conditions prior to the issuance of any necessary permit relating to any transfer of existing development rights that did not require the approval of the development plan pursuant to this Chapter or Chapter 28.85:

1. Whenever a Sending Site owner is required by this Chapter to offer to dedicate the Sending Site to the City or other governmental entity approved by the City, and the floor area to be transferred will be eliminated by demolition, a Sending Site owner shall make such offer prior to issuance of a demolition permit for the Sending Site. If the City or other governmental entity approved by the City rejects said offer of dedication, the transfer will be considered null and void; and

2. Any Existing Development Rights, measured in square feet of floor area, and whether such Existing Development Rights derive from existing, approved, demolished or converted floor area, shall be clearly and accurately designated on both the Sending and Receiving Site Development Plans; and

3. The option, deed, easement, covenant, or other legal instrument by which the Existing Development Rights are being transferred shall be reviewed and approved by the Community Development Director and the City Attorney as to form. The City shall be a party to the instrument of transfer; and

4. Proof of the elimination of the transferred floor area from the Sending Site must be reviewed and approved by the Community Development Director prior to recordation of the approved instrument of transfer; and

5. Proof of recordation of the transfer instrument, and proof of elimination of the Existing Development Rights on the Sending Site shall be accepted as satisfactory by the Community Development Director.

(Ord. 5609, 2013; Ord. 4790, 1992.)

28.95.080 Elimination of Existing Development Rights from Sending Site.

A. Prior to the transfer of Existing Development Rights from a sending site to a receiving site, all Existing Development Rights to be transferred shall be eliminated from the sending site.

1. Covenants and Methods of Elimination. The owner of a sending site shall eliminate floor area by one or more of the following methods and a covenant, in a form satisfactory to the City Attorney, shall be executed and recorded by each owner of the sending site. The covenant shall provide that such elimination shall continue until such time as the covenant may be released by the City, and the covenant shall be enforceable by the City.

a. Existing floor area shall be eliminated by demolition or by converting such floor area from a nonresidential to a permanent residential use.

b. Approved floor area shall be eliminated by relinquishing all development approvals relating to the development of such approved floor area on the sending site.

c. Demolished floor area shall be eliminated by relinquishing all rights to rebuild such floor area on the sending site.

d. Converted floor area shall be eliminated by preserving such floor area for residential use only.

2. Dedication of the Sending Site. If no nonresidential floor area is to remain on the sending site, one or more of the following conditions must be satisfied:

a. The sending site is approved for residential development or conversion; or

b. The sending site has been offered by the owner to be dedicated to the City, or other governmental entity approved by the City, for use as a park, parking lot or other public use, and the City or other approved governmental entity has accepted the dedication; or

c. The sending site shall be used as parking or open space in conjunction with an approved development, and a covenant is recorded restricting development and use of the sending site, and all improvements are completed. If the City requires an owner to offer to dedicate a sending site to the City or other governmental entity approved by the City, such site shall be free of all defects and title shall be marketable at the time of the offer to dedicate and at the time of any acceptance. The City or other governmental entity approved by the City may accept or reject such offer in its discretion. Rejection of such offer constitutes disapproval of the proposed transfer. (Ord. 4790, 1992.)

28.95.090 Recordation and Disclosure to Transferees of Transfer of Existing Development Rights.

A. The legal instrument by which the Existing Development Rights are transferred shall be submitted with the development plan at the time of application for a transfer approval. That legal instrument, and any required development agreement shall be recorded with the County recorder after City approval of the transfer.

B. Prior to any conveyance of real property which has been approved as a sending site, the owner shall deliver to the prospective owner a written disclosure statement which shall contain all of the following:

1. A legal description of the real property to be conveyed and if different, a legal description of the sending site; and

2. The total amount of Existing Development Rights on the sending site prior to the transfer of existing development rights, and whether such Existing Development Rights derived from existing, approved, demolished, and/or converted floor area; and

3. The total amount of Existing Development Rights that have been transferred from the sending site, and whether such Existing Development Rights derived from existing, approved, demolished and/or converted floor area; and

4. A certification that the information is true and correct to the best of the owner's knowledge as of the date signed by the owner. The City shall not be liable for any error, omission, or inaccuracy contained in such disclosure. (Ord. 4790, 1992.)

28.95.100 Expiration and Termination of Necessary Approvals.

A. An approved development plan for either the sending site(s), the receiving site(s), or both, may be terminated by the City, after a noticed public hearing, if any condition of the approval of transfer of Existing Development Rights is violated or any other permit or approval necessary to approved development on either the sending or receiving site(s) or both expires or is otherwise terminated.

B. Recorded Transfers of Existing Development Rights pursuant to this Chapter shall not terminate when the approved development plan for either the sending site, receiving site(s) or both, expires or is otherwise terminated, and such transferred Existing Development Rights shall remain on the receiving site, and may either be developed pursuant to a newly approved development plan, or may be transferred to a new receiving site pursuant to this Chapter. (Ord. 4790, 1992.)

28.95.110 Appeal Procedures.

Determinations by the Planning Commission are appealable to the City Council pursuant to Section 1.30.050 of the Municipal Code. (Ord. 4790, 1992.)

28.95.115 Waterfront Hotel Development Agreement.

In the case of any conflict between the terms of this Chapter 28.95 and the provisions of the Development Agreement between the City of Santa Barbara and American Tradition, LLC dated June 23, 2016 (the "Development Agreement"), the provisions of the Development Agreement shall control. (Ord. 5750, 2016.)

28.95.120 Enforceability.

Enforcement of this Chapter shall be pursuant to Chapter 28.98 of the Municipal Code. (Ord. 4790, 1992.)

28.95.130 Penalty.

The penalty for violating any provision of this Chapter shall be pursuant to Chapter 28.98.002 of the Municipal Code. (Ord. 4790, 1992.)

Chapter 28.96

ZONING UPON ANNEXATION

Section:
28.96.001 In General.

28.96.001 In General.

In any petition for the annexation of property to the City, the petitioner may request the zoning desired by him for the property described in the application in the event the property is annexed to the City. Prior to the adoption by the Council of the resolution of intention to annex uninhabited territory, or in the case of an inhabited proceeding at the time of referral to the Planning Commission pursuant to Section 35108 of the Government Code, a copy of the annexation petition or request shall be referred to the City Planning Commission for investigation and report to the City Council as to the desirability of the annexation and the zoning classification to be placed thereon whether or not a zone classification has been requested. The Planning Commission shall consider the annexation of such property and the zoning to be placed thereon in the event of annexation to the City and upon completion of such consideration, the Planning Commission shall make its report and recommendations to the Council by resolution.

After receiving such report and recommendation, the City Council shall consider the zoning classification to be applied upon annexation to property to be annexed. The City Council may include any such zone consideration within any notice of hearing concerning the annexation of the property involved, and the hearing on the matter of zoning may be held in conjunction with any public hearing required by law to be held by the City Council in connection with the annexation proceedings.

Concurrent with or prior to final annexation of the territory, the City Council shall, by ordinance, classify the property for zoning purposes in accordance with its determination, and upon the effective date of such classification ordinance, or the annexation ordinance, whichever is the later, the zone classification shall be effective and a part of the General Plan of the City.

The Council may as an alternative to any of the foregoing proceedings for the zoning of annexed territory:

1. Allow the same to be finally annexed without zoning the land therein, and may initiate zoning thereof under other provisions of this title after annexation; or
2. The Council may provide by ordinance effective prior to completion of annexation proceedings upon recommendation of the Planning Commission that the territory to be annexed shall as a condition of annexation remain classified the same as it was classified or zoned as unincorporated territory where as such territory it was classified as to land use by the County of Santa Barbara pursuant to a general plan of zoning. (Ord. 3710, 1974; Ord. 2592, 1957.)

Chapter 28.97

OCCUPANCY

Section:
28.97.001 In General.

28.97.001 In General.

No vacant land shall be occupied or used, and no building hereafter erected, structurally altered or moved shall be occupied or used, until a Certificate of Occupancy shall have been issued by the Chief of Building and Zoning.

1. Certificates of Occupancy for a new building, or the enlargement, alteration or moving of an existing building, shall be applied for coincidentally with the application for a building permit and shall be issued within ten (10) days after the erection or alteration of such building shall have been completed in conformity with the provisions of the ordinance.
2. Certificates of Occupancy for the use of vacant land, or the change in use of land as herein provided, shall be applied for before any such land shall be occupied or used for any purpose except that of tilling the soil and the growing therein of farm, garden or orchard products, and a Certificate of Occupancy shall be issued within ten (10) days after the application has been made provided such use is in conformity with the provisions of this title.
3. Certificates of Occupancy shall state that the building, or proposed use of a building or land, complies with all the building and health laws and ordinances and with the provisions of this title. A record of all certificates shall be kept on file in the Office of the Chief of Building and Zoning and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected. No fee shall be charged for an original Certificate; for all other Certificates or for copies of any original Certificates there shall be a charge of two dollars ($2.00) each.
4. Certificate of Occupancy for non-conforming uses existing at the time of passage of this title or any amendment thereto shall be issued by the Chief of Building and Zoning and the Certificate shall state that the use is a nonconforming use and does not conform with the provisions of this title.
5. No permit for excavation for any building shall be issued before an application has been made for a Certificate of Occupancy. (Ord. 3710, 1974.)

Chapter 28.98

ENFORCEMENT AND PENALTY

Sections:

28.98.001 Enforcement. **28.98.002 Penalty.**

28.98.001 Enforcement.

It shall be the duty of the Chief of Building and Zoning, with respect to new construction, additions, alterations, changes of use or moving of existing buildings, to enforce this title by withholding of permits and Certificates of Occupancy where plan checks and field inspections reveal that completion of the project will result in a zoning violation. A Certificate of Occupancy shall not be issued until all work required by the building permit and all other conditions imposed by any officer, board, commission or other authority have been completed or satisfactorily met by bonding or other appropriate method. After a Certificate of Occupancy has been issued, and with respect to existing construction and all other sources of violations, it shall be the duty of the Division of Land Use Controls to enforce this title. In addition, all departments, officials and public employees of the City of Santa Barbara vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permit or license, except licenses issued for revenue purposes only, for uses, buildings or purposes in conflict with the provisions of this title; and any such permit or license issued in conflict with the provisions of this title shall be null and void.

The provisions of this title shall be interpreted by the City Attorney.

Any building or structure erected or maintained or any use of property contrary to the provisions of this title shall be, and the same is hereby declared to be, unlawful and a public nuisance and the City Attorney shall immediately commence actions and proceedings for the abatement, removal and enjoinment thereof in the manner provided by law; and shall take such other steps and shall apply to any court as may have jurisdiction to grant such reliefs as will abate or remove such building, structure or use and restrain and enjoin any person, firm or corporations from erecting or maintaining such building or structure or using any property contrary to the provisions of this title.

This title may also be enforced in injunction issued out of the Superior Court upon the suit of the City or the owner or occupant of any real property affected by such violation or prospective violation. This method of enforcement shall be cumulative and in no way affect the penal provisions hereof. (Ord. 3710, 1974; Ord. 3547, 1972.)

28.98.002 Penalty.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any provision of this title shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment in the County Jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day that violation of this title continues shall be considered a separate offense. (Ord. 3710, 1974.)

Chapter 28.99

VALIDITY AND REPEALS

Sections:

28.99.001 Validity.
28.99.002 Repeals.

28.99.001 Validity.

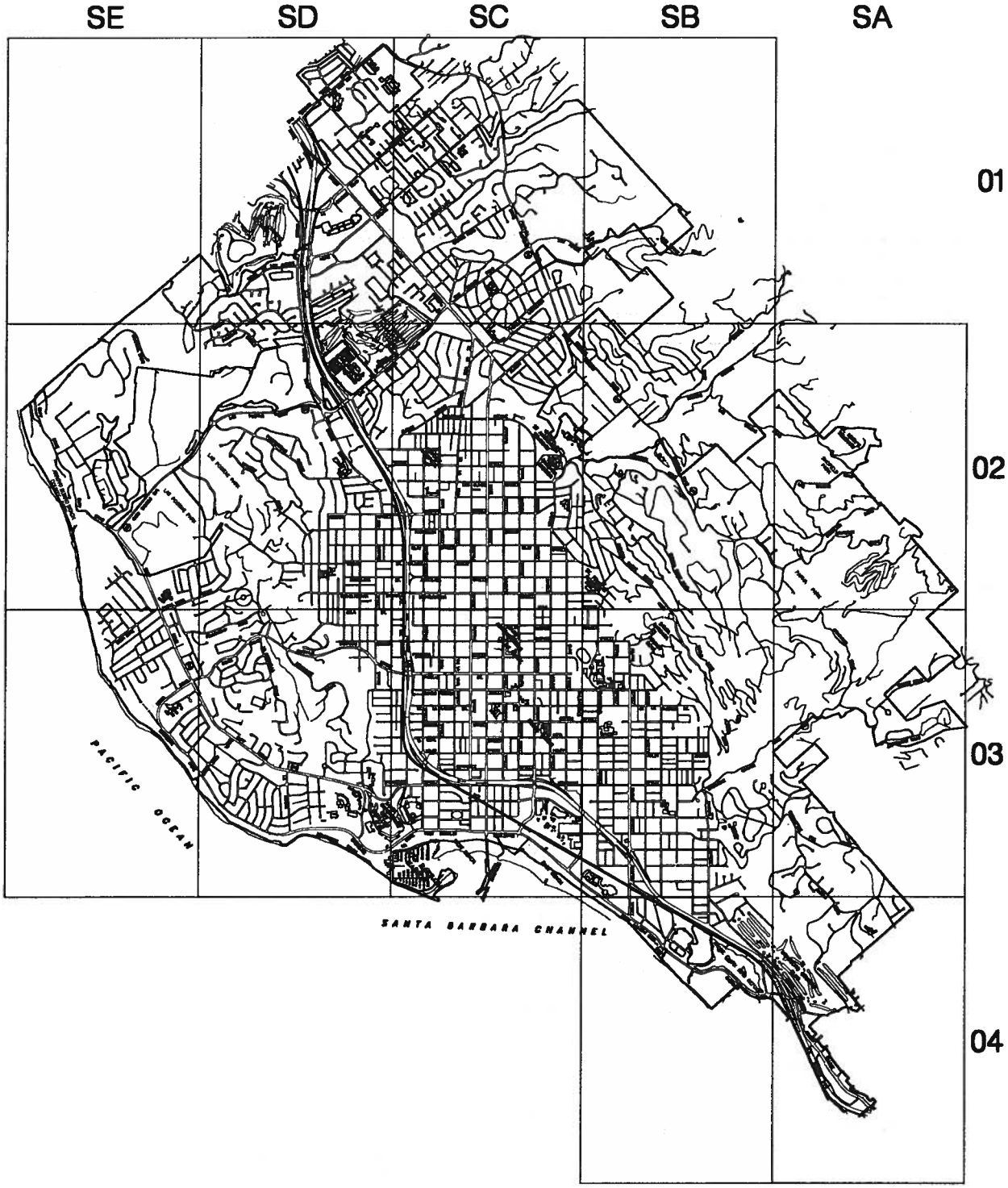
If any section, subsection, paragraph, sentence, clause or phrase of this title is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this title. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. (Ord. 3710, 1974.)

28.99.002 Repeals.

Ordinances 1493, 1663, 2069, 2070, 2118, 2158, 2194, 2250, 2268, 2320, 2326, 2332, 2333, 2346, 2358, 2369, 2386, 2389, 2390, 2397, 2405, 2456, 2463, 2464, 2465, 2466, 2467, 2479, 2480, 2489, 2512, 2514, 2522, 2562, 2578, 2581 of the City of Santa Barbara are hereby repealed and all ordinances of the City of Santa Barbara inconsistent herewith, to the extent of such inconsistency, and no further, are hereby repealed, provided that the procedure contained in this title pertaining to consideration of applications for change of zone shall not apply to any application upon which the City Council has held the final hearing pursuant to Ordinance No. 1493 prior to the effective date hereof. In any such case if the City Council approved the zone change such change may forthwith be included in the Comprehensive General Plan or zoning effective on the date of this title.

The repeal of any of the above mentioned ordinances does not revive any other ordinance or portion thereof repealed by said ordinance.

Such repeals shall not affect or prevent the prosecution or punishment of any person for the violation of any ordinance repealed hereby for any offense committed prior to the repeal. (Ord. 3710, 1974.)



SCALE IN FEET
0 1500 3000 4500

INDEX SHEET

SECTIONAL ZONING MAP OF THE CITY OF SANTA BARBARA

COMMUNITY DEVELOPMENT DEPARTMENT

CITY OF SANTA BARBARA
COMMUNITY DEVELOPMENT DEPARTMENT
630 GARDEN STREET
SANTA BARBARA, CA. 93101
(805) 564-5470
MAILING ADDRESS: P.O. BOX 1990
(93102)

Penfield & Smith
ENGINEERS • SURVEYORS
111 E. VICTORIA ST. SANTA BARBARA, CALIF. 93101
(805) 963-9532
MAILING ADDRESS P.O. BOX 99 (93102)

W.O. 12351.01

REV. 6/30/13

Sectional Map: SA02

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
A-2 - Single Residential Unit
E-1 - Single Residential Unit
E-2 - Single Residential Unit
E-3 - Single Residential Unit
R-1 - Single Residential Unit
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PUD - Planned Unit Development
R-H - Resort-Residential Hotel
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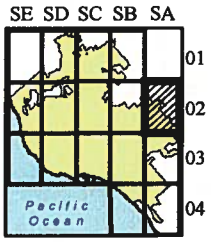
S-D-3 - Special District 3 - Coast Zone
S-P - Specific Plan

Coastal Zone Boundary



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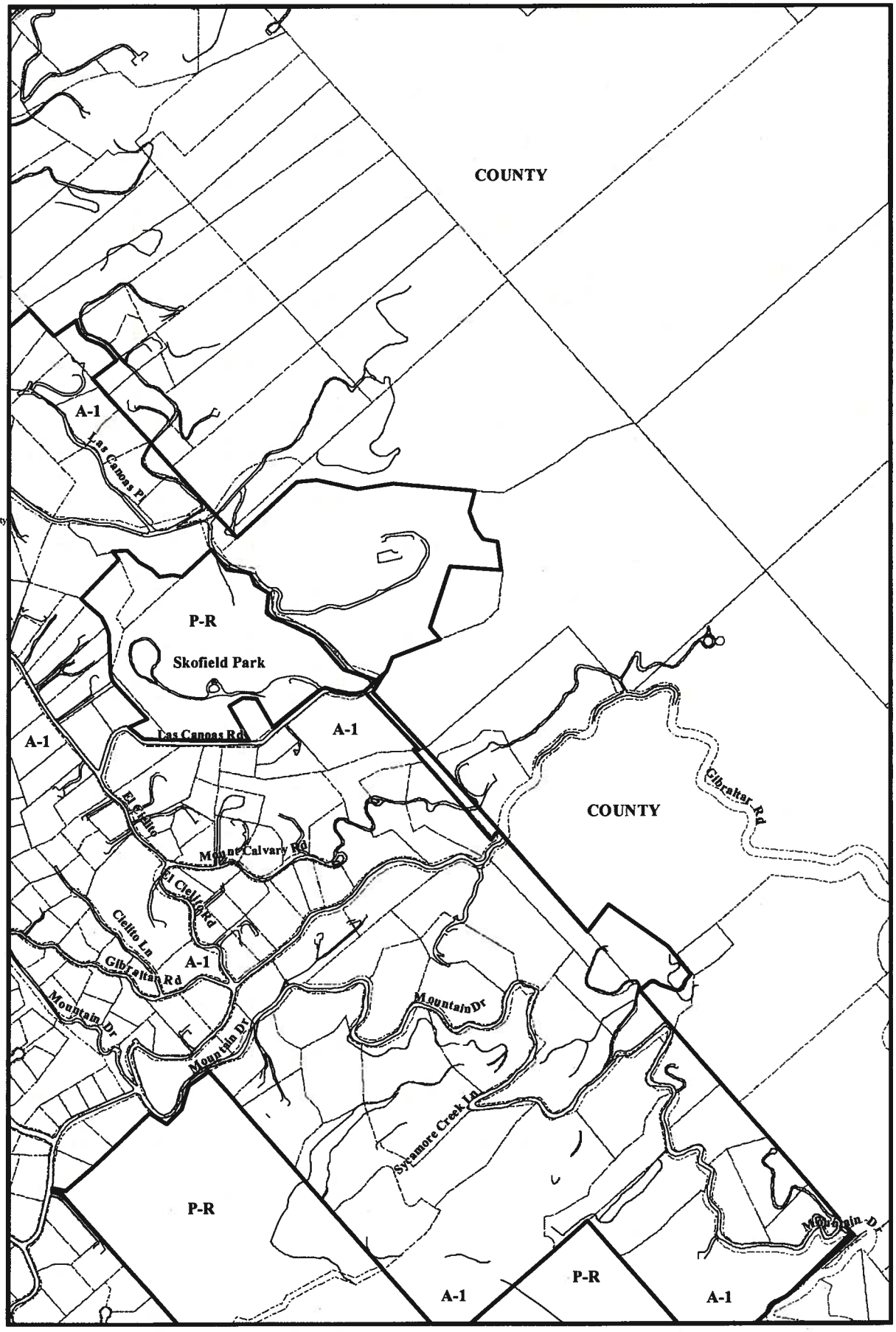

rev. 6/30/13

Sectional Map: SA03

Legend

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A-2 - Single Residential Unit
E-1 - Single Residential Unit
E-2 - Single Residential Unit
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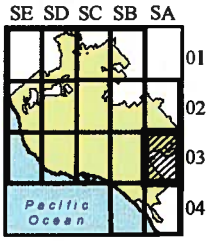

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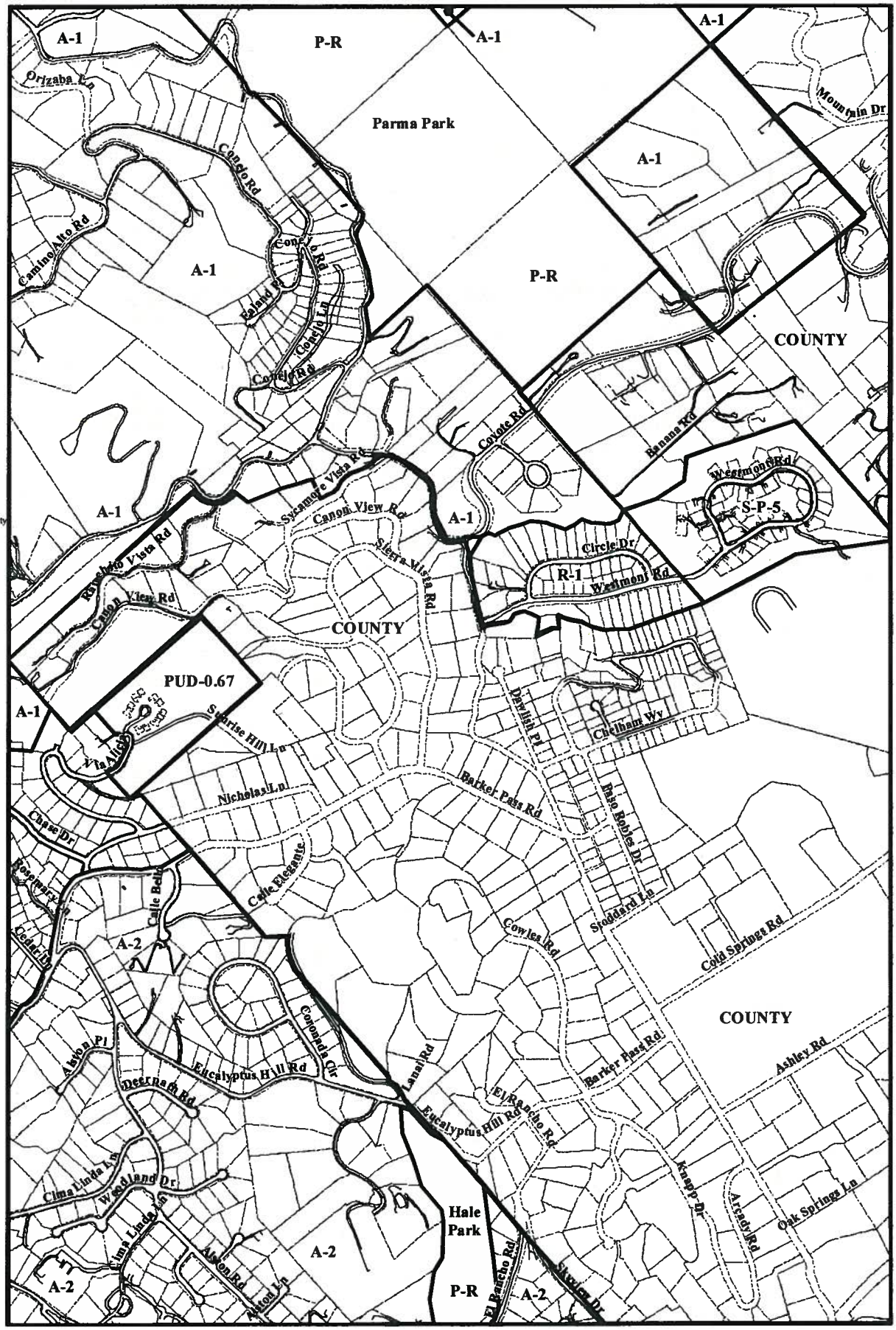

rev. 6/30/13

Sectional Map: SA04

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
A-2 - Single Residential Unit
E-1 - Single Residential Unit
E-2 - Single Residential Unit
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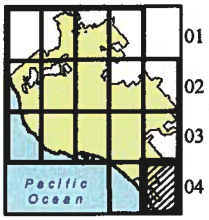

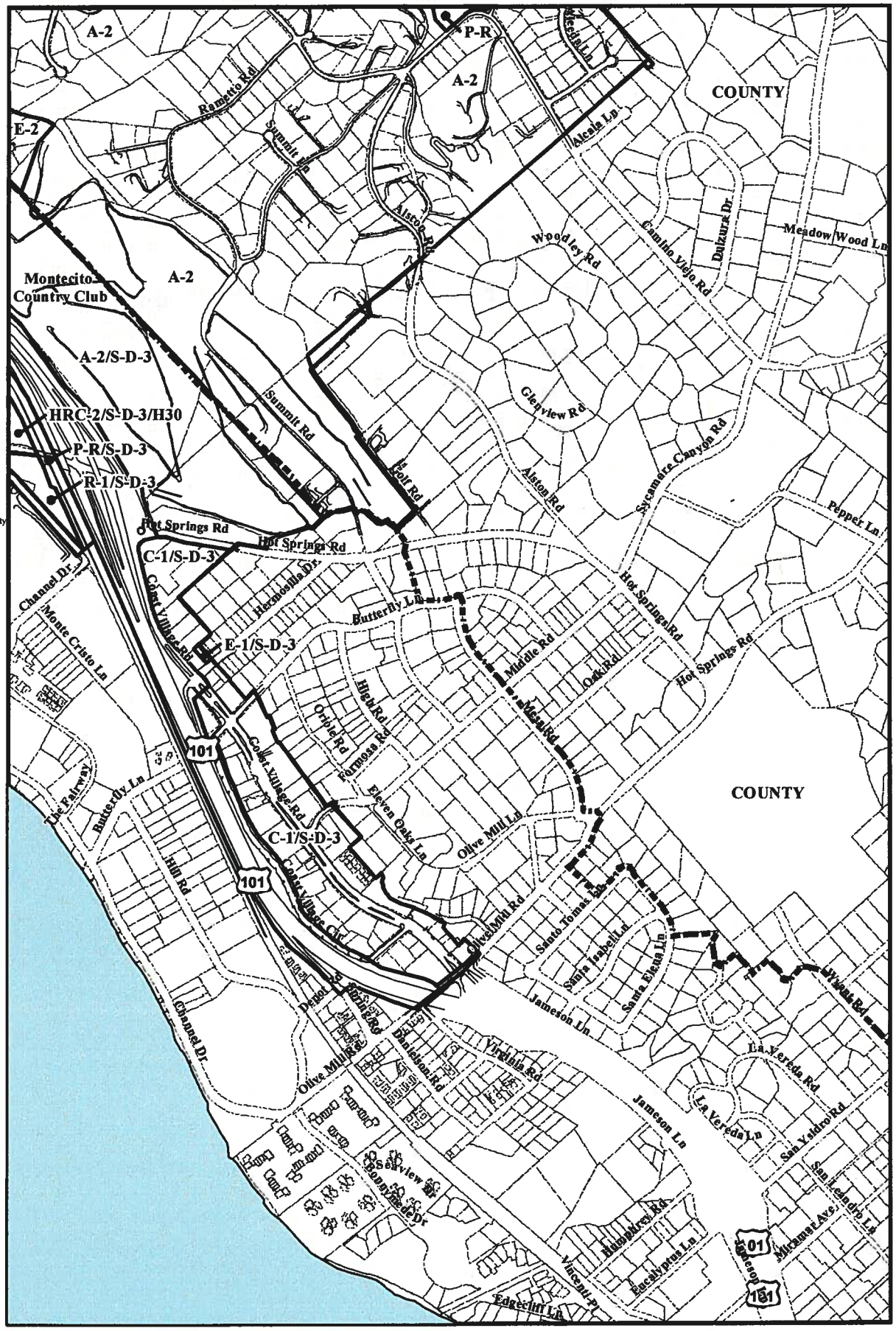

rev. 6/30/13

Sectional Map: SB01

Legend

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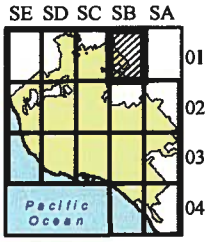

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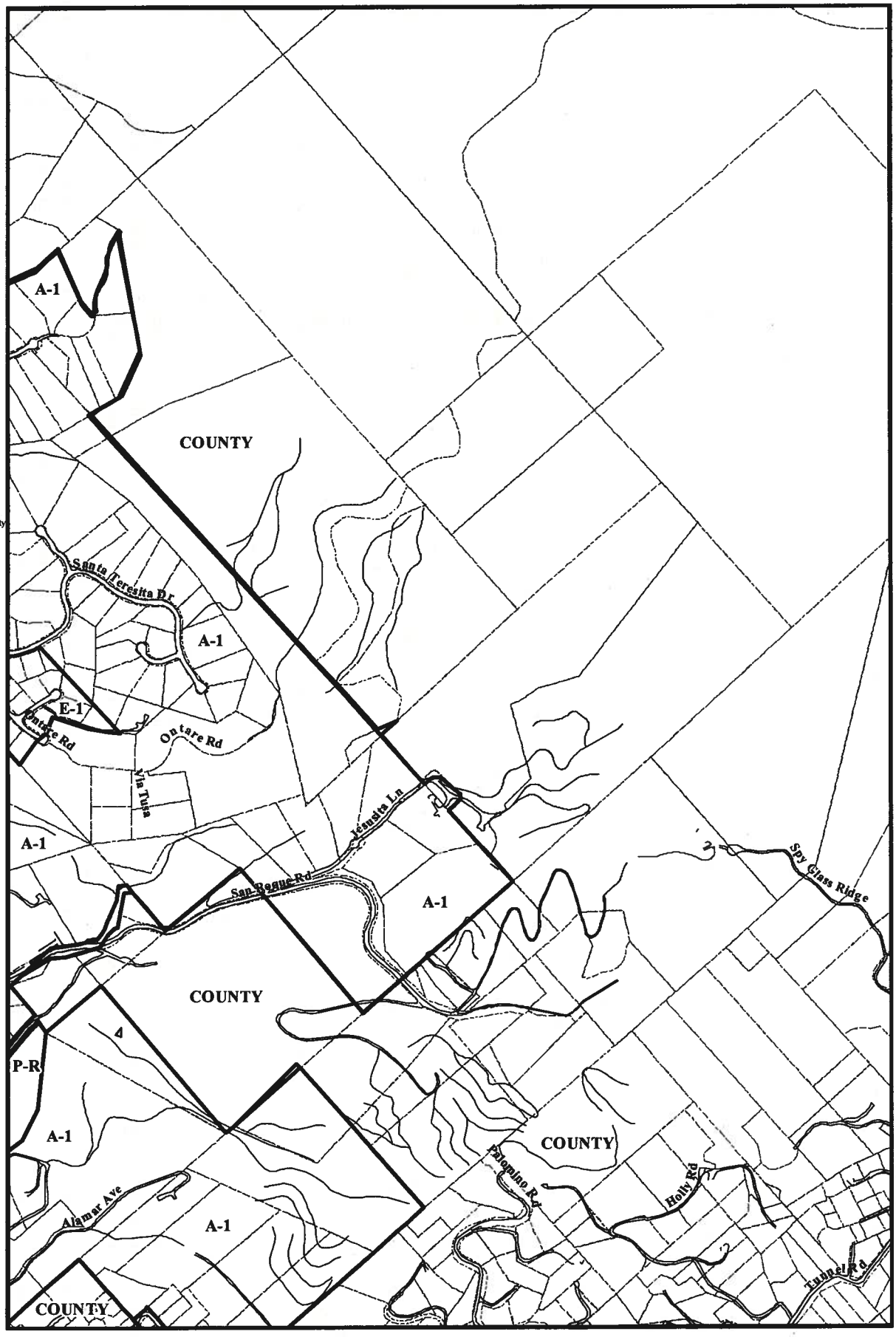

rev. 6/30/13

Sectional Map: SB02

Legend

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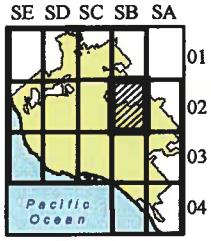

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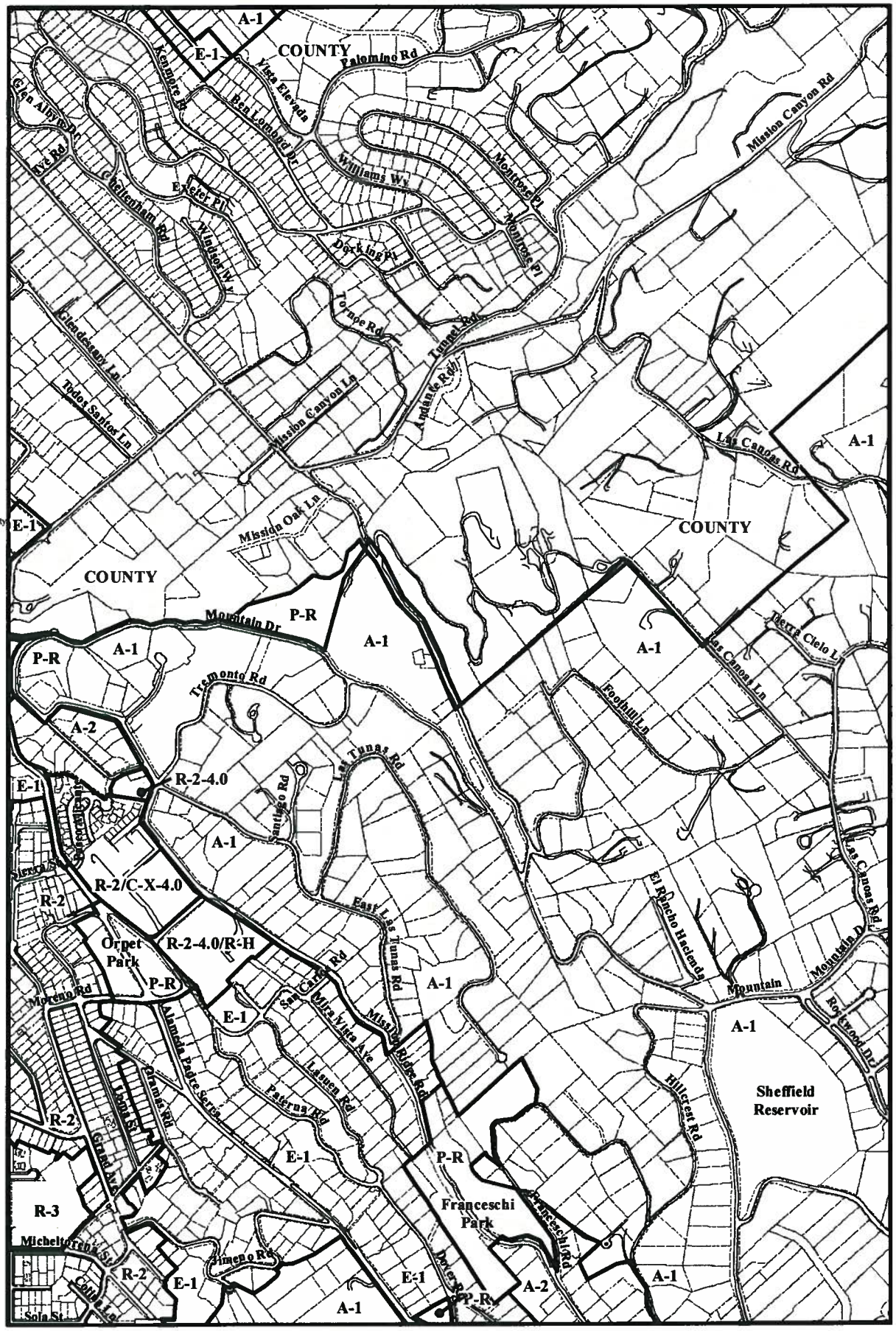

rev. 6/30/13

Sectional Map: SB03

Legend

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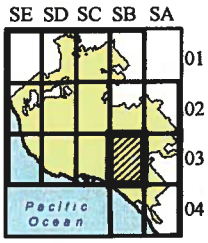

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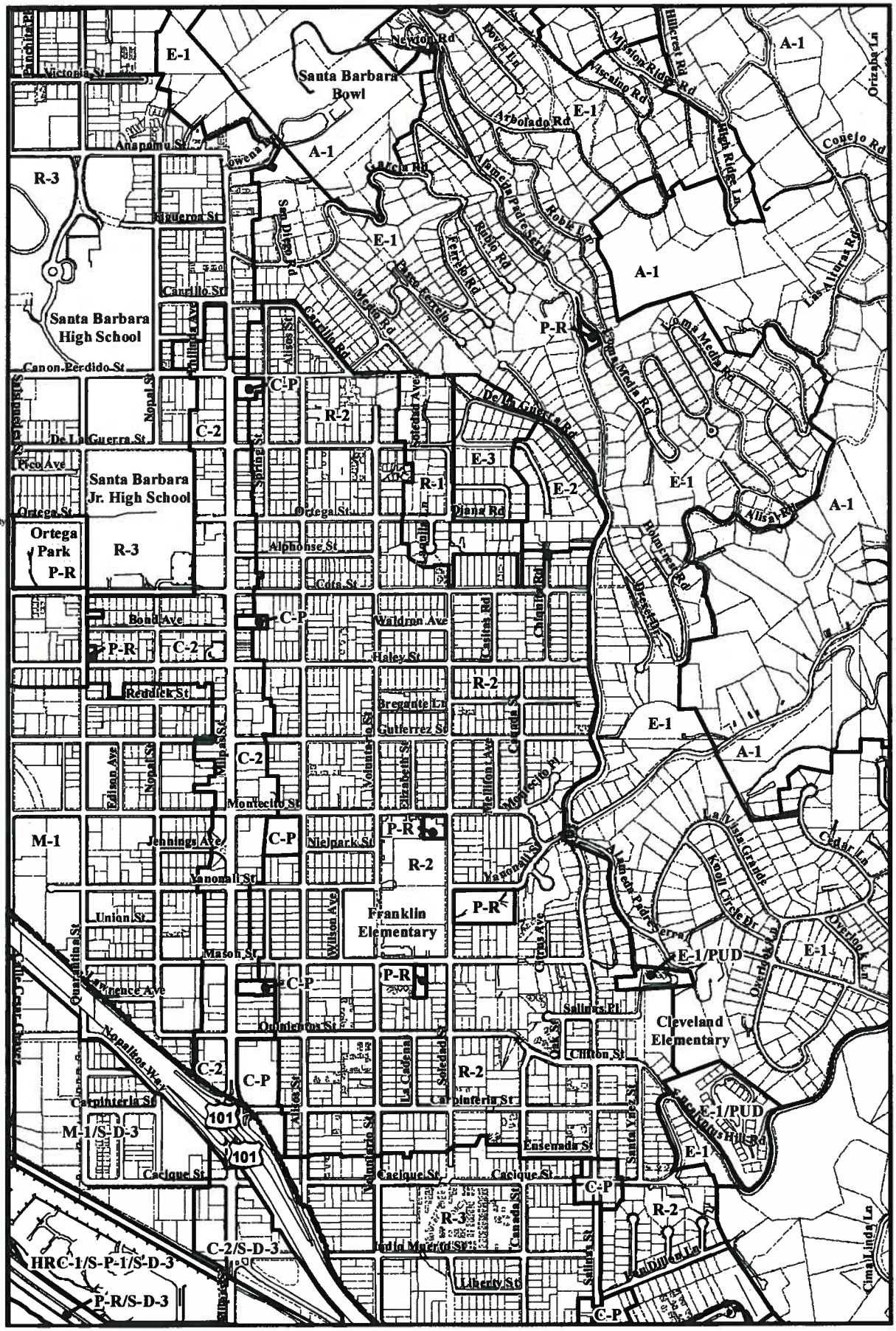
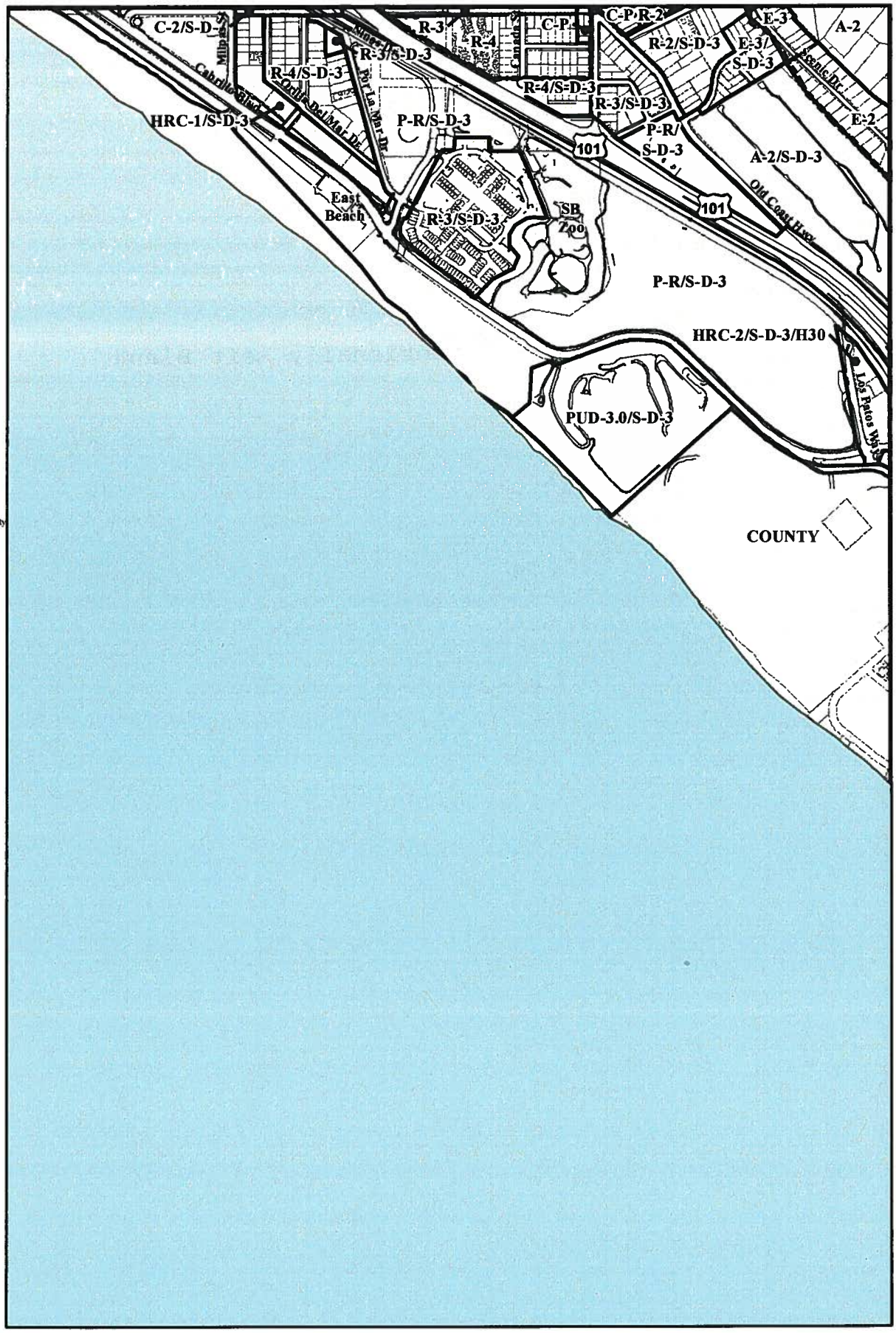

Santa Barbara Bowl
Santa Barbara High School
Santa Barbara Jr. High School
Ortega Park
Franklin Elementary
Cleveland Elementary
HRC-1/S-P-1/S-D-3
P-R/S-D-3
C-2/S-D-3
M-1/S-D-3
E-1/PUD
Newton Rd
Hillcrest Rd
Mission Ridge Rd
Arbolado Rd
Conejo Rd
Las Alturas Rd
Alisal Rd
Cima Linda Ln
Orizaba Ln
Cedar Ln
Overlook Ln
Laguna Blanca Dr
Knoll Crest Dr
Nopalitos Way
Carpinteria St
Cacique St
Ensenada St
Liberty St
Indio Muerto St
Sycamore Canyon Rd
Cliff Dr
Mason St
Union St
Jennings Ave
Yanonali St
Montecito St
Alphonse St
Ortega St
Cota St
Bond Ave
Reddick St
Haley St
Waldron Ave
Gutierrez St
Bregante Ln
Carrillo St
Canon Perdido St
De La Guerra St
Figueroa St
Anapamu St
Victoria St
Sola St
Micheltorena St
Salinas St
Chilton St
Oak St
Santa Barbara St
Anacapa St
Chapala St
Garden St
Milpas St
Nopal St
Bath St
Hope St
Calle Real
Cima Linda Ln
Las Alturas Rd
Tomás Media Rd
Cima Media Rd
Alameda Padre Serra
Roble Rd
Rebole Rd
Ferrelo Rd
Casa Ferrelo
Mesa Rd
Cabrillo Rd
La Vista Rd
San Diego Rd
Owens St
Newton Rd
Hover Ln
Mission Ridge Rd
Hillcrest Rd
High Ridge Ln
Alisal Rd
Bluff Rest Rd
Dracena Dr
Cima Linda Ln
Cedar Ln
Overlook Ln
Salinas Pl
Cliff Dr
Nopal St
Edison Ave
Milpas St
Voluntario St
Elizabeth St
Mellon Ave
Canada St
Chapala St
Santa Barbara St
Anacapa St
Bath St
Hope St
Garden St
Chapala St
Nopal St
Milpas St
Quarantina St
Lawrence Ave
Wilson Ave
Cima Linda Ln
Cima Linda Ln
Cima Linda Ln

Sectional Map: SB04



Legend

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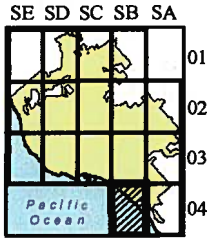
Coastal Zone Boundary



0 250 500 1,000 Feet

Sectional Map: SC01

Legend

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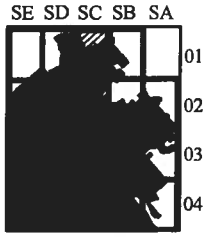

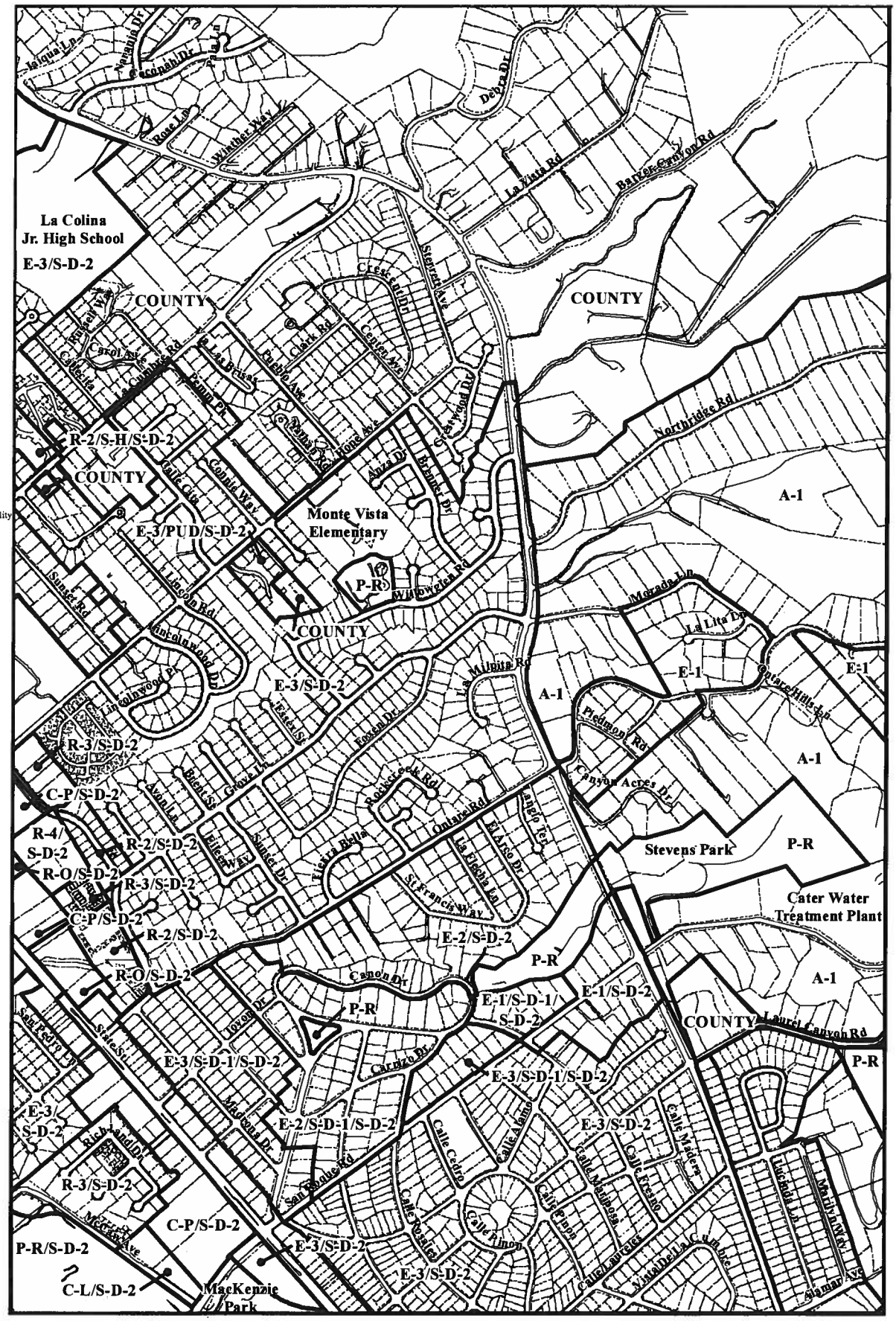

0 250 500 1,000 Feet

Sectional Map: SC02

Legend

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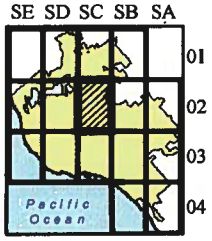

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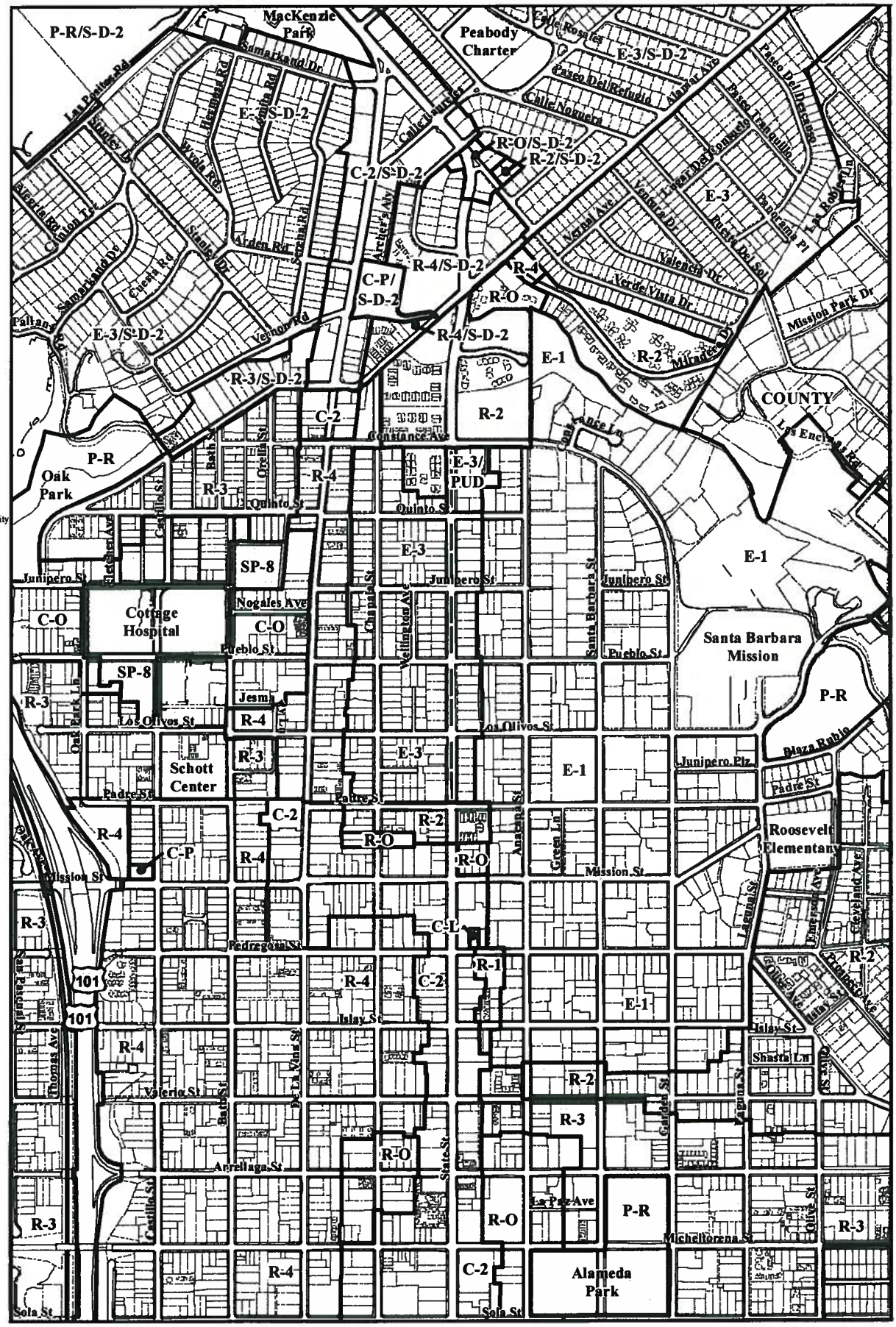


Sectional Map: SC03

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
A-2 - Single Residential Unit
E-1 - Single Residential Unit
E-2 - Single Residential Unit
E-3 - Single Residential Unit
R-1 - Single Residential Unit
R-2 - Two Residential Units
R-3 - Multiple Residential Units
R-4 - Multiple Residential Units/Lodging

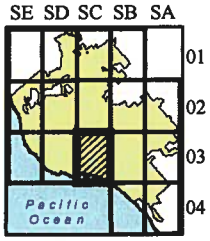
NON-RESIDENTIAL ZONES

C-1 - Limited Commercial
C-2 - Commercial
C-L - Limited Commercial
C-M - Commercial-Manufacturing
C-P - Restricted Commercial
HC- Harbor Commercial
HRC-1 - Hotel and Related Commerce
HRC-2 - Hotel and Related Commerce
M-1 Light Manufacturing
O-C - Ocean Related Commerc
OM-1 - Ocean Oriented Light Manufacturing
P-R - Parks and Recreation
R-O - Restricted Office

OVERLAY ZONES

C-X - Research and Development
HWMF - Hazardous Waste Management Facility
PD - Planned Development
PUD - Planned Unit Development
R-H - Resort-Residential Hotel
S-D-1 - Special District 1 - San Roque
S-D-2 - Special District 2 - Outer State Street
S-D-3 - Special District 3 - Coast Zone
S-P - Specific Plan

Coastal Zone Boundary



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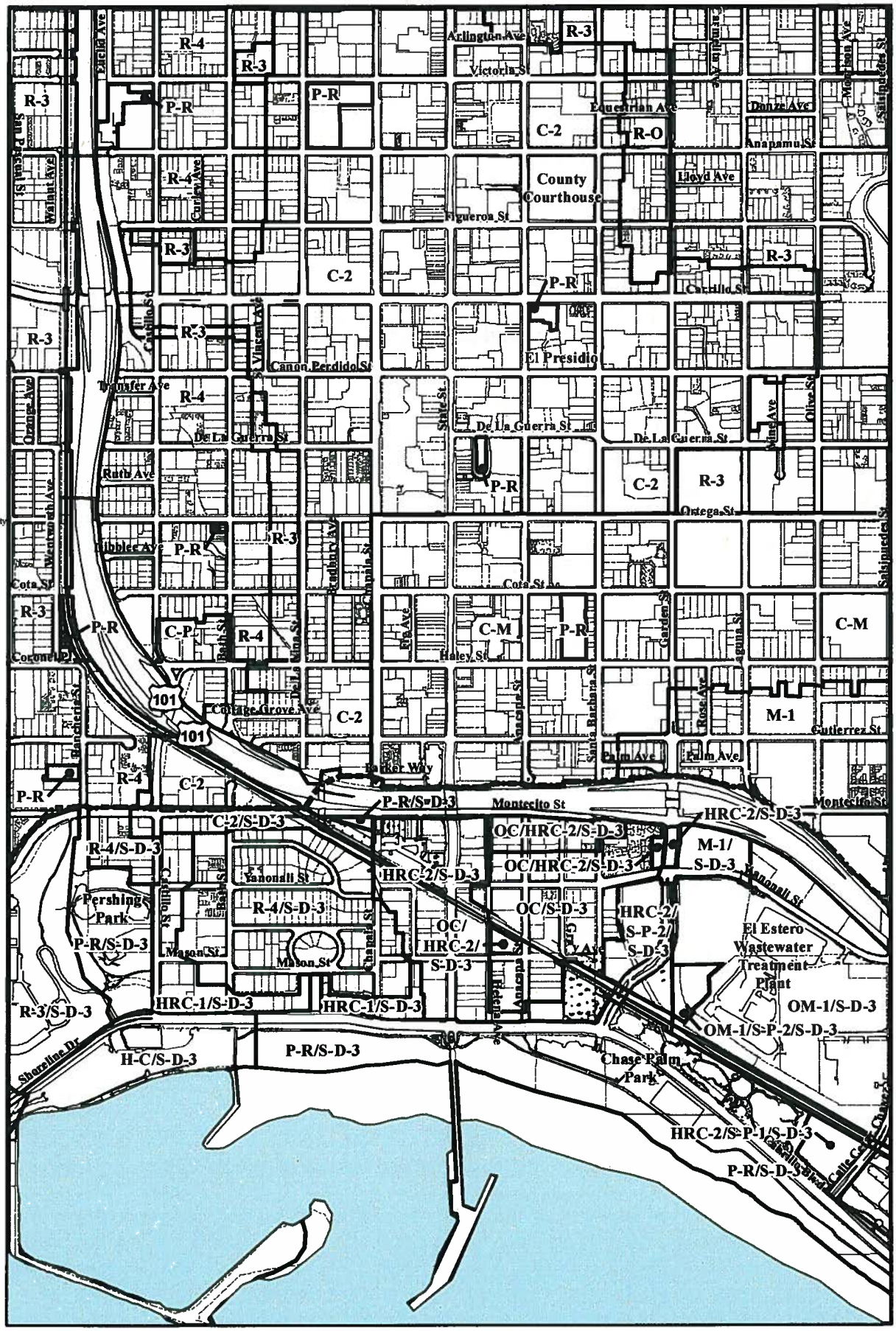

Sectional Map: SD01

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
A-2 - Single Residential Unit
E-1 - Single Residential Unit
E-2 - Single Residential Unit
E-3 - Single Residential Unit
R-1 - Single Residential Unit
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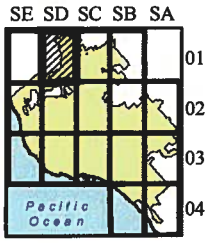
S-D-3 - Special District 3 - Coast Zone
S-P - Specific Plan

Coastal Zone Boundary



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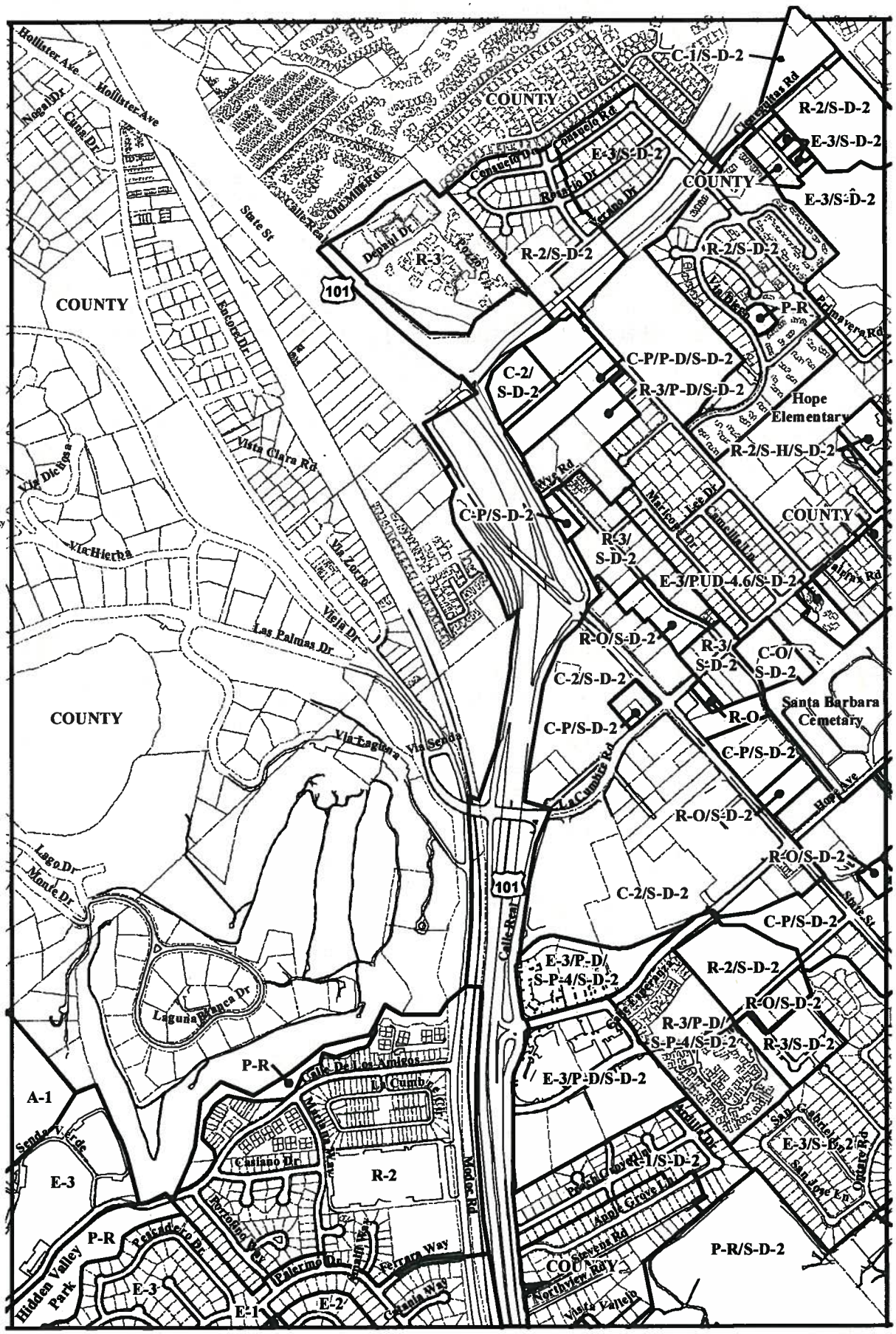

Sectional Map: SD02

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
A-2 - Single Residential Unit
E-1 - Single Residential Unit
E-2 - Single Residential Unit
E-3 - Single Residential Unit
R-1 - Single Residential Unit
R-2 - Two Residential Units
R-3 - Multiple Residential Units
R-4 - Multiple Residential Units/Lodging

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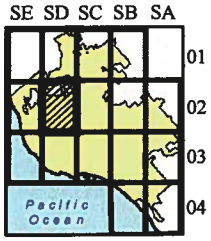
S-D-3 - Special District 3 - Coast Zone
S-P - Specific Plan

Coastal Zone Boundary



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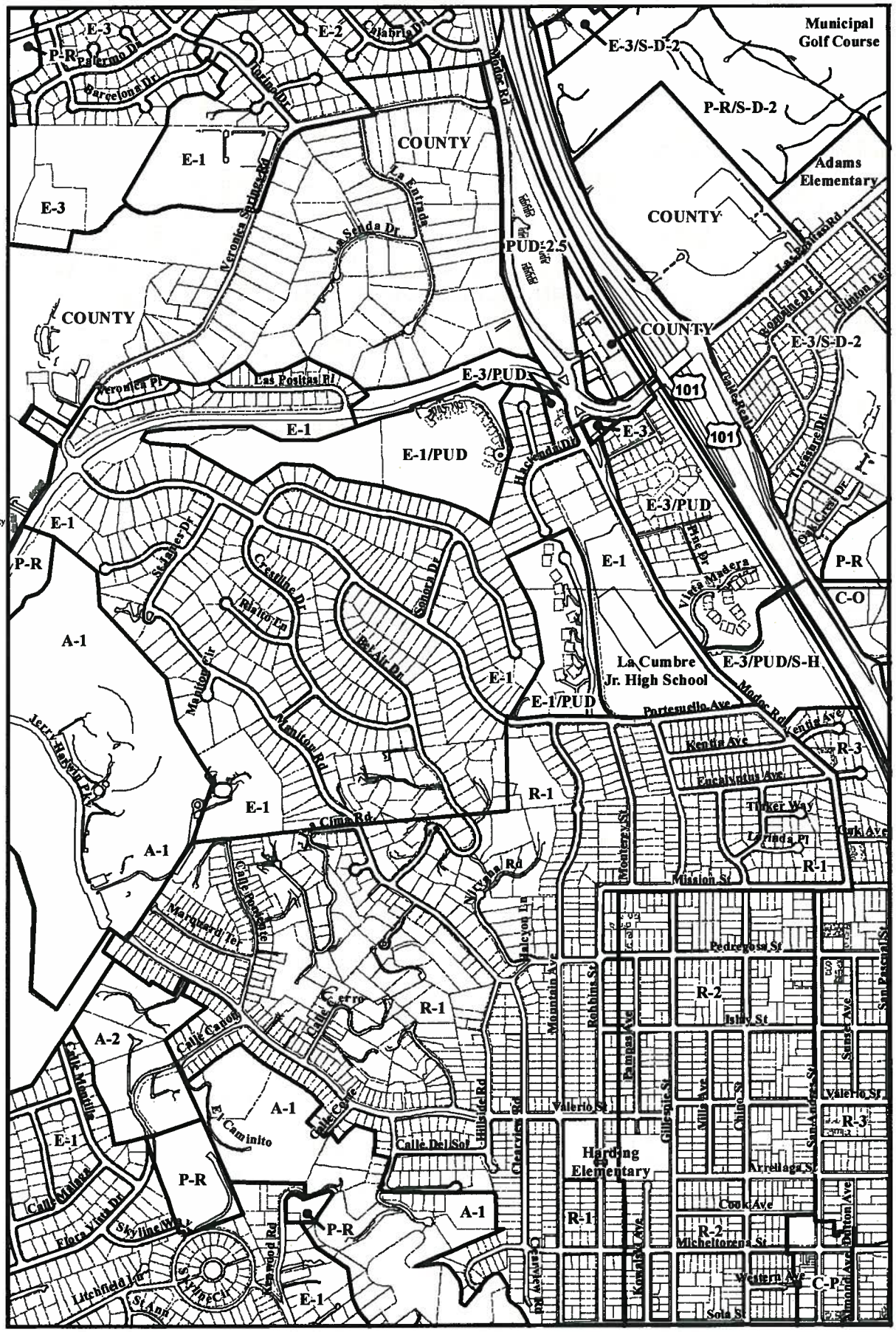

Sectional Map: SD03

Legend

RESIDENTIAL ZONES

A-1 - Single Residential Unit
A-2 - Single Residential Unit
E-1 - Single Residential Unit
E-2 - Single Residential Unit
E-3 - Single Residential Unit
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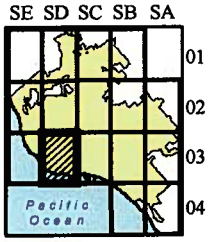
S-D-3 - Special District 3 - Coast Zone
S-P - Specific Plan

Coastal Zone Boundary



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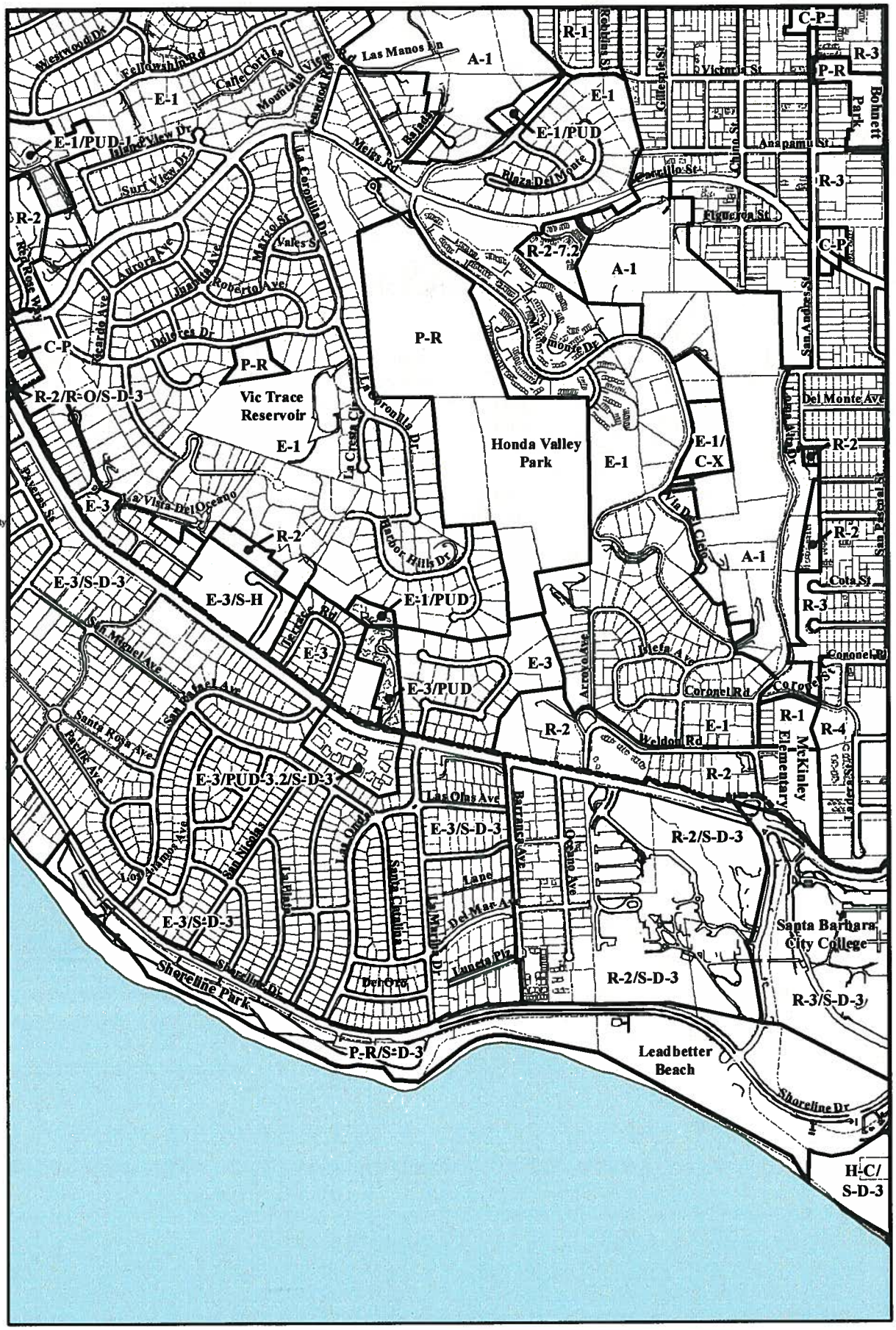

Sectional Map: SE01

Legend

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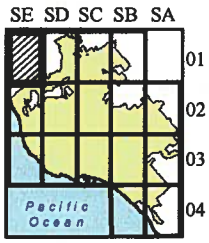
Coastal Zone Boundary



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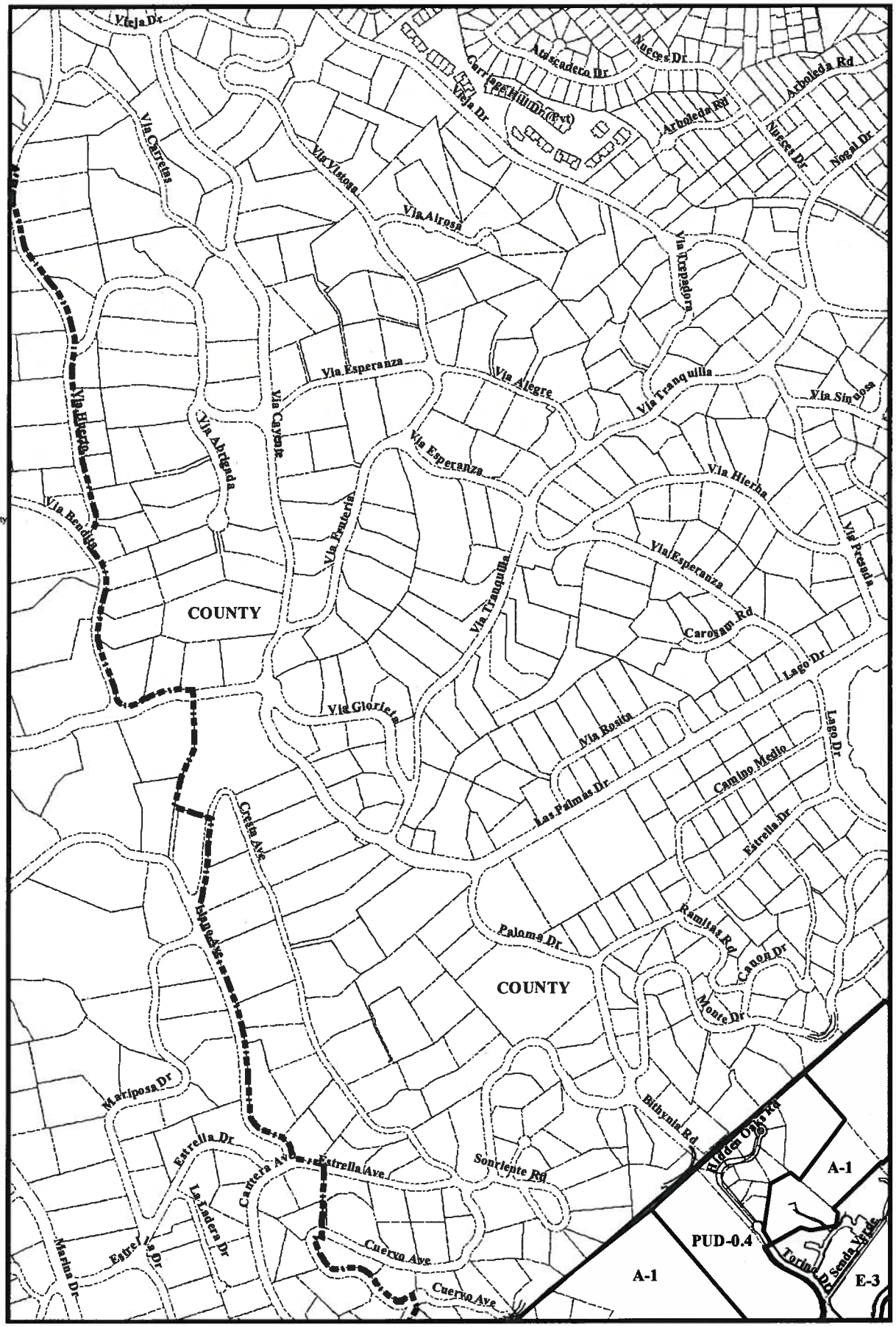

Sectional Map: SE02

Legend

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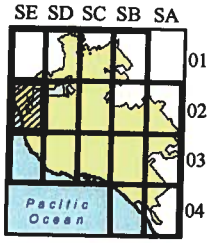
Coastal Zone Boundary



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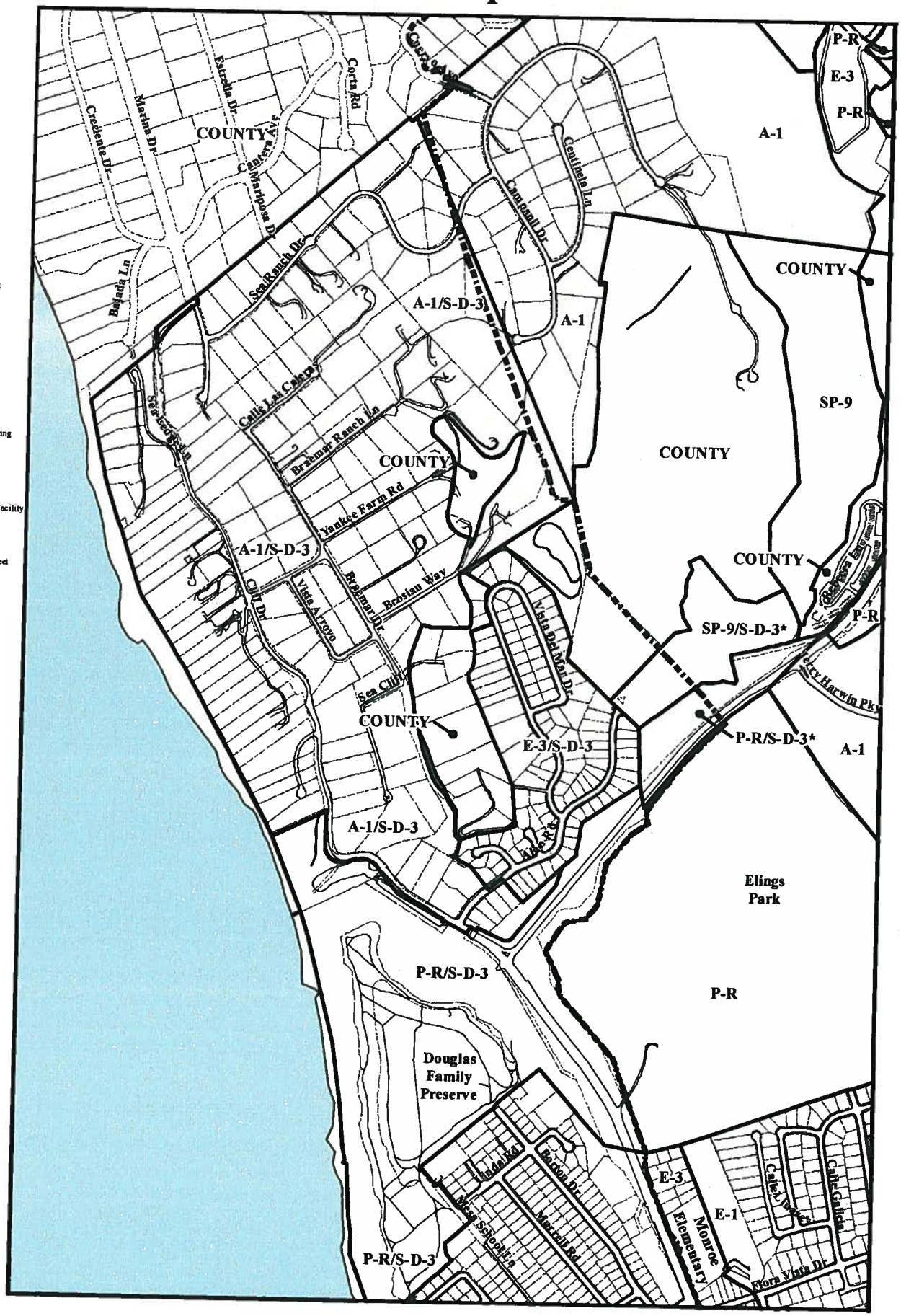

rev. 6/30/13

Sectional Map: SE03

Legend

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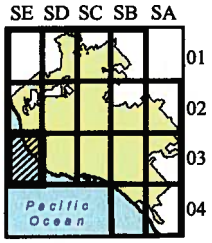
Coastal Zone Boundary



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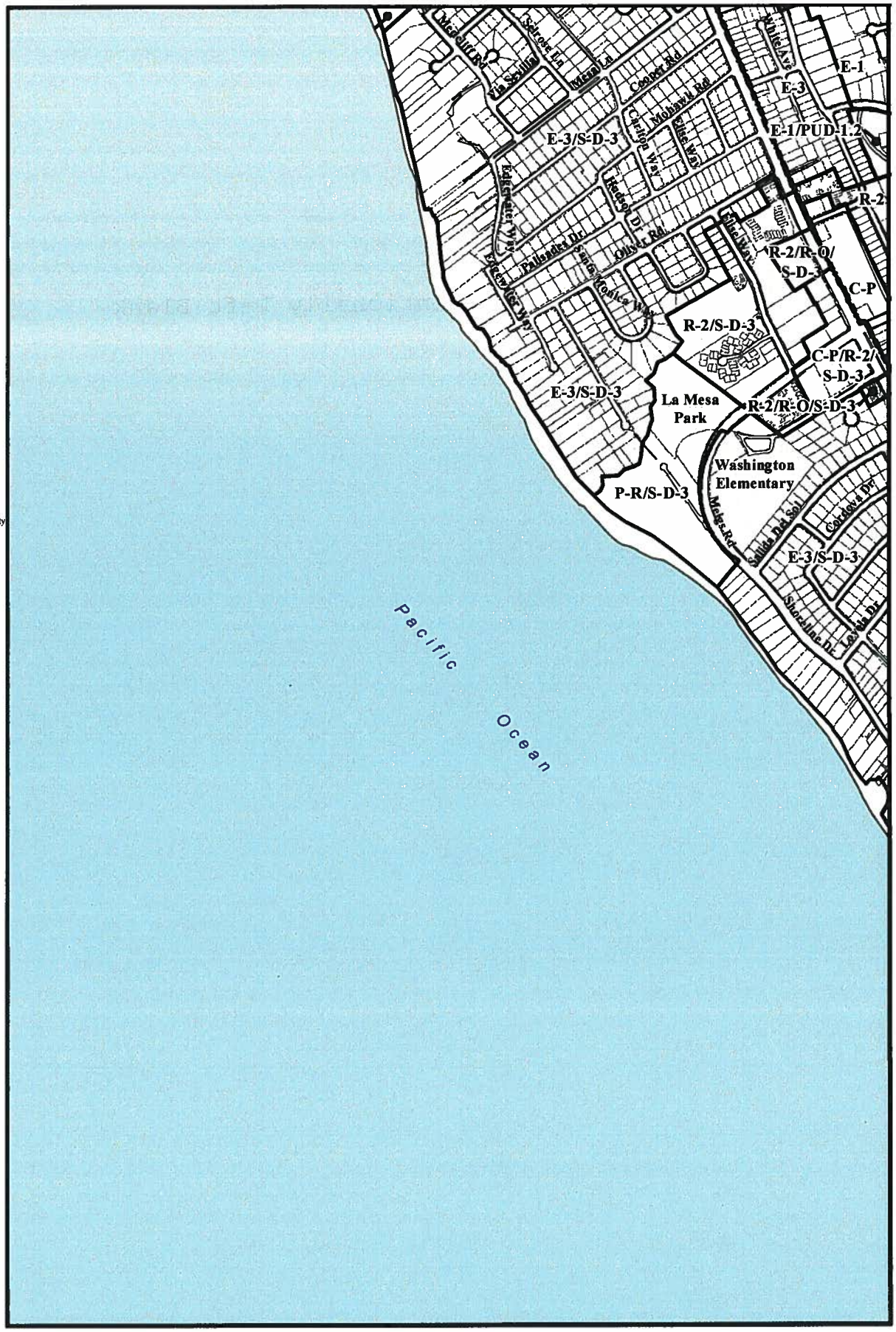
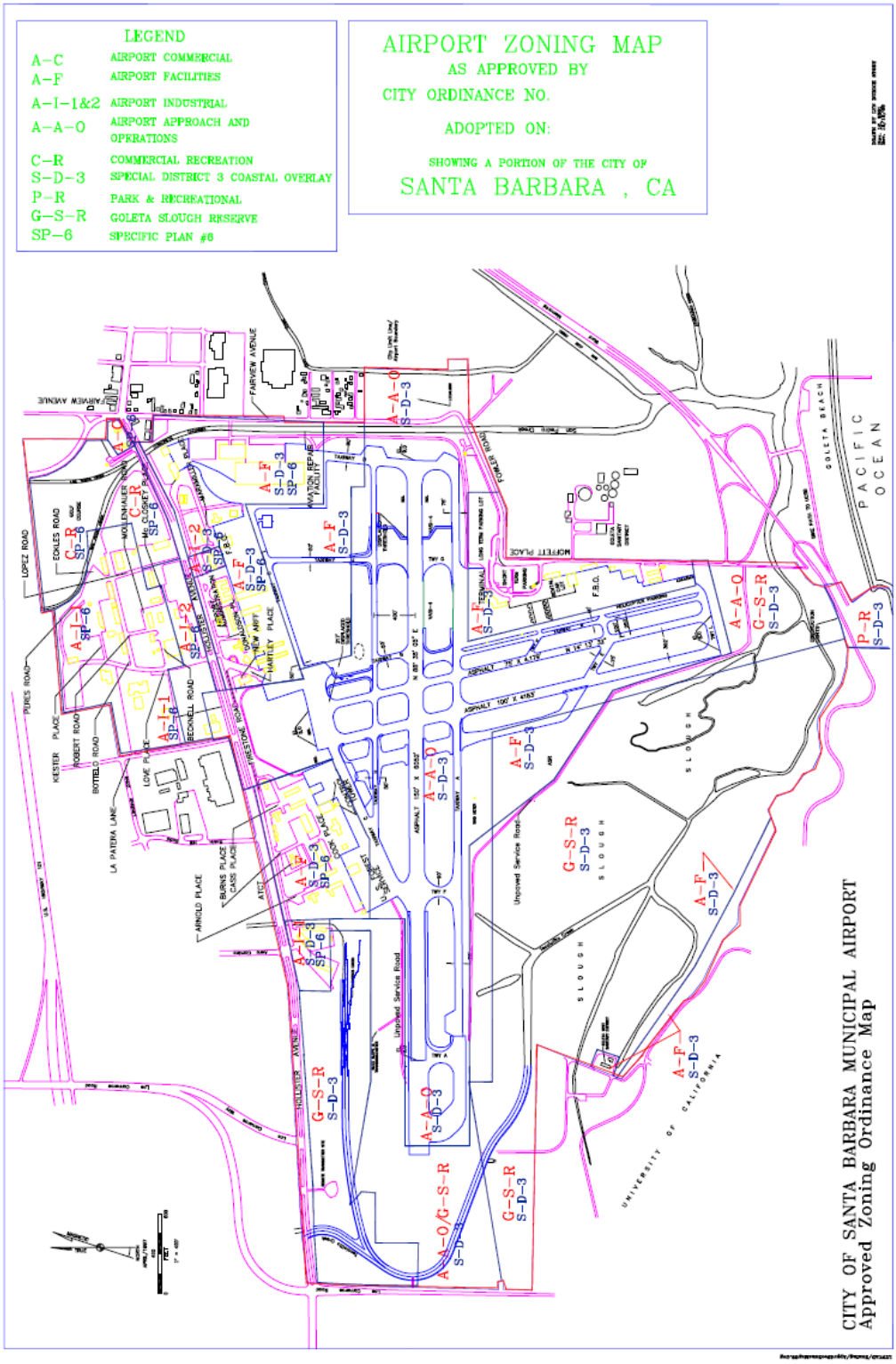


rev. 6/30/13


LEGEND
A–C AIRPORT COMMERCIAL
A–F AIRPORT FACILITIES
A–I–1&2 AIRPORT INDUSTRIAL
A–A–O AIRPORT APPROACH AND OPERATIONS
C–R COMMERCIAL RECREATION
S–D–3 SPECIAL DISTRICT 3 COASTAL OVERLAY
P–R PARK & RECREATIONAL
G–S–R GOLETA SLOUGH RESERVE
SP–6 SPECIFIC PLAN #6
AIRPORT ZONING MAP
AS APPROVED BY
CITY ORDINANCE NO.
ADOPTED ON:
SHOWING A PORTION OF THE CITY OF
SANTA BARBARA , CA
PACIFIC OCEAN
GOLETA BEACH
SLOUGH
UNIVERSITY OF CALIFORNIA
Unpaved Service Road
FAIRVIEW AVENUE
HOLLISTER AVENUE
FOWLER ROAD
MOFFETT PLACE
LOPEZ ROAD
EDILES ROAD
WOLENHAUER ROAD
McCLOSKEY PLACE
BEDWELL ROAD
HARTLEY PLACE
KESTER PLACE
ROBERT ROAD
BOTELLO ROAD
LA PATERA LANE
LOVE PLACE
ARNOLD PLACE
BURNS PLACE
CASS PLACE
ATCT
AVIATION REPAIR FACILITY
TERMINAL
F.B.O.
A–A–O
S–D–3
A–F
S–D–3
SP–6
G–S–R
S–D–3
P–R
S–D–3
A–I–1
SP–6
A–I–2
SP–6
C–R
SP–6
G–S–R
SP–6
CITY OF SANTA BARBARA MUNICIPAL AIRPORT
Approved Zoning Ordinance Map