

City of Santa Barbara

New Zoning Ordinance Module 2: Development Standards

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Draft for NZO Committee Review

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Introduction

This Module proposes a set of development standards and overlay zones for Santa Barbara’s New Zoning Ordinance (NZO), based on an analysis of existing provisions, the Issues and Options paper, and the General Plan, and comments from City staff, Planning Commission, NZO Joint Committee, and stakeholders.

There are two types of development standards addressed in this Module. Those that apply to a particular zone or area, such as in the Residential Single Unit Zone or the Upper State Street Area, and those that apply generally to some or all zones throughout the City.

Each section of this Module is organized in the manner it is anticipated to be organized in the final Ordinance. Placeholders are included for sections of the Ordinance that are not part of the NZO effort for informational purposes. These sections are not part of the NZO module but will be incorporated into the final Ordinance.

BASE ZONE DEVELOPMENT STANDARDS

Each base zoning district chapter contains a table that states the essential development standards (e.g., lot area, height, setbacks) for the zone and makes reference to other applicable standards that follow the table or that are located in another part of the zoning regulations. For each zone, the current development standards are carried forward or altered as noted.

As discussed in Module 1, Use Regulations, the current zone names do not always provide information regarding the purpose and nature of the zone. The current zone names are proposed to be updated to provide context of the character of each zone. This approach is a renaming of zones and does not rezone property. The following table lists the current and proposed base zone district names. Current base zone district names are also shown in parenthesis in each of the development standards tables in subsequent sections of this document.

PROPOSED ZONE CLASSIFICATIONS			
<i>Proposed Zone</i>		<i>Existing Zone</i>	
Base Zones			
Residential Zones			
<i>RS-1A</i>	Residential Single Unit, 1 acre minimum lot size	A-1	One-Family Residence Zones
<i>RS-25</i>	Residential Single Unit, 25,000 square foot minimum lot size	A-2	
<i>RS-15</i>	Residential Single Unit, 15,000 square foot minimum lot size	E-1	
<i>RS-10</i>	Residential Single Unit, 10,000 square foot minimum lot size	E-2	

PROPOSED ZONE CLASSIFICATIONS			
<i>Proposed Zone</i>		<i>Existing Zone</i>	
RS-7.5	Residential Single Unit, 7,500 square foot minimum lot size	E-3	
RS-6	Residential Single Unit, 6,000 square foot minimum lot size	R-1	
R-2	Two-Unit Residential	R-2	Two-Family Residence
R-M	Residential Multi-Unit	R-3	Limited Multiple-Family Residence
R-MH	Residential Multi-Unit and Hotel	R-4	Hotel-Motel-Multiple Residence
Commercial and Office Zones			
O-R	Office Restricted	R-O	Restricted Office
O-M	Office Medical	C-O	Medical Office
C-R	Commercial Restricted	C-P	Restricted Commercial
C-G	Commercial General	C-2	Commercial
Manufacturing Zones			
M-C	Manufacturing Commercial	C-M	Commercial Manufacturing
M-I	Manufacturing Industrial	M-I	Light Manufacturing
Coastal-Commercial Related Zones			
C-L (coastal)	Commercial Limited	C-I	Limited Commercial
HRC-1	Hotel and Restaurant	HRC-1	Hotel and Related Commerce
HRC-2	Hotel and Visitor-Serving Commercial	HRC-2	Hotel and Related Commerce
H-C	Harbor Commercial	HC	Harbor Commercial
O-C	Ocean-Oriented Commercial	OC	Ocean-Oriented Commercial
OM-I	Ocean-Oriented Manufacturing Industrial	OM-I	Ocean-Oriented Light Manufacturing
Park and Recreation Zone			
P-R	Park and Recreation	PR	Park and Recreation Zone

OVERLAY ZONES

Overlay zones are combined with base zone(s) and include provisions that apply in addition to the regulations of the underlying base zone. The existing zoning ordinance does not treat overlay zones consistently. Special districts, overlay zones, and dual zoning classifications currently included in the existing zoning ordinance are all essentially ‘overlay zones’. Additionally, current overlay zone names do not always provide information regarding the purpose and the nature of the zone. The following table lists the current and proposed overlay zone names. Notable changes to existing regulations are described following the table.

PROPOSED OVERLAY ZONE DESIGNATIONS			
<i>Proposed Overlay Zone</i>		<i>Existing Overlay Zone</i>	
AC	Auto, Commercial, and Services Overlay Zone	P-D	Planned Development Zone
CZ	Coastal Overlay Zone	S-D-3	Coastal Overlay Zone
HWMF	Hazardous Waste Management Facility	HWMF	Hazardous Waste Management Facility
PUD	Planned Unit Development Overlay Zone	PUD	Planned Unit Development Zone
RD	Research and Development Overlay Zone	C-X	Research and Development and Administrative Office Zone
RH	Resort Hotel Overlay Zone	R-H	Resort-Residential Hotel Zone
SRP	San Roque Park Subdivision Overlay Zone	S-D-1	S-D-1 Zone
SH	Senior Housing Overlay Zone	S-H	Senior Housing Zone
USS	Upper State Street Area Overlay Zone	S-D-2	S-D-2 Zone

Auto, Commercial, and Services (AC) Overlay Zone [Currently P-D Zone]

The stated intent of the current P-D Planned Development Zone is generally to provide for planned centers with uses and restrictions other than those contained in other zone classifications. Allowed uses focus on automobile, commercial, and service type uses and include a selection of public and semi-public, commercial, and industrial uses. The application of this zone has been for automobile dealership developments. In order to more closely align the zone with the permitted uses and application, the P-D Planned Development Zone is recommended to be renamed the Auto, Commercial, and Services (AC) Overlay Zone.

Coastal (CZ) Overlay Zone [Currently S-D-3 Zone]

This chapter includes information and regulations that apply specifically to the Coastal Overlay Zone. General information for the Coastal Overlay Zone is included in this chapter, with reference to the City’s Local Coastal Program Land Use Plan. The definitions provided in the existing Zoning Ordinance for this zone will be incorporated into a “Coastal Zone” category in the Definitions chapter of the NZO. The requirements for issuance of a Coastal Development Permit will be included separately in the Administrative Provisions of the NZO.

Planned Unit Development (PUD) Overlay Zone [Currently PUD Zone]

This chapter provides the regulations associated with the Planned Unit Development Zone, as described in Chapter 28.36 of the existing Zoning Ordinance. The chapter contains information regarding the purpose and applicability of this zone, as well as how to establish a PUD Zone, and its specific allowed uses and development, open space/landscaping standards, and the requirement for a Precise Plan.

Research and Development (RD) Overlay Zone [Currently C-X Zone]

This chapter includes the provisions from Chapter 28.60 of the existing Zoning Ordinance regarding the Research and Development Overlay Zone. The zoning map abbreviation is recommended to change from C-X to RD to more closely align with the name of the zone. Specific requirements regarding the purpose and applicability of this overlay zone, land use regulations, development standards, specific landscaping requirements, and operating standards are carried forward for this overlay zone.

Resort Hotel (RH) Overlay Zone [Currently RH Zone]

This chapter includes the provisions from Chapter 28.27 of the existing Zoning Ordinance with regard to resort hotels which may be established in the RS-15, RS-10, RS-7.5, RS-6, R-2, and R-M zones. Provisions include the purpose and applicability of this overlay zone, the requirement for designation of the area on the Zoning Map, land use regulations, development standards, and procedures for establishing an RH Overlay Zone.

San Roque Park Subdivision (SRP) Overlay Zone [Currently S-D-1 Zone]

This chapter includes provisions that apply solely to the San Roque Park Subdivision Special District Zone. The chapter describes this Special District's purpose and location/applicability, as well as the distinct setback requirements that apply in this overlay zone. The descriptive name (San Roque Park Subdivision), rather than the Special District number, for this overlay zone will provide context for where this zone applies.

Senior Housing (SH) Overlay Zone [Currently SH Zone]

The provisions for this overlay zone can be applied to areas in the City zoned as single-family residences or two-family residence zones and are carried forward in the NZO. Provisions include the purpose and applicability of this overlay zone. In addition, the standards and requirements that deviate from the underlying zones are included, as well as specific maximum occupancy requirements, as described in Chapter 28.42 of the existing Zoning Ordinance. Information related to the procedures for establishing this overlay zone, the required plans for establishment of this overlay zone, and termination procedures are also included.

Upper State Street Area (USS) Overlay Zone [Currently S-D-2 Zone]

This chapter includes the information and requirements related specifically to the Upper State Street Area Special District Zone, including the purpose and location/applicability for this Special District, as well as specific development standards. The descriptive name (Upper State Street Area), rather than the Special District number, is used for this overlay zone to provide context for where this zone applies.

CITYWIDE REGULATIONS

Citywide regulations include standards that apply generally to some or all zones throughout the city, including general site regulations, nonconforming provisions, and performance standards. Standards applicable to particular zones, such as Residential Single Unit Zone, appear within the development regulations of that zone chapter. Existing regulations are to be simplified

and clarified where appropriate for consistent application. Graphics will be added to provide illustrative examples and context to specific situations where appropriate.

General Site Regulations

This chapter contains general site regulations that are applicable to all land within some or all zone classifications, regardless of use. Regulations are consolidated from a number of areas in the existing title, particularly Chapter 28.87 (General Provisions).

Density Bonus and Development Incentives

The provisions from Section 28.87.400, Density Bonus and Development Incentives, of the existing Zoning Ordinance are included in this chapter along with changes for consistency with State law.

Nonconforming Uses, Structures, and Lots

This chapter includes provisions for nonconforming uses, structures, and lots, incorporating the applicable existing regulations from sections of Chapter 28.87. The proposed regulations retain most of the existing requirements for alteration and expansion of nonconforming uses and structures. New provisions are also added to allow flexibility in maintenance of nonconforming structures, clarify changes that can be made, and address nonconforming interior setbacks created as a result of the 1975 “Residential Downzone” and other ordinance updates.

Off-Street Parking and Loading Requirements

To be addressed with Module #3.

Performance Standards

This new chapter is added to include the applicable land use/community compatibility standards identified throughout the existing Zoning Ordinance that relate to Title 28 in order to establish clear, measurable standards for determining if a use or activity creates a nuisance on adjoining property. The standards in this chapter are based primarily on standards currently applicable in the SP-7 and C-X zones.

Base Zone Development Standards

Chapter 28.04 Residential Zones

28.04.010 Purpose

See Module 1

28.04.020 Land Use Regulations

See Module 1

28.04.030 Development Standards

Tables 28.04.030.A and 28.04.030.B prescribe the development standards for Residential Zones. Section numbers refer to other sections of the Ordinance, while individual letters refer to subsections that directly follow the tables. Additional regulations that apply throughout the City are located in Division III, Citywide Regulations.

TABLE 28.04.030.A: DEVELOPMENT STANDARDS-RESIDENTIAL SINGLE UNIT ZONES						
<i>Zone (Formerly)</i>	<i>RS-1A (A-1)</i>	<i>RS-25 (A-2)</i>	<i>RS-15 (E-1)</i>	<i>RS-10 (E-2)</i>	<i>RS-7.5 (E-3)</i>	<i>RS-6 (R-1)</i>
Lot and Density						
Minimum Lot Size (sq. ft. unless noted)						
<i>Average Slope less than 10% and all lots with frontage on the Pacific Ocean, regardless of slope</i>	1 acre	25,000	15,000	10,000	7,500	6,000
<i>Average Slope 10% to 20%</i>	1.5 acre	37,500	22,500	15,000	11,250	9,000
<i>Average Slope over 20% to 30%</i>	2 acres	50,000	30,000	20,000	15,000	12,000
<i>Average Slope over 30%</i>	3 acres	75,000	45,000	30,000	22,500	18,000
Minimum Public Street Frontage (ft.)	100 or 1/3 lot depth, whichever is greater	100	90	75	60	60
See also §TBD, Street Frontage and Access						

TABLE 28.04.030.A: DEVELOPMENT STANDARDS-RESIDENTIAL SINGLE UNIT ZONES						
Zone (Formerly)	RS-1A (A-1)	RS-25 (A-2)	RS-15 (E-1)	RS-10 (E-2)	RS-7.5 (E-3)	RS-6 (R-1)
Maximum Floor Area (Floor to Lot Area Ratio) (sq. ft.)	Applicable only to lots developed, or proposed to be developed, with a building with two or more stories or 17 feet or more in height.					
<i>Less than 4,000 sq. ft. Net Lot Area</i>	2,200, see also (A), Floor Area, Precluded Development-RS Zones					
<i>4,000 to 9,999 sq. ft. Net Lot Area</i>	1,200 plus (.25 multiplied by the net lot area), see also (A), Floor Area, Precluded Development-RS Zones					
<i>10,000 to 14,999 sq. ft. Net Lot Area</i>	2,500 plus (.125 multiplied by the net lot area), see also (A), Floor Area, Precluded Development-RS Zones					
<i>15,000 and more sq. ft. Net Lot Area</i>	Not Applicable					
Density (units/lot)	1	1	1	1	1	1
	See §TBD, Additional Dwelling Units and §TBD, Secondary Dwelling Units					
Minimum Residential Unit Size	See §TBD, Residential Unit					
Building Form and Location						
Maximum Height (ft.)	30, except as further limited in accordance with (B), Additional Height Limits for Protection and Enhancement of Solar Access					
Minimum Setbacks (ft.)	See also §TBD, Encroachments into Setbacks and Open Yards					
<i>Front, Residential Building</i>	35	30	30	25	20	1 st Story: 15; Portions of buildings above 1 st story and street facing garages and carports: 20
	See also (C), Setback Reduction for Sloping Lots					
<i>Interior, Residential Building</i>	15	10	10	8	6	5
<i>Non-Residential Buildings</i>	The required setback for non-residential buildings is double the setback required for residential buildings.					
<i>Uncovered Parking</i>	See §TBD, Location of Required Parking					
Materials	Roofing and siding materials shall be nonreflective. Shiny, mirror like, or glossy metallic finishes are prohibited.					
Open Yard and Lot Coverage						
Open Yards	See §TBD, Open Yards					
Maximum Lot Coverage, Non-Residential Buildings (% of lot area)	25	25	25	25	25	25

TABLE 28.04.030.B: DEVELOPMENT STANDARDS-TWO-UNIT AND MULTI-UNIT ZONES			
Zone (Formerly)	R-2 (R-2)	R-M (R-3)	R-MH (R-4)
Lot Size and Street Frontage			
Minimum Lot Size			
Average Slope less than 10%	7,000	14,000	14,000
Average Slope 10% to 20%	10,500		
Average Slope over 20% to 30%	14,000		
Average Slope over 30%	21,000		
Minimum Public Street Frontage	60	60	60
	See §TBD, Street Frontage and Access		
Maximum Base Density			
Lots less than 5,000 Square Feet	1 unit	1 unit	
Lots 5,001 to 5,999 Square Feet	1 unit	2 units	
Lots 6,000 Square Feet to 6,999 Square Feet	2 units if average slope less than 10%, 1 unit otherwise	2 units	
Lots 7,000 Square Feet or Larger			
Average Slope less than 10%	1 unit/3,500 sq. ft. of lot area	3 units, or 1 unit/3,500 sq. ft. of lot area, whichever is greater	
Average Slope 10% to 20%	1 unit/5,250 sq. ft. of lot area		
Average Slope over 20% to 30%	1 unit/7,000 sq. ft. of lot area		
Average Slope over 30%	1 unit/10,500 sq. ft. of lot area		
Additional Density Allowances			
All lots, in compliance with the applicable section	See §TBD, Accessory Dwelling Unit	See §TBD, Variable Density in Certain Zones See §TBD, Average Unit Size Density Incentive Program See §TBD, Density Bonus and Development Incentives	
Building Form and Location			
Minimum Residential Unit Size	See §TBD, Residential Unit		
Maximum Height (ft.)	30	45	45
	Except as further limited in accordance with (B), Additional Height Limits for Protection and Enhancement of Solar Access		

TABLE 28.04.030.B: DEVELOPMENT STANDARDS-TWO-UNIT AND MULTI-UNIT ZONES			
Zone (Formerly)	R-2 (R-2)	R-M (R-3)	R-MH (R-4)
Maximum Number of Stories	n/a	3	3
	See §TBD, Average Unit Size Density Incentive Program		
Minimum Setbacks (ft.)	See also §TBD, Encroachments into Setbacks and Open Yards See §TBD, Average Unit Size Density Incentive Program		
<i>Front, Residential Buildings</i>	1 st Story: 15; Portions of buildings above 1st story and street facing garages and carports: 20 See also (C), Setback Reduction for Sloping Lots	1st and 2nd Stories: 10 3rd Story portions of buildings: 20	
		Garages and Carports; 10 Garages and Carports, Street-Facing: 20	
<i>Interior, Residential Buildings</i>	Garages and carports: 3 Other buildings: 6	1st and 2 nd Stories: 6 3 rd Story portions of buildings: 10	
		<u>Garages and carports:</u> <ul style="list-style-type: none"> • Lots with one or two units: 3 • Lots with three or more units: 6 except as provided in (D), Interior Garage and Carport Setback Reduction for Lots 55-Foot or Less 	
<i>Non-Residential Buildings</i>	The required setback for non-residential buildings is double the setback required for residential buildings and uses.		
<i>Hotel Conversions</i>	N/A	Conversions of existing residential buildings to hotels or remodels of existing buildings that contain hotels are subject to the setback requirements for residential buildings. New hotel buildings and additions to existing hotels are subject to double the residential setback requirement.	
<i>Uncovered Parking</i>	See §TBD, Location of Required Parking		
Open Yard and Lot Coverage			
Open Yards	See §TBD, Open Yards See §TBD, Average Unit Size Density Incentive Program		
Maximum Lot Coverage, Non-Residential Buildings (% of lot area)	25	25. Conversions of existing residential structures to hotels or remodels of existing buildings that contain hotels are exempt from the lot coverage limitation. New buildings and additions are subject to lot coverage limitations.	

Additional Residential Zone Development Regulations

- A. **Floor Area, Precluded Development-RS Zones.** No application for a building permit may be approved for a project in an RS Zone that will: (1) result in an increase of the 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 17 feet or higher if any of the following will occur:
1. The floor area will exceed the allowable maximum floor area for the lot, or
 2. The floor area will exceed 85 percent of the allowable maximum floor area and any of the following apply.
 - a. The average slope of the lot or the building site is 30 percent or greater;
 - b. The building height of any building or structure on the lot is more than 25 feet; or
 - c. The lot is located in the Hillside Design District and 500 or more cubic yards of grading is proposed to occur outside the footprint of the main building. Soil located within five feet of an exterior wall of a main building that is excavated and re-compacted shall not be included in the calculation of the volume of grading outside the building footprint.
- B. **Additional Height Limits for Protection and Enhancement of Solar Access.** In addition to any other height limitation imposed in the City Charter or in this Ordinance, the following height limits apply.
1. **Maximum Elevation**
 - a. *RS and R-2 Zones.* The maximum elevation of each point on a structure, including all portions of the roof, shall not exceed the sum of 12 feet and 58 percent of the shortest distance from that point to the nearest northerly lot line as measured horizontally on the plan view of the structure measured from the Base Elevation or the elevation at the northerly property line, whichever is higher.
 - b. *R-M and R-MH Zones.* The maximum elevation of each point on a structure in as measured from the base elevation shall not exceed the sum of 18 feet and 58 percent of the shortest distance from that point to the nearest northerly lot line as measured horizontally on the plan view of the structure.
 2. **Exceptions.** The maximum elevation limits of this Section do not apply to the following.
 - a. Any flagpole, antenna, ornamental spire, chimney, or other building element less than four feet along each horizontal dimension.
 - b. A utility pole and line.

- c. Lots with a north property line abutting a street or alley, or a nonresidential zone.
- d. 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:
 - i. 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;
 - ii. 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
 - iii. Fall entirely within the boundaries of an existing covered or uncovered paved off street parking area, or paved driveway leading thereto.

C. **Setback Reduction for Sloping Lots.**

- 1. **Residential Single Unit Zones.** In Residential Single Unit zones, where the average natural slope of the front half of a lot is more than 20 percent slope, the required front building setback for all stories is reduced by five feet.
- 2. **R-2 Zone.** In the R-2 Zone, where the average natural slope of the front half of a lot is more than 20 percent slope, the required front building setback for all stories is 10 feet.

D. **Interior Garage and Carport Setback Reduction for Lots 55-Feet or Less.** The required interior setback for garages and carports on lots in the R-M and R-MH District less than 55 feet in width and developed with three or more units may be reduced to three feet by the appropriate design review body provided the garage or carport opening does not face a street and the interior depth of the garage or carport does not exceed 20 feet.

Chapter 28.05 Commercial and Office Zones

28.05.010 Purpose

See Module 1

28.05.020 Land Use Regulations

See Module 1

28.05.030 Development Standards

Table 28.05.030 prescribes the development standards for Commercial and Office Zones. Section numbers refer to other sections of the Ordinance, while individual letters refer to subsections that directly follow the table. Additional regulations that apply throughout the City are located in Division III, Citywide Regulations.

TABLE 28.05.030: DEVELOPMENT STANDARDS-COMMERCIAL AND OFFICE ZONES				
Zone (Formerly)	O-R (R-O)	O-M (C-O)	C-R (C-P)	C-G (C-2)
Lot and Density				
Minimum Lot Size	None			
Minimum Public Street Frontage	None, See §TBD, Street Frontage and Access			
Maximum Base Residential Density				
<i>Lots less than 5,000 Square Feet</i>	1 unit			
<i>Lots 5,001 to 6,999 Square Feet</i>	2 units			
<i>Lots 7,000 Square Feet or Larger</i>	3 units, or 1 unit/3,500 sq. ft. of lot area, whichever is greater			
Additional Density Allowances	See §TBD, Variable Density in Certain Zones See §TBD, Average Unit Size Density Incentive Program			
Building Form and Location				
Minimum Residential Unit Size	Studio: 220 square feet; All other units: 400 square feet See §TBD, Residential Unit			
Maximum Height (ft.)	45	45	45	45; 60 for Community Benefit Project or Community Benefit Housing Project (§TBD) See also (A), Theater Additions

TABLE 28.05.030: DEVELOPMENT STANDARDS-COMMERCIAL AND OFFICE ZONES				
Zone (Formerly)	O-R (R-O)	O-M (C-O)	C-R (C-P)	C-G (C-2)
<i>Adjacent to RS or R-2 Zone</i>	For all portions of the building located within 20 feet of a RS or R-2 zone, the maximum height is 30 ft. This limit is not applicable to Community Benefit Projects or Community Benefit Housing Projects.			
Maximum Number of Stories	3	3	3	4
	See §TBD, Average Unit Size Density Incentive Program			
Minimum Setbacks (ft.)	See also §TBD, Encroachments into Setbacks and Open Yards See §TBD, Average Unit Size Density Incentive Program			
<i>Front</i>	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use structures:</u> <ul style="list-style-type: none"> • 1st and 2nd Stories: 10 • 3rd Story: 20 		<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use structures:</u> 0	
<i>Interior, Adjacent to a Non-Residential Zone</i>	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use structures:</u> <ul style="list-style-type: none"> • 1st and 2nd Stories: 6 • 3rd Story: 10 		<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use structures:</u> 0	
<i>Interior, Adjacent to a Residential Zone</i>	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use structures:</u> 15			
<i>Uncovered Parking</i>	See §TBD, Location of Required Parking			
Open Yard				
Open Yards and Outdoor Living Space	Any lot developed with residential uses shall provide outdoor living space in accordance with the provisions of the R-M Zone. See §TBD, Average Unit Size Density Incentive Program			

Additional Commercial and Office Zone Development Regulations

- A. **Theater Additions.** 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.

Chapter 28.06 Manufacturing Zones

28.06.010 Purpose

See Module 1

28.06.020 Land Use Regulations

See Module 1

28.06.030 Development Standards

Table 28.06.030 prescribes the development standards for Manufacturing Zones. Section numbers refer to other sections of the Ordinance. Additional regulations that apply throughout the City are located in Division III, Citywide Regulations.

TABLE 28.06.030: DEVELOPMENT STANDARDS-MANUFACTURING ZONES		
<i>Zone (Formerly)</i>	<i>M-C (C-M)</i>	<i>M-I (M-I)</i>
Lot and Density		
Minimum Lot Size	None	
Minimum Public Street Frontage	None, See §TBD, Street Frontage and Access	
Maximum Residential Base Density		
<i>Lots less than 5,000 Square Feet</i>	1 unit	One Caretaker Unit
<i>Lots 5,001 to 6,999 Square Feet</i>	2 units	
<i>Lots 7,000 Square Feet or Larger</i>	3 units, or 1 unit/3,500 sq. ft. of lot area, whichever is greater	
Additional Density Allowances	See §TBD, Variable Density in Certain Zones See §TBD, Average Unit Size Density Incentive Program	None applicable
Building Form and Location		
Maximum Height (ft.)	45; 60 for Community Benefit Project or Community Benefit Housing Project (§TBD)	
<i>Adjacent to RS or R-2 Zone</i>	For all portions of the building located within 20 feet of a RS or R-2 zone, the maximum height is 30 feet. This limit is not applicable to Community Benefit Project or Community Benefit Housing Projects.	
Maximum Number of Stories	4	
	See §TBD, Average Unit Size Density Incentive Program	

TABLE 28.06.030: DEVELOPMENT STANDARDS-MANUFACTURING ZONES		
Zone (Formerly)	M-C (C-M)	M-I (M-I)
Minimum Setbacks (ft.)	See also §TBD, Encroachments into Setbacks and Open Yards See §TBD, Average Unit Size Density Incentive Program	
<i>Front</i>	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use Buildings:</u> 0	
<i>Interior, Adjacent to a Non-Residential Zone</i>	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use Buildings:</u> 0	
<i>Interior, Adjacent to a Residential Zone</i>	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use Buildings:</u> 15	
<i>Uncovered Parking</i>	See §TBD, Location of Required Parking	
Open Yard		
Open Yards and Outdoor Living Space	Any lot developed with residential use shall provide outdoor living space in accordance with the provisions of the R-M Zone. See §TBD, Average Unit Size Density Incentive Program	

Overlay Zones

Where Overlay Zone provisions are silent regarding matters otherwise governed by other standards of the Zoning Ordinance, the standards of the Zoning Ordinance shall apply. In any case of conflict, the more restrictive standards shall apply.

Chapter 28.09 Auto, Commercial, and Services (AC) Overlay Zone

28.09.010 Purpose

The Auto, Commercial, and Services (AC) Overlay Zone is intended to provide areas for auto related uses, including the sales of new automobiles and vehicles, as well as commercial and service uses in planned centers. Uses and restrictions other than those contained in other zone districts may be appropriate due to one or more of the following circumstances: unusual topographic conditions; proximity to public parks, buildings, major traffic corridors, bodies of water, watercourses, open spaces, and other similar improvements or land features; disparity between adjacent zoning district warranting special features to protect the more restrictive district; or the suitability of a special or unique land use.

28.09.020 Applicability

The provisions of this Chapter apply to properties located within or proposed to be located within the AC Overlay Zone mapped on the Official Zoning Map.

28.09.030 Land Use Regulations

In addition to the uses allowed in the applicable base zone the following uses are permitted:

- A. **Public and Semi-Public Uses**
 - 1. Colleges and Trade Schools
 - 2. Community Assembly
 - 3. Cultural Institutions
 - 4. Hospitals
 - 5. Instructional Services
 - 6. Public Facilities
 - 7. Schools
- B. **Commercial Uses**
 - 1. Automobile/Vehicle Sales and Services

2. Banks and Financial Institutions
 3. Commercial Entertainment and Recreation
 4. Eating and Drinking Establishments, Full Service and Convenience
 5. Hotel
 6. Offices, Business and Professional
 7. Parking, Public or Private
- C. **Industrial Uses**
1. Automobile and Vehicle Repair, Major, conducted entirely within an enclosed building
 2. Commercial Vehicle and Equipment Sales and Rental
 3. Research and Development
 4. Warehousing and Storage
 - a. Outdoor Storage for recreational vehicles
 - b. Personal Storage

28.09.040 Development Standards

- A. **Required Front Setback.** All buildings, structures and parking shall be setback from front lot lines a minimum of 10 feet.
- B. **Height Limitations.** Buildings shall not exceed three stories or 45 feet in height.
- C. **Parking.** Parking shall be provided pursuant to Chapter TBD, Off-Street Parking and Loading.
- D. **Other Development Standards.** Other development standards, including but not limited to, interior setbacks, lot coverage, lot area, street frontage, hours and manner of operation, lighting, and landscaping, shall be as prescribed by the Precise Plan approved with the AC Overlay District.

28.09.050 Procedures

- A. **Review Procedures.**
 1. **Zoning Amendment** An application for a classification as an AC Overlay Zone shall be processed as an amendment to the Zoning Map, according to the procedures of Chapter TBD, Amendments to Zoning Ordinance and Map, and shall include a Precise Plan.
 2. **Precise Plan.** The Precise Plan shall be accepted and processed pursuant to Chapter TBD.
- B. **Expiration.** A Precise Plan shall be effective on the same date as the ordinance creating the AC District for which it was approved and shall expire four years after the

effective date unless actions specified in the conditions of approval have been taken, a building permit has been issued and construction diligently pursued, or a time extension pursuant to Section TBD, Extensions, has been approved. An approved Precise Plan may specify a development staging program exceeding four years.

28.09.060 Project Review

Plans for a project in an AC Overlay Zone shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved Precise Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved Precise Plan.

Chapter 28.10 Coastal (CZ) Overlay Zone

28.10.010 Purpose

The Coastal (CZ) Overlay Zone is established for the purpose of implementing the Coastal Act of 1976 (Division 20 of the California Public Resources Code) and to ensure 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.

28.10.020 Applicability

The CZ Overlay Zone is applied to the "Coastal Zone" which is generally defined as land within 1,000 yards from the mean high tide line as established by the Coastal Act which lies within the City of Santa Barbara (including the Santa Barbara Airport), as shown on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara.

- A. Any person (including the City, any utility, state or local government, or special district or any agency thereof) wishing to perform or undertake any development within the Coastal Zone of the City of Santa Barbara shall comply with the provisions of this Chapter.
- B. 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.

28.10.030 Permit Required

In addition to any other required permits or approvals, a Coastal Development Permit pursuant to Section TBD, Coastal Development Permit, shall be required prior to commencement of any development in the CZ Overlay Zone unless specifically excluded or exempted pursuant to Section 28.10.040, Exclusions and Exemptions, or conducted pursuant to an Emergency Permit in accordance with Section 28.10.050, Emergency Permits.

28.10.040 Exclusions and Exemptions

- A. **Exclusions Pursuant to Exclusions Order.** The following categories of development are categorically excluded from the Coastal Development Permit requirements of this Ordinance pursuant to Categorical Exclusion Order E-86-03 as amended by Categorical Exclusion Order E-06-1 and certified by the California Coastal Commission:

1. ***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.
 2. ***Vested Rights Exclusion.*** Any development which 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.
 3. ***Single Unit Residence Exclusions.***
 - a. Construction of one single unit 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.
 - b. Demolition and reconstruction of an existing single unit 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, a Coastal Development Permit shall be required if an application for demolition and reconstruction of an existing single unit residence is submitted for a lot that:
 - i. Contains a City Landmark or Structure of Merit,
 - ii. Contains or is within 100 feet of archeological or paleontological resources, or
 - iii. Contains or is within 100 feet of an environmentally sensitive habitat area, stream, wetland, marsh, or estuary, regardless of whether such resources are mapped or unmapped.
- B. **Exemptions Pursuant to California Code.** The following categories of development are exempt from the Coastal Development Permit requirements of this Ordinance pursuant to Section 30610 of the Public Resource Code and Sections 13250-13253 of Title 14 of the California Administrative Code.
1. ***Single Unit Residence Exemption.*** Improvements to existing single unit 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.

2. ***Other Construction Exemption.*** Improvements to any structure other than a single unit 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.
3. ***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.
4. ***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.
5. ***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.
6. ***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.
 - a. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
 - b. "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.
 - c. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.
7. ***Temporary Event Exemption.***
 - a. *Temporary Event.* A temporary event is 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.

- i. 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.
 - ii. 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.
 - iii. 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.
 - iv. 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.
 - v. 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.
- b. *General Rule.* Every temporary event is exempted from the Coastal Development Permit requirements under this Ordinance, unless the temporary event meets all of the following criteria and is not otherwise exempted pursuant to subparagraph c. below.
- i. The event is to be held between Memorial Day weekend and Labor Day, inclusive; and,
 - ii. The event occupies all or a portion of a sandy beach area; and,
 - iii. 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).
- c. *Other Exemptions.* The Community Development Director may also exempt a temporary event that satisfies all of the criteria specified in subparagraph b. above, if:
- i. The fee is for preferred seating only and 75 percent of the provided seating capacity is available free of charge for general public use;

- ii. 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;
 - iii. The event is less than one day in duration; or,
 - iv. 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.
 - d. *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 subparagraph b 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:
 - i. 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;
 - ii. 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;
 - iii. 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
 - iv. The event has historically required a Coastal Development Permit to address and monitor associated impacts to coastal resources.
- C. **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 working

days of the determination by the Community Development Department. The City is not required to give the Coastal Commission notice of exemption determinations.

28.10.050 Emergency Permits

The Community Development Director may issue an Emergency Permit without compliance with the procedures for the issuance of a Coastal Development Permit 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, 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; and
 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 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 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.

28.10.060 Development Within Coastal Commission Permit Jurisdiction

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.

- A. **Determination of Applicability.**
1. 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.
 2. 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.

- B. **Processing and Recommendation.** In conjunction with the City's review and decision on the development in accordance with the requirements of this Ordinance 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. 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. Development shall not proceed until the Coastal Commission grants a Coastal Permit for such a development.
1. ***Planning Commission Recommendation.*** If proposed development within the permit jurisdiction of the Coastal Commission requires discretionary review by the Planning Commission, the Planning Commission shall conduct a public hearing regarding the development's conformance with the certified Local Coastal Program. 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.
 2. ***Staff Hearing Officer Recommendation.*** If proposed development within the permit jurisdiction of the Coastal Commission requires discretionary review by the Staff Hearing Officer, the Staff Hearing Officer shall conduct a public hearing regarding development's conformance with the certified Local Coastal Program. 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.
 3. ***Community Development Department Recommendation.*** If the proposed development is within the permit jurisdiction of the Coastal Commission and does not require discretionary review by the Planning Commission or the Staff Hearing Officer, the Community Development Department shall review the proposed development's conformance with the certified Local Coastal Program 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.

28.10.070 Supplemental Regulations

- A. **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.
- B. **Hazardous Waste Management Facilities.** Approval for construction or use of any off-site hazardous waste management facilities 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 this Ordinance.

Chapter 28.11 Hazardous Waste Management Facility (HWMF) Overlay Zone

***Placeholder.** Currently Section 28.75 of the existing Zoning Ordinance. Substantive changes will not be made to these provisions. They will be formatted for consistency with the NZO structure and incorporated into the Final Hearing Draft.*

Chapter 28.12 Planned Unit Development (PUD) Overlay Zone

28.12.010 Purpose

The purpose of this Chapter is to establish a Planned Unit Development (PUD) Overlay Zone that provides for one or more properties to be developed under a plan that provides for better coordinated development and incorporates development standards crafted to respond to site conditions in order to:

- A. Provide flexibility in the development of residential properties with single-unit, duplex, and multi-unit housing types and provide desirable spatial relationships between buildings and structures on site.
- B. Encourage preservation and enhancement of natural beauty and the provision of landscaped open spaces for visual and recreational enjoyment.
- C. Allow for creative development projects that incorporate design features that provide greater amenities and open space than would likely result from conventionally planned development and subdivisions under strict adherence to ordinance requirements of the base zone.
- D. Ensure substantial compliance with and implement the land use and density policies of the General Plan and any applicable Specific Plan.

28.12.020 Zoning Map Designation

A PUD Overlay Zone shall be noted on the Zoning Map by the designation “PUD” followed by the maximum allowable density figure in dwelling units per acre. The PUD Overlay Zone is limited to properties within the RS Zones.

28.12.030 Land Use Regulations

In addition to the uses allowed in the applicable base zone the following uses are permitted.

- A. Planned unit development containing single-unit, duplex, and multi-unit housing types and 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.
- B. Large Family Day Care Homes.
- C. Other uses as required by State law.

28.12.040 Development Regulations

- A. **Residential Unit Density.** Except where a density bonus is granted in compliance with Chapter TBD, Density Bonus and Development Incentives or State Bonus Density, the total number of dwelling units shall not exceed the maximum 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 requirements for the total area of the planned development designated for residential use, excluding areas devoted to public street rights-of-way. Recreation areas are considered part of the residential use of the property. The review authority may establish a maximum density for the Planned Unit Development that is less than the maximum density of the underlying base district.
- B. **Development Setback.** The following setbacks apply to the perimeter of the Planned Unit Development site.
1. **Front Setback.** The front setback at the perimeter of the Planned Unit Development site shall be twice the required front setback of the base zone.
 2. **Interior Setback.** There shall be interior setbacks of not less than 40 feet around the perimeter of the Planned Unit Development site.
- C. **Height Limitations.** No vertical section of a building shall exceed two stories or 30 feet in height.
- D. **Units Per Building.** No building shall contain more than four dwelling units.
- E. **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 observed and the public welfare and safety secured.
- F. **Landscape Buffer for Parking Areas and Driveways**
1. A landscaped area at least 10 feet wide shall be provided between any uncovered parking area or driveway and a property line.
 2. A landscaped island at least four feet in all interior dimensions shall be provided between every eight consecutive parking stalls. Each landscape island shall contain a tree.
- G. **Parking.** Two covered spaces shall be provided for each unit. One additional, uncovered, guest parking space shall be provided for every two dwelling units.
- H. **Open Space.** A minimum of 50 percent of the net area of the site shall be open space devoted to setbacks, planting, patios, walkways, and recreation areas. For purposes of this calculation, net area is defined as the gross site area less all land covered by buildings, streets, parking areas and access thereto.
1. 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.
 2. Approval of such open spaces shall be restricted from further development.
 3. 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.

28.12.050 Development Stages

If the sequence of construction of various portions of the development is to occur in stages, the required 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. 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 Precise Plan.

28.12.060 Procedures

A. Review Procedures.

1. **Concept Review.** Concept review by the Planning Commission is required prior to submittal of an application for a PUD Overlay Zone and Precise Plan.
 - a. A conceptual Precise Plan shall be submitted showing 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 Community Development Director to aid and assist the Planning Commission in an initial consideration.
 - b. No formal action shall be taken by the Planning Commission regarding the concept plan. Any recommendations that result from preliminary review shall be considered advisory only and shall not be binding on either the applicant or the City.
2. **Zoning Amendment.** An application for a classification as a PUD Overlay Zone shall be processed as an amendment to the Zoning Map, according to the procedures of Chapter TBD, Amendments to Zoning Ordinance and Map, and shall include a Precise Plan.
3. **Precise Plan.** The Precise Plan shall be accepted and processed concurrently, in the same manner as a Conditional Use Permit application, pursuant to Chapter TBD, Common Procedures, and Chapter TBD, Use Permits.
4. **Tentative Subdivision Map.** When a PUD requires the submission of a tentative subdivision map, this map and all supporting documents shall be prepared and submitted concurrently with the application of the PUD.

B. Required Findings. A Precise Plan for a PUD shall only be approved if the following findings are made in addition to any other findings required by this Ordinance:

1. The design of the development provides for appropriate visual and physical relationship between dwelling units.

2. Landscaped open areas dominate the site development and provide substantial usable areas for passive and/or active recreational use.
3. Public views of the site are those that provide a sense of landscaped, open areas. Parking areas and building masses do not dominate the public view of the site.
4. The subject site is physically suitable for the type and intensity of the land use being proposed;
5. The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area;
6. The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior design, environmental preservation and/or provision of open space.

C. **Expiration.**

1. ***Precise Plan.*** A Precise Plan shall be effective on the same date as the ordinance creating the PUD Overlay Zone for which it was approved and shall expire four years after the effective date unless actions specified in the conditions of approval have been taken, a building permit has been issued and construction diligently pursued, or a time extension pursuant to Section TBD, Extensions, has been approved. An approved Precise Plan may specify a development staging program exceeding four years.
2. ***Tentative Map.*** Where a tentative map has been approved in conjunction with a Precise Plan, the Precise Plan shall expire upon the expiration of the tentative map.
3. ***Phased Development.*** In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the Precise Plan shall remain in effect so long as not more than one year lapses between the end of one phase and the beginning of the next phase.

28.12.070 Project Review

Plans for a project in a PUD Overlay Zone shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved Precise Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved Precise Plan.

Chapter 28.13 Research and Development (RD) Overlay Zone

28.13.010 Purpose

The Research and Development (RD) Overlay Zone is intended to provide areas for research and development activities that are developed and operated in a manner that is compatible in scale, intensity, traffic generation, and general character with surrounding uses and development. It is the intent of restrictions on allowed administrative office activities 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.

28.13.020 Applicability

The provisions of this Chapter apply to properties located within or proposed to be located within the RD Overlay Zone mapped on the current Official Zoning Map.

28.13.030 Land Use Regulations

In addition to the uses allowed in the applicable base zone, the following uses are permitted provided all activities occur within an enclosed building and no business with the general public is conducted.

- A. Research and Development. Manufacturing activity is prohibited except for development of prototypes used for experimentation or research. A prototype is an original, model, or pattern from which manufactured, fabricated or assembled products are developed or copied.
- B. Accessory administrative offices only serving personnel working on-site.
- C. Incidental classes or training programs. The number of attendees shall not exceed 10 percent of the total number of employees regularly present on site.
- D. Radio and television transmitting and broadcasting stations pursuant to Section TBD, Telecommunications Facilities.

28.13.040 Minimum Site Area

The minimum area of an RD Overlay District is two acres. The City Council may require a larger area when necessary to meet the purpose and requirements of this Chapter.

28.13.050 Development Standards

- A. **Required Setbacks.** All buildings, structures and parking shall be setback from front lot lines and interior lot lines as follows:

1. **Front Setback:** 35 feet.
 2. **Interior Setback:** 25 feet.
- B. **Height Limitations.** Buildings shall not exceed one story or 20 feet in height.
- C. **Lot Coverage.**
1. A maximum of 25 percent of the lot may be covered with buildings and structures.
 2. A maximum of 30 percent of the lot may be covered by open parking, loading, delivery, turn-around areas, and driveways.
- D. **Street Frontage and Site Dimensions.** Each site shall have a minimum street frontage of 150 feet and minimum side dimension of 150 feet.
- E. **Landscaping.** All areas of the site not covered by buildings, structures, parking, driveways, or walkways shall be landscaped according to a landscape plan prepared by a licensed landscape architect or licensed landscape contractor and approved by the City Council.

28.13.060 Operational Standards

- A. **Operation Plan.** A plan for the operation of the research and development facility shall be submitted for approval.
- B. **Maximum Number of Employees.** The operation plan shall include a statement of the maximum number of employees to be present on the site at any one time. At no time shall the number of employees at the site exceed the maximum number approved in the Precise Plan.

28.13.070 Procedures

- A. **Review Procedures.**
1. **Zoning Amendment.** An application for a classification as a RD Overlay Zone shall be processed as an amendment to the Zoning Map, according to the procedures of Chapter TBD, Amendments to Zoning Ordinance and Map, and shall include a Precise Plan.
 2. **Precise Plan.** The Precise Plan shall be accepted and processed concurrently, in the same manner as a Conditional Use Permit application, pursuant to Chapter TBD, Common Procedures, and Chapter TBD, Use Permits.
 - a. *Requirements, Regulations, Restrictions, and Limitations.* The Planning Commission may recommend and the City Council may adopt requirements, regulations, limitations and restrictions more restrictive than those specified elsewhere in this Ordinance, 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.

B. **Expiration.**

1. **Precise Plan.** A Precise Plan shall be effective on the same date as the ordinance creating the RD Overlay Zone for which it was approved and shall expire four years after the effective date unless actions specified in the conditions of approval have been taken, a building permit has been issued and construction diligently pursued, or a time extension pursuant to Section TBD, Extensions, has been approved. An approved Precise Plan may specify a development staging program exceeding four years.
2. **Phased Development.** In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the Precise Plan shall remain in effect so long as not more than one year lapses between the end of one phase and the beginning of the next phase.

28.13.080 Project Review

Plans for a project in a RD Overlay Zone shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved Precise Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved Precise Plan.

Chapter 28.14 Resort Hotel (RH) Overlay Zone

28.14.010 Purpose

The Resort Hotel (RH) Overlay Zone is intended to provide an area for the development and operation of a resort hotel in a manner that is compatible with adjoining residential areas.

28.14.020 Applicability

The provisions of this Chapter apply to properties located within or proposed to be located within the RH Overlay Zone mapped on the Official Zoning Map and developed with a resort hotel.

- A. The RH Overlay Zone is limited to properties within the RS-15, RS-10, RS-7.5, RS-6, R-2, and R-M zones.
- B. Property within the RH Overlay District not developed with a resort hotel shall be subject to the provisions of the base zone.
- C. Property within the RH Overlay District shall be developed and used exclusively under the provisions of this Chapter or exclusively under the provisions of the base zone.

28.14.030 Land Use Regulations

The following uses are allowed in the RH Overlay Zone.

- A. **Resort Hotels.** Resort hotels, consisting of a main building which may contain guest rooms, and regularly maintained, customary and usual hotel facilities conducted for the convenience of the guests including, without limitation, restaurants, cocktail lounges, conference rooms, spa and fitness facilities, all of which have their main entrance from the lobby.
- B. **Guest Buildings.** Separate structures with guest rooms operated under the same ownership as the main resort hotel building.
- C. **Limitations.**
 - 1. Guest rooms include multi-room suites with one entrance. Rooms that can be rented separately shall be considered separate guest rooms.
 - 2. Up to six guest rooms in guest buildings may be equipped with kitchens.
 - 3. A single guest building shall not contain more than 12 bedrooms or more than six guest rooms with kitchens.
 - 4. A minimum of 50 percent of the total number of guest rooms shall be located in guest buildings.

28.14.040 Development Standards

- A. **Required Setbacks.** Buildings shall be setback from front and interior lot lines at least twice the required front setback of the base zone or 30 feet, whichever is greater.
- B. **Height Limitations.** All buildings except the main building, shall not exceed two stories. All other height limitations of the base zone apply.
- C. **Lot Coverage.**
 - 1. A maximum of 33-1/3 percent of the lot may be covered with buildings and structures, including parking structures, but exclusive of porches, balconies and patios.
 - 2. A maximum of 33-1/3 percent of the lot may be covered by open parking spaces, turn-around areas and driveways.
- D. **Guest Room Density.** The maximum number of guest rooms per acre is based on the base zone as follows.
 - 1. **RS-15:** 5 guest rooms/acre
 - 2. **RS-10:** 8 guest rooms/acre
 - 3. **RS-7.5:** 10 guest rooms/acre
 - 4. **RS-6:** 15 guest rooms/acre
 - 5. **R-2:** 20 guest rooms/acre
 - 6. **R-M:** 40 guest rooms/acre

28.14.050 Procedures

- A. **Review Procedures.**
 - 1. **Zoning Amendment** An application for a classification as a RH Overlay Zone shall be processed as an amendment to the Zoning Map, according to the procedures of Chapter TBD, Amendments to Zoning Ordinance and Map, and shall include a Precise Plan.
 - 2. **Precise Plan.** The Precise Plan shall be accepted and processed concurrently, in the same manner as a Conditional Use Permit application, pursuant to Chapter TBD, Common Procedures, and Chapter TBD, Use Permits.
 - a. *Requirements, Regulations, Restrictions, and Limitations.* The Planning Commission may recommend and the City Council may adopt requirements, regulations, limitations and restrictions more restrictive than those specified elsewhere in this Ordinance, 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.

B. **Expiration.**

1. **Precise Plan.** A Precise Plan shall be effective on the same date as the ordinance creating the RH Overlay Zone for which it was approved and shall expire four years after the effective date unless actions specified in the conditions of approval have been taken, a building permit has been issued and construction diligently pursued, or a time extension pursuant to Section TBD, Extensions, has been approved. An approved Precise Plan may specify a development staging program exceeding four years.
2. **Phased Development.** In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the Precise Plan shall remain in effect so long as not more than one year lapses between the end of one phase and the beginning of the next phase.

28.14.060 Project Review

Plans for a project in a RH Overlay Zone shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved Precise Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved Precise Plan.

Chapter 28.15 San Roque Park Subdivision (SRP) Overlay Zone

28.15.010 Purpose

The San Roque Park Subdivision (SRP) Overlay Zone is intended to require front setbacks consistent to a deed restriction imposed at the time the San Roque Park Subdivision was created. 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 40 feet 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 expressed the desire for the setbacks required by the Zoning Ordinance to conform with the original deed restrictions.

28.15.020 Applicability

The provisions of this Chapter apply to properties located within the San Roque Park Subdivision, which is located northerly of State Street between San Roque Road and Ontare Road and mapped as the SRP Overlay Zone on the Official Zoning Map

28.15.030 Front Setback

The required front setback within the SRP Overlay Zone is 40 feet except as provided below:

- A. **San Roque Road, Ontare Road, and Cannon Drive.** The required front setback abutting San Roque Road, Ontare Road, or the portion of Canon Drive where land on one side of the street is outside the SRP Overlay Zone is as required by the base zone.
- B. **Madrona Drive.** The required front setback abutting Madrona Drive is 30 feet.

Chapter 28.16 Senior Housing (SH) Overlay Zone

28.16.010 Purpose

The Senior Housing (SH) Overlay Zone is intended to provide areas for additional housing facilities for elderly persons of low and moderate incomes distributed throughout residential areas of the City.

28.16.020 Applicability

The provisions of this Chapter apply to properties located within or proposed to be located within the SH Overlay Zone mapped on the Official Zoning Map. The SH Overlay Zone is limited to properties within an RS or R-2 base zone.

28.16.030 Land Use Regulations

In addition to the uses allowed in the applicable base zone, housing developments for elderly persons, including accessory uses to serve the residents are permitted.

28.16.040 Development Standards

- A. **Number of Stories.** The maximum number of stories is two.
- B. **Number of Units and Buildings.**
 - 1. **Maximum Units and Buildings per Development.** The maximum number of dwelling units and residence buildings in the development shall not exceed the following.

TABLE 28.16.040: MAXIMUM RESIDENCE BUILDINGS AND DWELLING UNITS PER DEVELOPMENT		
<i>Base Zone</i>	<i>Number of Residence Buildings/Net Acre</i>	<i>Dwelling Units/Net Acre</i>
RS-1A	0.8	3.2
RS-25	1.5	6.0
RS-15	2.3	9.2
RS-10	3.6	14.4
RS-7.5	4.6	18.4
RS-6	5.6	22.4
R-2	5.6	22.4

- 2. **Maximum Units per Building.** The maximum number of units per building is four.
- C. **Floor Area.** The maximum floor area per building is 2,200 square feet exclusive of garages or carports.

- D. **Maximum Parking Spaces per Parking Area.** The maximum number of parking spaces provided in any single uncovered parking area is 10 spaces. A parking area containing spaces on both sides of a common aisle shall be counted as one parking area.
- E. **Garages and Carports.** The maximum number of parking spaces per garage or carport is three. Carports and garages shall be attached to and made a part of a main building.
- F. **Roof Design.** No more than 10 percent of the total number of buildings in a development shall have a flat roof. All other roofs shall be hipped or gabled.
- G. **Site Design.** 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 located. For example, if PUD, they may be clustered; if single-family, they should be laid out like a standard subdivision. Accessory non-residential uses shall be located and designed to serve residents only. 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 and Subdivision Ordinance requirements.

28.16.050 Agreement Required

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 30 years. The agreement shall be reviewed by the Office of the City Attorney. No variance, modification or other waiver to this Section shall be granted.

28.16.060 Procedures

- A. **Review Procedures.**
 - 1. **Zone Establishment** An application for a new classification as a SH Overlay Zone shall be processed as an amendment to the Zoning Map, according to the procedures of Chapter TBD, Amendments to Zoning Ordinance and Map, and shall include a Precise Plan.
 - 2. **Precise Plan.** The Precise Plan shall be accepted and processed concurrently, pursuant to Chapter TBD.
 - a. *Requirements, Regulations, Restrictions, and Limitations.* The Planning Commission may recommend and the City Council may adopt requirements, regulations, limitations and restrictions more restrictive than those specified elsewhere in this Ordinance, 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.

B. **Expiration.**

1. **Precise Plan.** A Precise Plan shall be effective on the same date as the ordinance creating the SH Overlay Zone for which it was approved and shall expire four years after the effective date unless actions specified in the conditions of approval have been taken, a building permit has been issued and construction diligently pursued, or a time extension pursuant to Section TBD, Extensions, has been approved. An approved Precise Plan may specify a development staging program exceeding four years.
2. **Phased Development.** In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the Precise Plan shall remain in effect so long as not more than one year lapses between the end of one phase and the beginning of the next phase.

28.16.070 Project Review

Plans for a project in a SH Overlay Zone shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved Precise Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved Precise Plan.

Chapter 28.17 Upper State Street Area (USS) Overlay Zone

28.17.010 Purpose

The Upper State Street Area (USS) Overlay Zone is intended to limit traffic impacts and ensure appropriateness of development in the Upper State Street Area. 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.

28.17.020 Applicability

The provisions of this Chapter apply to properties located within the USS Overlay Zone mapped on the Official Zoning Map. The area is bounded by Alamar Avenue, U.S. Highway 101, Foothill Road and State Highway 154.

28.17.030 Development Standards

The following standards apply to all uses and development within the USS Overlay Zone.

- A. **Building Height.** The maximum building height is 45 feet and three stories.
- B. **Floor Area.** The maximum floor area shall be equal to the total gross floor area of a two-story building that could be constructed on the lot in compliance with all applicable zoning regulations for setbacks, open space, and parking.
- C. **Front Setbacks.** The required front setback is as follows:
 - 1. One-story structure not exceeding 15 feet in height: 10 feet.
 - 2. Two- or three-story structure or any structure more than 15 feet in height: 20 feet.

Citywide Development Standards

Chapter 28.23 General Site Regulations

28.23.010 Purpose and Applicability

The purpose of this Chapter is to prescribe development and site regulations that apply, except where specifically stated, to development in all zones. These standards shall be used in conjunction with the standards for each base zone established in Division II, Zone Regulations. In any case of conflict, the more restrictive standards shall apply.

28.23.020 Accessory Buildings and Structures

- A. **Applicability.** The provisions of this Section apply to all detached accessory buildings and structures. Attached accessory structures consistent with Section TBD, Building Attachment, are considered part of the main building and are subject to all of the standards and regulations of the main building.
- B. **Relation to Existing Structures.** A detached accessory building may only be constructed on a lot on which there is a permitted main building to which the accessory building is related.
- C. **Setbacks.** Accessory buildings and structures shall comply with the minimum setback requirements of the base zone.
- D. **Height.** Accessory buildings and structures in Residential Zones shall not exceed two stories or 30 feet in height.
- E. **Front Yard Limitation.** In Residential Zones and lots developed solely with residential structures, all accessory buildings and structures, except garages and carports, shall be located outside the front yard.
- F. **Maximum Floor Area.**
 1. **Garages and Carports.** The maximum floor area for covered parking is as follows.
 - a. *RS-1A and RS-25 Zones.* The total aggregate floor area shall not exceed 750 square feet.
 - b. *RS-15, RS-10, RS-7.5, and RS-6 Zones.*
 - i. Lots 20,000 square feet in Size or Less. The total aggregate floor area shall not exceed 500 square feet.
 - ii. Lots Greater than 20,000 square feet in Size. The total aggregate floor area shall not exceed 750 square feet.

- c. *Other Zones.* Where individual garages or carports are provided for residential development in other zones, the total aggregate floor area shall not exceed 500 square feet per residential unit.
 2. ***Other Accessory Buildings and Structures.*** For all residential development, the combined floor area of all accessory buildings and structures, excluding garages and carports, shall not exceed 500 square feet per residential unit.
- G. **Detached Guestrooms and Other Allowed Uses.** Accessory buildings may include but are not limited to buildings used as workshops, sheds, storage rooms, and liveable space such as detached bedrooms, playrooms, or guestrooms, but shall not be considered a residential unit, provided that the accessory building contains a maximum of one freestanding utility sink or a half bath consisting of a toilet and a sink. No bathing facilities, no more than one sink, and no cooking facilities are allowed. Additional residential building elements may be permitted pursuant to a Performance Standard Permit, Chapter TBD.

28.23.030 Building Attachment

- A. **Required Minimum Connection.** Buildings and structures shall be considered attached when the buildings or structures meet the following minimum connection standards.
 1. ***Enclosed Buildings and Structures.*** Buildings and structures with walls that extend from floor to ceiling shall be considered attached when the buildings or structures share a building wall or interior connection that meets one of the following standards:
 - a. *Shared Building Wall.* The area of the wall common to both portions of the building or structure shall be a minimum of eight feet in both horizontal and vertical dimensions;
 - b. *Shared Floor to Ceiling Connection.* The area of the common floor to ceiling connection on multiple story buildings shall be a minimum of eight feet in horizontal and vertical dimensions;
 - c. *Shared Interior Connection.* The area of the interior connection between both portions of the building or structure shall be a minimum of seven feet in both horizontal and vertical dimensions; or
 - d. *Combination of Shared Building Wall and Interior Connection.* The area of the combination of wall and interior connection common to both portions of the building or structure shall be a minimum of eight feet in both horizontal and vertical dimensions.
 - e. *Combination of Shared Floor to Ceiling and Interior Connection.* The area of the combination of shared floor to ceiling and interior connection common to both portions of the building or structure shall be a minimum of eight feet in horizontal and vertical dimensions.

2. **Unenclosed Buildings or Structures.** Unenclosed buildings or structures without walls that extend from floor to ceiling, such as carports, patio covers, or similar, shall be considered attached when they share a common solid roof connection with a minimum dimension of eight feet. An unenclosed building or structure shall not be used to attach enclosed buildings and structures.
- B. **Buildings or Structures that do not meet the Required Minimum Connection.** If a building or structure does not meet the minimum connection standards of Subsection A above, the buildings or structures shall be considered separate buildings. If one or more of the buildings or structures is an Accessory Building, the standards and limitations described in Section TBD, Accessory Building and Structures shall apply.
- C. **Mixed-Use Buildings.** In order to be considered a Mixed-Use Building, the residential portions and the nonresidential portions of the building, excluding nonresidential parking garage areas, must be attached by the minimum connection pursuant to Subsection A above. A building where the residential portion is attached only to a nonresidential parking garage and not a portion of the building occupied by nonresidential uses is not considered a Mixed-Use Building.

28.23.040 Building Height Exceptions

- A. **Architectural Allowances.** Architectural elements that do not add floor area to a building, such as chimneys, vents, antennae, open trellises, rooftop equipment and associated screening, solar panels, guard rails for roof decks, and towers including stairway or elevator towers with minimum landings for egress are not considered a part of the height of a building, but all portions of the roof and roof parapet are included.
- B. **Community Benefit and Community Benefit Housing Projects.** In the C-G, M-C, M-I, and OM-1 zones, up to four stories and 60 feet in height may be allowed for projects that qualify as a Community Benefit Project or a Community Benefit Housing Project in accordance with the following.
 1. **Required Findings.** In addition to any other findings required by this Ordinance, the Planning Commission shall make all of the following findings.
 - a. *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;
 - b. *Architecture and Design.* The project will be exemplary in its design;
 - c. *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; and

- d. *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.
2. ***Procedure***
- a. *Conceptual Design Review.* Prior to the Planning Commission considering an application for a height exception 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 Title 22 of the Santa Barbara Municipal Code.
 - b. *Planning Commission Consideration of Findings.*
 - i. Design Review Projects. If a project only requires design review by the Historic Landmarks Commission or the Architectural Board of Review under Title 22 of the Santa Barbara Municipal Code, 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 Historic Landmarks Commission or the Architectural Board of Review for Project Design approval.
 - ii. 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 Title 22 of the Santa Barbara Municipal Code, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.
 - iii. 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 Title 22 of the Santa Barbara Municipal Code, but before the Development Application Review Team (DART) submittal and before the consideration of the land use approval by the Planning Commission.

28.23.050 Development Along Creeks

Placeholder. Currently Section 28.87.250 of the existing Zoning Ordinance. Substantive changes will not be made to these provisions. They will be formatted for consistency with the NZO structure and incorporated into the Final Hearing Draft.

28.23.060 Development on Lots Divided by Zone Boundaries

- A. **Generally.** Where a lot is divided by a zone boundary, the regulations applicable to each zone shall be applied to the area within the zone, and no use, other than parking serving a principal use on the site, shall be located in a zone in which it is not an allowed use.
- B. **Accessory Facilities.** Accessory landscaping, fences, screening or retaining walls, and usable open space may be located on the lot without regard for zone boundaries but must comply with the standards of the applicable zone
- C. **Density.** The maximum density, if any, shall be calculated according to the lot area within each zone and the corresponding allowable density for that zone, and distributed as follows:
 - 1. **Residential Single Family Zones.** Up to the allowable density for the Residential Single Family portion of the site may be located on the area of the lot in the Residential Single Family Zone.
 - 2. **Other Zones.** The resulting maximum permitted number of units may be distributed on the lot without regard for zone boundaries, as long as all portions of the project comply with the development standards of the zone in which they are located and all other provisions of this Section.

28.23.070 Development on Substandard Lots

- A. Any lot or parcel of land that was legally created may be used as a building site even when consisting of less area or lot dimensions than that required by the regulations for the zone in which it is located. Lot area per dwelling unit requirements and all other provisions of this Ordinance shall apply. No substandard lot shall be subdivided or further reduced in area or dimensions unless required for a public purpose by a public agency, unless granted a modification.
- B. Where any existing parcel of land is reduced in size or lot dimensions below those required by this Ordinance 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 Ordinance as a legal lot. Minimum lot area and lot dimensions required by this Ordinance shall not apply. Lot area per dwelling unit requirements and all other provisions of this Ordinance shall apply. This section shall not apply to property acquired by a public agency as part of subdivision or lot split proceedings.

28.23.080 Encroachments into Setbacks and Open Yards

- A. **Applicability.** Required setback areas shall be open and unobstructed by structures from the ground upward, except as provided in this Section. This Section does not apply to Street Widening Setbacks pursuant to Chapter TBD.

B. **Allowed Encroachments.** Structures and building projections may encroach into setbacks, according to the standards of Table TBD, Allowed Encroachments. In addition, the following limitations apply:

1. **All Encroachments.**
 - a. No encroachment shall provide additional floor area within the building.
 - b. Cantilevered architectural or building projections shall be unsupported from the ground below.
 - c. No encroachment may extend into a public utility easement.
 - d. Encroachments are subject to all applicable requirements of the Building Code.
2. **Setback Encroachments.** Unless otherwise specified in Table TBD, Allowed Encroachments, no front or interior setback encroachment shall be closer than three feet to any lot line when the required setback is six feet or more; and no encroachment shall be closer than two feet to any lot line when the required setback is less than six feet.
3. **Open Yard Encroachments.**
 - a. *Cantilevered Encroachments.* The vertical clearance under any cantilevered architectural or building projection shall be seven feet or more
 - b. *Ground Supported Encroachments.* Ground supported Open Yard encroachments shall not exceed 20 percent of any individual Open Yard area, or a cumulative total of 20 percent of the total required Open Yard area.

TABLE TBD: ALLOWED ENCROACHMENTS			
<i>Encroachment</i>	<i>Front Setback Encroachment</i>	<i>Interior Setback Encroachment</i>	<i>Open Yard Encroachment</i>
Building Elements			
Architectural projections such as awnings, cornices, eaves, and canopies	3 feet	3 feet	3 feet
Balconies	2 feet	RS Zones: Not allowed Other Zones: 2 feet	2 feet
Bay Windows	3 feet; Must be located at least three feet above adjacent grade or finished floor, whichever is higher	RS Zones: Not allowed Other Zones: 3 feet	3 feet

TABLE TBD: ALLOWED ENCROACHMENTS			
<i>Encroachment</i>	<i>Front Setback Encroachment</i>	<i>Interior Setback Encroachment</i>	<i>Open Yard Encroachment</i>
Chimneys serving the interior of a building	3 feet	3 feet	3 feet
	Freestanding chimneys are not allowed		
Entry Elements			
Uncovered Entry Landings and Outside Steps serving as a required means of egress to the first floor of a building	Not allowed	3 feet	3 feet
	Limited to the size minimum required by the Building Code and shall not extend above the first floor level of the building		
Covered or Uncovered Porches serving the first floor of an existing building and open on at least three sides	3 feet; no closer than 5 feet to any front lot line Limited to a maximum of 6 feet wide and 4 feet deep plus any required uncovered steps leading to the porch	Not allowed	Not allowed
Mechanical and Other Equipment			
Attached Mechanical Equipment , such as tankless water heaters, air or water filters, or meters	3 feet	3 feet	Not Allowed
	Does not include air conditioners, water heaters, pool equipment, or similar free-standing equipment. Must be attached to the outside wall of the building		
Rain Barrels , maximum 65 gallons, or other above grade equipment, necessary to meet the City's Storm Water Management (SWMP) requirements.	3 feet, no closer than 5 feet to any front lot line.	3 feet	3 feet
Detached, Above Grade Mechanical Equipment such as electric transformers, backflow preventers, electric vehicle charging stations	3 feet, no closer than 5 feet to any front lot line.	3 feet	Not Allowed
	Allowed only on non-residential buildings. Must be screened from public view. Distance limitations and screening may be reduced or waived by the design review body.		
Solar Energy Systems as defined in subsection (a) of Civil Code Section 801.5	Ground Mounted: 3 feet	Ground Mounted: 3 feet	Ground Mounted: Not allowed
	Roof Mounted: May encroach the same amount as the existing roof eave Shall be installed roughly parallel to, and no higher than 10 inches above the roof (measured from the top of the roof perpendicularly to the highest point of the solar energy system).		

TABLE TBD: ALLOWED ENCROACHMENTS			
<i>Encroachment</i>	<i>Front Setback Encroachment</i>	<i>Interior Setback Encroachment</i>	<i>Open Yard Encroachment</i>
Site Development Elements			
On-grade Hardscape such as paved walkways, patios, decks, and stairs	Allowed	Allowed	Allowed
	Shall not exceed 10 inches in height above existing grade		
Raised Decks and Patios	Not Allowed	Not Allowed	Allowed, must be less than 36 inches above finished grade
Raised Planter Beds	Allowed	Allowed	Allowed
	Shall not exceed 36 inches in height above existing grade		
Front Yard Elements such as benches, mailboxes, flag poles, fountains, sculptures.	Allowed up to a combined maximum of 50 square feet	Not allowed	Allowed
Overhead structures such as an arbor, arch, trellis, pergola, or entry gate	Allowed, limited to one structure per lot line and each structure is limited to a maximum of 18 square feet in area and a maximum of 8 feet in height		Allowed
Patio covers and other attached or detached, unenclosed structures such as upper story decks, gazebos, hot tubs, barbecues, outdoor fireplaces, fountains, above-grade pools, play equipment	Not allowed	Not allowed	Allowed
Commercial outdoor amenities such as outdoor dining furniture not permanently affixed to the ground for the use of permitted restaurants, and permitted signs	Allowed on lots developed with commercial uses, not allowed in setbacks for exclusively residential buildings	Not allowed	Not allowed
Accessibility Improvements			
Accessibility improvements for persons with disabilities	Reasonable accommodation will be made, consistent with the Americans with Disabilities Act; see Chapter TBD, Modifications.		

28.23.090 Fences, Screens, Walls, and Hedges

- A. **School Fencing.** A chain link or open mesh type fence of any height necessary to enclose a Day Care Center or School may be located and maintained in any required yard.

- B. **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 within three feet of any lot line. Sharp wire or points shall not project at the top of any fence or wall less than six feet in height.
- C. **Visibility.** Notwithstanding other provisions of this Section, fences, walls, screens, and hedges must comply with Section TBD, Visibility at Driveways and Intersections unless a Minor Exception is approved pursuant to Subsection E.
- D. **Residential Zones.** The following standards apply to fences, walls, screens, and hedges located within Residential Zones.
1. **Maximum Height**
 - a. *Within Required Front and Interior Setback Areas.* Eight feet, except fences and walls within 10 feet of a front lot line shall not exceed a height of 42 inches.
 - i. Minor Exception. An additional four feet in height may be approved pursuant to Subsection E, Required Findings for Minor Exceptions.
 - ii. Modification. Additional exceptions may be granted pursuant to Section TBD, Modifications.
 2. **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 Building Code, and only if the guardrail is made of materials configured such that the guardrail does not create a solid visual barrier.
 3. **Decorative Elements.**
 - a. *Maximum Height.* Fence and wall decorative elements not wider than nine inches by nine inches, such as pilaster caps, finials, posts, lighting fixtures, or similar decorative features, may exceed the maximum height by a maximum of 12 inches.
 - b. *Spacing.* Decorative features shall be spaced a minimum of six feet apart, measured on-center.
 - c. *Minor Exception.* Minor exceptions to the size and spacing requirements may be approved pursuant to Subsection E, Required Findings for Minor Exceptions and provided the general amount, in terms of volume, of encroachment into the height limit is on average, relatively the same.
 4. **Entryway Arbors.** One substantially open (no solid walls or roof) entryway arbor used in combination with and attached to a fence or wall is permitted in any front yard, provided the maximum height of the arbor does not exceed eight feet and the area does not exceed 18 square feet. 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.

E. **Required Findings for Minor Exceptions.** In granting minor exceptions, the Community Development Director or Public Works Director, as applicable, shall make the following findings.

1. ***Exceptions to Height Limitations.***

- a. If the subject fence, wall, 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 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 fence or wall will be compatible with other similarly situated and approved structures in the neighborhood or the screen or hedge will be compatible with the character of the neighborhood.
- 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 TBD.
- e. The granting of such exception will not be detrimental to the use and enjoyment of other properties in the neighborhood.

2. ***Exceptions to Visibility Requirements.***

- 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. **Relationship with the View Dispute Resolution Process.** The fact that a hedge or screen complies with the standards set forth in this Section or the fact that a property owner has received a Minor Exception or Modification from the standards set forth in this Section 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 TBD.

28.23.100 Open Yards

The provisions of this Section are intended to require minimum open areas with residential development. Required open yard areas are intended to promote desirable living conditions, a sense of openness on residential development, and to provide minimum useful space for outdoor enjoyment.

- A. **Open Yards, Generally.**
1. Open yard areas may include any combination of landscaped areas, natural areas, flat areas, hillsides, paved or other hardscape areas, in-ground swimming pools and spas, and planters and decks less than 36 inches in height that meet the standards of this Section. Open yard areas shall not include:
 - a. Areas designated for use by motor vehicles such as driveways, turnarounds, or parking areas;
 - b. Areas used for permanent storage, such as boat or RV storage;
 - c. Required parking lot landscaping and screening pursuant to Section TBD, Parking Area Design and Development Standards;
 - d. Front porches, front entry landings, stairs, ramps, hallways, and walkways leading to the main entrance of any residential unit;
 - e. Areas used or designed for access by the public or for any non-residential use;
 - f. Areas located under floor area; and
 - g. Areas that are enclosed, or semi-enclosed, and roofed.
 2. Open yard areas shall be open and unobstructed by structures from the surface qualifying as open yard upward, except as provided in Section TBD, Encroachments into Setbacks and Open Yards.
- B. **RS Zones.** In the RS zones, open yards shall be provided as follows:
1. **Minimum Area:** 1,250 square feet.
 2. **Configuration:** Must be located in one area except as provided below:
 - a. *Lots less than 7,500 Square Feet:* Open yards on lots less than 7,500 square feet in size may be located in multiple areas that meet the minimum dimension requirement.
 3. **Minimum Dimension:** 20 feet long and 20 feet wide.
 4. **Prohibited Locations:** Shall not be located within the primary front yard or within 10 feet of the secondary front lot line except as provided below:
 - a. *Lots less than 7,500 Square Feet:* A maximum of 400 square feet of Open Yard may be located within the primary front yard.
 5. **Placement:** Must be located on grade or on decks less than 36 inches above finished grade.
 6. **Lots with Average Slope Greater than 20 Percent.** Lots with average slope greater than 20 percent shall contain at least one open yard area on grade or on a deck or patio which meets the following requirements.
 - a. **Minimum Size.** 160 square feet.

- b. *Minimum Dimensions.* 10 feet long and 10 feet wide measured in perpendicular directions.
 - c. *Maximum Slope.* Two percent.
 - d. *Location.* May be located within the primary front yard.
 - e. *Placement.* May be located on grade or on a deck of any height.
- C. **R-2 Zone.** In the R-2 Zone, open yards shall be provided as follows:
- 1. ***Lots Developed with Less than Four Units.*** Open yards shall be provided on all lots developed with less than four units as follows:
 - a. *Minimum Area:* 1,250 square feet.
 - b. *Configuration:* Shall be located in one or multiple areas that meet the minimum dimension requirement.
 - c. *Availability.* Shall be available to all residents on site as a communal area; or, each unit shall be provided at least one open yard area, which shall be contiguous to and accessible from the dwelling unit for which it is provided.
 - d. *Minimum Dimension:* 20 feet long and 20 feet wide.
 - e. *Prohibited Locations:* Shall not be located within the primary front yard or within 10 feet of the secondary front lot line except up to 850 square feet may be located within the primary front yard.
 - f. *Placement:* Must be located on grade or on decks less than 36 inches above finished grade.
 - 2. ***Lots Developed with Four or More Dwelling Units.*** Open yards shall be provided on all lots developed with four or more dwelling units as follows:
 - a. Open yard consistent with the requirements for lots developed with less than four units contained in paragraph 1, Lots Developed with Less than Four Units, above; and
 - b. Private Open Yard for each unit pursuant to Subsection TBD, Private Open Yard.
- D. **R-M and R-MH Zones.** In the R-M and R-MH Zones, open yards shall be provided as listed below. Regardless of the number of units or the type of open yard provided, a minimum of 15 percent of net lot area with minimum dimensions of 10 feet long and 10 feet wide, shall be provided as open yard located on grade or on decks less than 36 inches above finished grade.
- 1. ***Lots Developed with Less than Four Units.*** Open yards shall be provided on all lots developed with less than four units as either Common Open Yard or Private Open Yard as follows:
 - a. *Common Open Yard.* Consistent with Subsection TBD, Common Open Yard; or

- b. *Private Open Yard.* Private Open Yard for each unit pursuant to Subsection TBD, Private Open Yard.
- 2. ***Lots Developed with Four or More Dwelling Units.*** Open yards shall be provided on all lots developed with four or more units as either Common Open Yard or as a combination of Private Open Yard and Shared Open Yard as follows:
 - a. *Common Open Yard.* Consistent with Subsection TBD, Common Open Yard; or
 - b. *Private Open Yard and Shared Open Yard.* Private Open Yard for each unit pursuant to Subsection TBD, Private Open Yard, plus one Shared Open Yard consistent with Subsection TBD, Shared Open Yard.
- E. **Common Open Yard.** Common Open Yard shall be designed to provide a common residential use of space with amenities for use by all residents. All areas provided as Common Open Yard pursuant to this Section shall meet the following standards.
 - 1. ***Minimum Dimension.*** 10 feet long and 10 feet wide. At least one area shall have minimum dimensions of 20 feet long and 20 feet wide.
 - 2. ***Additional Common Open Yard.*** The required 20 foot by 20 foot Common Open Yard area shall be increased by 50 square feet of Common Open Yard for each unit over three units. For example, a four unit development would provide a Common Open Yard area with a minimum of 450 square feet (400 square feet plus 50 square feet). A five unit development would provide a Common Open Yard area with a minimum of 500 square feet (400 square feet plus 100 square feet). A 10 unit development would provide a Common Open Yard area with a minimum of 750 square feet (400 square feet plus 350 square feet). Multiple 20 foot by 20 foot areas may be provided instead of a single larger area.
 - 3. ***Availability.*** Shall be available to all units on the lot.
 - 4. ***Prohibited Locations.*** Shall not be located within 10 feet of a primary or secondary front lot line.
- F. **Private Open Yard.** Private Open Yard Areas shall be designed to ensure adequate privacy and usability for the unit served. All areas provided as Private Open Yard pursuant to this Section shall meet the following standards.
 - 1. ***Minimum Size.*** The Private Open Yard area per unit 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 Open Yard is provided:
 - a. *Ground Floor:*
 - i. Studio unit: 100 square feet
 - ii. 1 Bedroom unit: 120 square feet
 - iii. 2 Bedroom unit: 140 square feet

- iv. 3 or more Bedroom unit: 160 square feet
 - b. *Second or Higher Story*:
 - i. Studio unit: 60 square feet
 - ii. 1 Bedroom unit: 72 square feet
 - iii. 2 Bedroom unit: 84 square feet
 - iv. 3 or more Bedroom unit: 96 square feet
 - 2. **Minimum Dimensions.**
 - a. *Ground floor*: 10 feet long and 10 feet wide
 - b. *Second or Higher Story*: 6 feet long and 6 feet wide
 - 3. **Multi-Story Dwelling Units.** Dwelling units that occupy more than one story may provide the required Private Open Yard area on any story.
 - 4. **Availability.** Private Open Yards shall be contiguous and available to the dwelling unit for which it is provided.
 - 5. **Prohibited Locations.** Shall not be located within 10 feet of a primary or secondary front lot line.
 - a. Private Open Yards located in the front yard shall not exceed 50 percent of the total front yard area, excluding driveways and parking areas.
 - 6. **Required Fencing and Screening.** Private Open Yard areas located in the front yard or adjacent to another ground floor Private Open Yard area shall be enclosed by a solid fence, wall, hedge or screen a minimum of five feet and a maximum of six feet in height, as determined by the appropriate design review board.
- G. **Shared Open Yard.** Shared Open Yard areas shall be designed to provide a common residential use of space with amenities for use by all residents. All areas provided as Shared Open Yard pursuant to this Section shall meet the following standards.
- 1. **Minimum Dimension.** 15 feet long and 15 feet wide.
 - 2. **Availability.** Shall be available to all units on the lot.
 - 3. **Prohibited Locations.** Shall not be located within 10 feet of a primary or secondary front lot line.
 - 4. **Maximum Slope:** 2 percent.

28.23.110 Residential Unit

- A. **Applicability.** The standards of this Section apply to all Residential Use Classifications except the following:
 - 1. Group Residential.

2. Community Care Facilities, Residential Care Facilities for the Elderly, and Hospices (See Section TBD).
- B. **Minimum Size.** Each studio dwelling unit shall contain a minimum of 220 square feet of liveable floor area and all other units shall contain 400 square feet of liveable floor area, exclusive of accessory buildings.
- C. **Required Features.** Each residential unit shall contain, at a minimum:
1. A kitchen, consisting of a sink, range or built-in stove-top and oven , and refrigeration facilities.
 2. A separate bathroom consisting of a toilet, sink, and bathtub or shower.
 3. A separate living room a minimum of 120 square feet in size.
 4. A sleeping room a minimum of 70 square feet in size, except in studio dwelling units, where a living room is considered a sleeping room.
- D. **Limitations.**
1. ***Kitchen Facilities.*** No more than one kitchen per residential unit is allowed.
 2. ***Rooms with Adequate Interior Access.*** Rooms determined to have adequate interior access may contain a maximum of two of the following three building elements:
 - a. Utility sink or bar sink.
 - b. Bathroom with bathing facilities.
 - c. Exterior entrance.
 3. ***Rooms without Adequate Interior Access.*** Rooms that do not have adequate interior access shall be treated as detached guestrooms subject to Sub-section TBD, Detached Guestrooms.
 4. ***Determination of Adequate Interior Access.*** The Community Development Director shall make the determination if a building or portion of a building contains adequate interior access to the main living space. Factors that shall be considered include, but are not limited to, building attachment that does not occur via a long separate hallway, or a spiral staircase, or through another bedroom.
 5. ***Additional Building Elements.*** Additional residential building elements, beyond those permitted above may be permitted pursuant to a Performance Standard Permit, Chapter TBD.
- E. **Determination of Residential Unit.**
1. ***Elements Considered.*** Notwithstanding the above, the Community Development Director has the authority to determine whether a building or portion of a building is configured for use as a separate residential unit, regardless of size, when a building or portion thereof is configured or occupied for residen-

tial purposes, whether permanent or temporary, and contains elements evidencing separate residential occupancy. Residential building elements to be considered may include, but are not limited to, the proximal arrangement and various combinations of:

- a. Kitchen sink, utility sink, lavatory, or bar sink;
- b. Cooking appliances;
- c. Refrigeration facilities;
- d. Toilet;
- e. Bathing facilities
- f. Lack of interior access, including locking doors;
- g. Exterior entrance;
- h. Exterior staircase;
- i. Spiral staircase;
- j. Separate yard, patio, deck or balcony;
- k. Separate utilities, separate meters;
- l. Multiple water heaters;
- m. Multiple laundry areas;
- n. Separate garage, carport, or parking area (covered or uncovered);
- o. Countertops or cupboards;
- p. Sleeping loft; or
- q. Separate address/mail box designation.

2. ***Establishment.*** Issuance of a building permit or other approval does not, of itself, establish that a building or portion thereof is a residential unit.

28.23.120 Street Frontage and Access

Except where otherwise provided in this Ordinance, every main building shall face or have frontage upon a public street or permanent means of access to a street.

28.23.130 Street Widening Setback Lines

Placeholder. Currently Chapters 28.82, 28.83, and 28.84 of the existing Zoning Ordinance. Substantive changes will not be made to these provisions. They will be formatted for consistency with the NZO structure and incorporated into the Final Hearing Draft.

28.23.140 Swimming Pools and Spas

The outside wall of the water-containing portion of any in-ground swimming pool or spa shall be located outside the required setbacks of the base zone or a minimum of 15 feet from the front lot line and five feet from all interior lot lines, whichever is less

28.23.150 Use and Occupancy of Land

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 has been issued by the Chief Building Official.

28.23.160 Visibility at Driveways and Intersections.

Visibility at driveways and intersections shall be maintained in accordance with the following standards. The Public Works Director may grant minor exceptions to these requirements.

- A. **Driveways.** Visibility at a driveway crossing a front property line shall not be blocked above a maximum of 42 inches within the triangle areas described below:
 - 1. **Street with Sidewalk or Parkway.** When a driveway directly abuts a portion of a street with a sidewalk or parkway, the triangle is measured on two sides by a distance of 10 feet from the side of a driveway and 10 feet back from the front lot line.
 - 2. **Street without Sidewalk or Parkway.** When a driveway directly abuts a portion of a street without a sidewalk or parkway, the required site distance is established based on legal vehicle speed and the position of the driver's eye in relation to the intersection. Use of the template as shown in Figure TBD does not preclude the need for additional visibility due to site-specific conditions.
- B. **Intersections, Corner.** The required site distance is established based on legal vehicle speed and the position of the driver's eye in relation to the intersection. Structures and landscape located adjacent to intersections controlled by an all-way stop are not subject to additional height restrictions pursuant to this subsection. Use of the template as shown in Figure TBD does not preclude the need for additional visibility due to site-specific conditions.
- C. **Required Reduction for Safety.** If the height of any landscaping or other structure obstructs the sightlines required for the safe operation of motor vehicles, the Traffic Engineer may declare the obstruction to be a public nuisance and require the removal, relocation or reduction of the obstruction in order to provide for the safe operation of motor vehicles.

28.23.170 Waste, Recycling, and Outdoor Storage

- A. **Waste and Recycling Storage.**

1. **Required Screening.** Except for single unit residential development, waste and recycling receptacle storage areas shall be screened from view by a fence, wall, landscape planting, or other means from any parking lot, right-of-way, or adjoining residential property. Existing buildings shall comply with this requirement on any change or expansion of use, or when any site alteration that may affect waste and recycling location is proposed.
 2. **Location.** No portion of any front yard, any setback, open yard, or front porch shall be used to store waste, recycling or similar receptacles. Except that waste, recycling, or similar receptacles, provided by the City's contracted local waste hauler, may encroach up to three feet into the interior setback, but no closer than two feet to the interior lot line; and in the front yard or front setback no closer than 10 feet to the front lot line; under the following conditions:
 - a. Setback encroachments are available for existing development only. The encroachment is not available for new buildings or additions to existing buildings where the addition precludes the development of a conforming improvement.
 - b. Receptacles must be screened by a wall or fence, compatible with adjacent architecture, with a minimum height of five feet for carts/cans, and seven feet for dumpsters.
 - c. When located within a setback or front yard, the waste and recycling enclosure shall be unroofed. It shall not exceed the size required to store the receptacles, as determined by the City's Environmental Services Division.
 - d. The waste and recycling enclosure is subject to the fence and wall height restrictions in Section TBD, Fences, Screens, Walls, and Hedges.
 - e. Waste and recycling enclosures shall be sited to minimize impacts to neighboring properties. Waste and recycling enclosures shall be maintained in good condition, free of visible debris, and shall not be used for anything other than storing waste and recycling receptacles. The waste and recycling enclosure shall not create a nuisance, hazard, or other objectionable condition, pursuant to Chapter TBD, Performance Standards.
- B. **Outdoor Storage.** No portion of any front yard or any setback, required open yard, or front porch shall be used for the storage of motor vehicles, trailers, airplanes, boats, parts of any of the foregoing, appliances, loose rubbish or garbage, junk, tents, building materials, compost pile, or any similar item, for a period of 48 or more consecutive hours, except as provided below.
1. Storage established as a permitted use with a certificate of occupancy from the Chief Building Official.

2. Construction materials for use on the same premises may be stored during the time that a valid permit is in effect for construction on the premises.

28.23.180 Variable Density in Certain Zones

A. Applicability.

1. **Applicable Zones.** The provisions of this Section are applicable only in the R-M, RM-H, C-R, C-G, M-C, O-R, and in the HRC-2 and O-C zones where residential uses are allowed by the Local Coastal Plan. The fact that a lot may be subject to an overlay zone, does not prohibit the application of variable density if variable density in these zones.
2. **Effective Dates.** The provisions of this Section shall be suspended for the period of time the Average Unit-Size Density Incentive Program established by Chapter TBD, Average Unit-Size Density Incentive Program, is available. During the suspension of the provisions of this Section, the following shall apply:
 - a. Projects developed or approved in accordance with this Section while it is in effect shall remain legal conforming land uses.
 - b. 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.

B. Allowable Density.

Lots may be used as a building site for more units than the maximum base density of the base zone if the number of bedrooms in the dwelling unit is limited in accord with the following:

1. **Studio unit:** One unit per 1,600 square feet of lot area;
2. **One bedroom unit:** One unit per 1,840 square feet of lot area;
3. **Two bedroom unit:** One unit per 2,320 square feet of lot area;
4. **Three or more bedroom unit:** One unit per 2,800 square feet of lot area.

C. Exception.

Existing lots with less than 5,000 square feet of net lot area shall not be used as a building site under this Section for more than two dwelling units.

Chapter 28.24 Density Bonus and Development Incentives

28.24.010 Intent

The intent of this Section is to provide incentives for the development of housing affordable to very-low income, lower income, senior and other qualifying households. State law mandates the provision of density bonuses to senior, very-low, and lower income households under certain circumstances. The City of Santa Barbara has created a separate density bonus program for certain other households.

28.24.020 Density Bonus Under State Law

If a project meets the criteria of State Law, the project shall be granted a density bonus and incentives or concessions as required by State law, and processed as required by State law unless otherwise requested by the applicant.

- A. **Qualifying Housing Developments.** Qualifying Housing Developments are as defined in Government Code Section 65915.
- B. **Unit Size.** Affordable units shall be comparable in size and provide at least the same average number of bedrooms as the non-affordable units.
- C. **Childcare Facility Density Bonus.** When an applicant proposes to construct a housing development that conforms to the requirements of the State Density Bonus law and includes a childcare facility other than a Family Day Care home that will be located on the premises of, as part of, or adjacent to the project, the City shall grant additional density bonus or additional concession or incentive as required by State law.
- D. **Procedure.**
 1. **Determination of Qualification.** The applicant shall submit the project for review by the Community Development Director to determine whether the project meets the criteria set forth in State density bonus law.
 2. **Density Bonus and Development Incentives.** The density bonus, development incentives, and processing shall be provided as required in Government Code Section 65915.
 3. **Review Procedure.** A project which meets all the requirements of State law shall be processed pursuant to the applicable discretionary review procedure, subject to the following exceptions:
 - a. **Lot Area Modification.** When the density bonus requested is no more than the density bonus mandated by State law, the Community Development Director 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 TBD.

- b. *Design Review Board Hearing.* When the Community Development Director determines that a proposed project meets all the requirements of the residential zoning category in which the project is proposed, does not cause any unavoidable, significant, environmental impacts, and requires design review as its only City discretionary approval, the appropriate Design Review Board shall review the project.

28.24.030 Density Bonus Under City Program

- A. **Qualifying Housing Developments.** When a developer proposes an affordable housing development which is not proposed under the State law criteria and requests a density bonus, the Community Development Director shall review the project for consistency with the City's density bonus program, described in the City of Santa Barbara Affordable Housing Policies and Procedures Manual.
- B. **Procedure.** If the proposed project is determined to be consistent with the criteria of the City's density bonus program, it shall be processed according to the applicable discretionary review procedures and approved or disapproved under the provisions of that program.

Chapter 28.25 Nonconforming Uses, Structures, and Site Development

28.25.010 Purpose

This Chapter is intended to permit continuation of uses and continued occupancy and maintenance of structures and sites that were legally established but do not comply with all of the standards and requirements of this Ordinance in a manner that does not impair public health and safety. In addition to the general purpose of this Chapter, the specific purposes of this Chapter are as follows:

- A. To allow nonconforming uses that are compatible with surrounding uses to be continued, altered, repaired, maintained, and be replaced with similarly compatible uses, as long as the structure remains.
- B. To encourage nonconforming uses that are incompatible with surrounding uses to be replaced with conforming or more conforming uses.
- C. To acknowledge the existence of nonconforming buildings, structures and site development; provide standards that encourage the preservation and reuse of existing development; and allow some flexibility in improvements and form in a manner that balances further development with the protection of surrounding properties and neighborhoods from potential negative effects.
- D. To allow the demolition and replacement of existing nonconforming buildings, structures and site development, provided that the replacement structure is substantially similar to the existing development, while acknowledging that a voluntary demolition represents an opportunity to provide conforming development.
- E. To provide for replacement of a nonconforming use or structure that was damaged or destroyed by fire, explosion, earthquake or natural disaster.

28.25.020 Applicability

The provisions of this Chapter apply to structures, land, and uses that have become nonconforming by adoption of this Ordinance as well as structures, land, and uses that become nonconforming due to subsequent amendments to its text or to the Zoning Map except as follows.

- A. Nothing in this Chapter 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 approvals pursuant to Chapter TBD, Modifications, may be required for such additions or alterations.

- B. Nothing in this Chapter shall be construed or applied to prevent the expansion, modernization, or replacement of Public Works and Utilities buildings, structures, equipment and facilities where there is no change in use or increase in the project site area.
- C. The provisions in this Chapter limiting changes, demolition, reconstruction, abandonment, discontinuance and reestablishment to non-conforming structures, site development and uses do not apply to any structure granted a Modification pursuant to Chapter TBD, Modifications.

28.25.030 Establishment of Lawful Nonconforming Structures, Site Development, and Uses

Any lawfully established use, structure, or site development that is in existence on the effective date of this Ordinance or any subsequent amendment but does not comply with all of the standards and requirements of this Ordinance shall be considered nonconforming. This includes, but is not limited to, setbacks, land use, open yard, residential density, floor area, height, minimum unit size, lot size, street frontage, automobile parking spaces, bicycle parking spaces, parking area design, solid waste collection and disposal, or the lack of a required authorization.

28.25.040 Continuation, Repair, and Maintenance

- A. **Right to Continue, Repair, and Maintain.** Nonconforming structures, site development, and uses may be continued, repaired, and maintained, provided:
 - 1. All work is required in order to meet applicable building, health and safety codes;
 - 2. All work is limited to replacement of existing materials with similar materials in a similar manner;
 - 3. There is no addition, alteration or remodel to any building or structure; change in site development; nor any substitution, expansion, or change in use;
 - 4. There is no demolition, as defined in Section TBD, Demolition and Replacement, of any building or structure; and
 - 5. The right to continue, repair, and maintain a nonconforming use or structure shall attach to the land and shall not be affected by a change in ownership.
- B. **Exception.** The right to continue, repair, and maintain does not apply to nonconforming structures, site development, and uses deemed to be a public nuisance because of health or safety conditions.

28.25.050 Changes to Nonconforming Structures, Site Development, and Uses

Building additions, interior or exterior building alterations, and remodels to a non-conforming structure; changes to site development; and changes of use are permitted, subject to the following:

- A. **No Demolition.** The development shall not constitute or involve a demolition, as defined in Section TBD, Demolition and Replacement, unless otherwise allowed pursuant to Section TBD, Garages and Carports.
- B. **Conforming Additions.** Except as otherwise addressed in this Section, additions to nonconforming structures are allowed if they comply with all applicable laws and requirements of this Ordinance, the existing use of the property is conforming, and no addition is made that increases the nonconformity of the structure or site development.
- C. **Alterations and Remodels.** Except as otherwise addressed in this Section, alterations and remodels of nonconforming structures and nonconforming site development are allowed if the alteration, or remodel complies with all applicable laws and requirements of this Ordinance, and no alteration is made that increases the nonconformity of the structure or site development.
- D. **Residential Density.** Structures containing residential uses in the M-I Zone and structures on properties with nonconforming residential density, including nonconforming number of dwelling units and/or nonconforming number of bedrooms, may be maintained, expanded, or altered, subject to the following provisions:
 1. There is no increase in residential density on the site;
 2. There is no increase in the amount of liveable space or floor area on the site, except as provided below for zones other than the M-I Zone.
 - a. The amount of liveable space existing as of the effective date of this Ordinance may be increased by a maximum of 250 square feet through one or multiple additions to the existing residential main or accessory buildings. The addition may be provided as:
 - i. One common area that serves all units on site (such as a laundry room, storage room, or recreation room); or
 - ii. Areas assigned to individual units, with a maximum of 50 square feet per unit, provided the total does not exceed 250 square feet.
 - b. An addition to accommodate new required covered parking spaces in zones other than the M-I Zone.
- E. **Setbacks.**
 1. **Alterations and Remodels.** Interior and exterior remodels to portions of existing buildings and structures that are nonconforming to required setbacks,

including remodels that result in the addition of floor area within the existing building, are allowed, subject to the following provisions:

- a. Garages or carports may not be converted to storage, workshops, livable space or any use other than covered parking. However, garages may be converted to carports, carports may be converted to garages, and garage doors may be relocated from one side of a garage to another.
 - b. There is no change of use from residential to nonresidential uses, or from nonresidential uses to residential uses.
 - c. There is no increase in the number of residential units in the setback.
 - d. No alteration to the nonconforming portion of the building may increase the building height in the setback more than 42-inches, provided that there is neither an increase in floor area nor new stories created within the setback, and the increase in height does not result in a change in pitch over 4 in 12. Buildings must still comply with all applicable height and story limitations per the zone.
 - e. On any lot adjacent to a residential use or zone, there shall be no increase in the size of windows or doors or any new or relocated windows or doors within five feet of any interior property line on the ground floor or within the interior setback of any upper floor.
 - f. No unenclosed areas shall be enclosed to create new floor area in the setback, except as an addition to a garage or carport allowed below.
2. ***Additions in Interior Setbacks.*** A ground floor addition that encroaches into an interior setback may be made to an existing, non-conforming, residential main building located within the interior setback as follows, see Diagram TBD:
- a. The cumulative total of new floor area located within an interior setback is equal to or less than the ground floor area of the existing, non-conforming portion of the structure located within the same interior setback as of the effective date of this Ordinance. Areas previously approved by Modification are not considered to be nonconforming;
 - b. All new construction shall continue the plane of the existing exterior building wall that encroaches into the setback, and maintain a minimum setback of five feet or the same distance from the closest point of the existing building to the interior lot line, whichever is greater;
 - c. Any addition above the first floor shall conform to the current setbacks;
 - d. The height of the addition shall not exceed the height of the existing portion of the of the structure located within the interior setback; and
 - e. All other development standards are met.

- F. ***Encroachments into Setbacks and Open Yards.*** Encroachments into nonconforming setbacks and open yards are allowed pursuant to Section TBD, Encroachments into Setbacks and Open Yards.
- G. **Maximum Floor Area (Floor to Lot Area Ratio).** An addition of new floor area on a lot that is nonconforming as to the maximum floor area or where the proposed expansion would otherwise be deemed precluded development as specified in Section TBD, Floor Area, Precluded Development-RS Zones, is allowed as follows:
 - 1. The addition shall not exceed 100 square feet of floor area over the floor area legally existing on the lot as of June 7, 2007; and
 - 2. Only one addition is allowed.
- H. **Garages and Carports.** Garages or carports that are non-conforming to either front or interior setbacks, and also non-conforming to the required minimum interior dimensions, as described in the City Standards for Parking Design, may be expanded or demolished and rebuilt to meet the minimum interior dimensions, subject to the following:
 - 1. The number of parking spaces provided in the garage or carport is not increased;
 - 2. The garage or carport does not exceed the required minimum dimensions; and
 - 3. All other development standards are met.
- I. **Open Yard.** In the RS and R-2 Zones, additions and alterations may be made on a site that is nonconforming as to the amount of open yard in accordance with the following:
 - 1. The sum of the following areas shall equal a minimum of 1,000 square feet and be designated by the Community Development Director as a Nonconforming Open Yard Area.
 - a. All areas that meet the location and dimension standards of Section TBD, Open Yards.
 - b. The largest usable area that most closely meets the dimension standards of Section TBD, Open Yards, and contiguous areas with a minimum dimension of 10 feet.
 - 2. No further reduction of the Non-Conforming Open Yard Area is allowed once it has been designated by the Community Development Director.
- J. **Fences, Screens, Walls, and Hedges.** Any nonconforming fence, screen, wall or hedge 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. 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.

1. **Replacement.** A maximum of 50 percent of the length of a nonconforming fence or wall may be replaced within any 12-month period except as provided below.
 - a. The 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
 - b. The fence or wall is necessary to retain or support soil in a vertical or near vertical slope of earth.
- K. **Nonconforming Uses.** No lawful nonconforming use shall be expanded or changed to a different use classification except as provided below.
 1. **Change of Ownership/Tenancy.** A change of ownership, tenancy, or management is allowed when the nonconforming use does not change, and the use is not expanded or intensified.
 2. **Change from Nonconforming to Permitted Use.** Any nonconforming use may be changed to a use that is allowed in the zone in which it is located and complies with all applicable standards and permit requirements for such use. No nonconforming use, once changed into a conforming use, may be changed back again into a nonconforming use.
 3. **Additions Prohibited.** There shall be no increase or enlargement of floor area of buildings or structures occupied or devoted to a nonconforming use.
 4. **Compatible and Incompatible Nonconforming Uses.** The types of allowable improvements to structures containing nonconforming uses, and the allowable substitutions of nonconforming uses with other nonconforming uses shall depend on whether existing nonconforming use is compatible or incompatible with the surrounding uses;
 - a. **Compatible Uses**
 - i. Structures containing compatible nonconforming uses may be altered or remodeled.
 - ii. Compatible nonconforming uses shall only be replaced with compatible or conforming uses.
 - b. **Incompatible Uses**
 - i. Structures containing incompatible nonconforming uses may be maintained and repaired, pursuant to Section TBD, Continuation and Maintenance of Nonconforming Structures, Site Development, and Uses, but not structurally altered.
 - ii. Incompatible nonconforming uses shall only be replaced with compatible or conforming uses.
 - c. **Determination of Compatible or Incompatible Use.** The Community Development Director shall determine whether a nonconforming use is

compatible or incompatible with surrounding uses, and whether a replacement use is similar, more conforming or less conforming. Elements to be considered when making these determinations include, but are not limited to any combination of the following:

- i. Traffic generation;
- ii. Required parking
- iii. California Building Code occupancy classification;
- iv. Zone districts that allow the existing, nonconforming use and the proposed nonconforming use;
- v. Noise;
- vi. Odors;
- vii. Vibration;
- viii. Air pollution including dust and other particulate matter;
- ix. Hazardous materials; or
- x. Other detrimental effects.

5. ***Discontinuation of a Nonconforming Use.*** No nonconforming use may be resumed, reestablished, reopened or replaced by any other nonconforming use after any of the following: it has been changed to a permitted use, or the use has been discontinued, abandoned, or vacated for a period of one year, or if the building containing the nonconforming use is demolished.

- a. ***Discontinuation.*** A nonconforming use shall be declared to be discontinued by the Community Development Director when the use ceases and evidence that the use has been discontinued occurs. Elements to be considered include, but are not limited to, any combination of the following:

- i. The site is vacated;
- ii. The business license or other required license lapse;
- iii. The building is closed for business;
- iv. There are no persons, materials, equipment, or products occupying the buildings or site;
- v. Utilities are terminated; or
- vi. The lease is terminated.

- b. ***Extension.*** The one year limitation may be extended by the Director if due diligence in obtaining permits has been demonstrated.

- L. **All Other Nonconformities.** Additions, alterations or remodels that do not increase the nonconformity of the structure, site development or use may be allowed pursuant

to this Subsection, unless such addition, alteration or remodel is specifically addressed in another provision of this Section.

28.25.060 Demolition and Replacement of Nonconforming Structures

A. Demolition Defined.

1. A demolition occurs when at least two of the three conditions described in subparagraphs a., b. or c. below take place within any 12-month period, except with regard to a historic resource, where demolition is defined in Santa Barbara Municipal Code Section 22.22.020:
 - a. More than 50 percent of the structural elements of the roof or roof framing is removed;
 - b. More than 50 percent of the exterior walls of a building or structure are removed or are no longer a necessary and integral structural component of the overall building;
 - c. More than 50 percent of the foundation system is removed, or is no longer a necessary and integral structural component of the overall building, including, but not limited to: perimeter concrete foundation, retaining walls, post and pier foundations, or similerelement(s) that connect a structure to the ground and transfers gravity loads from the structure to the ground.
2. Existing exterior walls supporting a roof that is being modified to accommodate a new floor level or roofline will continue to be considered necessary and integral structural components, provided the existing wall elements remain in place and provide necessary structural support to the building upon completion of the roofline modifications.
3. The calculation for determining whether a wall has been demolished pursuant to this Section will be based on a horizontal measurement of the perimeter exterior wall removed between the structure's footings and the ceiling of the first story. The calculation for determining whether the roof or foundation system has been demolished will be based on overall square footage of that individual element.

- B. Verification of Demolition.** When, in the determination of the Community Development Director, there exists the potential for a project to result in a demolition, the applicant shall submit written verification from a registered structural engineer certifying that the roof, exterior walls and foundation shown to remain are structurally sound and will not be required to be removed or replaced for the project. Prior to issuance of a building permit, the property owner and contractor shall sign an affidavit to the City that they are aware of the City's definition of a demolition and the penalties associated with an unlawful demolition.

- C. **Replacement of Demolished Nonconforming Buildings.** A nonconforming building may be demolished and replaced provided that all of the following conditions are met:
1. The demolition and replacement of the nonconforming building or structure does not continue or perpetuate a nonconforming use.
 2. The replacement building or structure shall be located within the same building footprint and in the same location on the lot as the existing building or structure.
 3. The square footage of the replacement building or structure shall not exceed the square footage of the existing building or structure.
 4. The number of dwelling units shall not be greater than the existing number of dwelling units.
 5. For projects developed using Variable Density, the number of bedrooms per dwelling unit shall not be greater than the existing number of bedrooms. For all other multi-unit development, the unit size shall be no greater than the unit size as the existing development.
 6. The new structure shall not exceed the height of the existing structure; and the new structure shall comply with all current applicable height and story limitations.
 7. The building setbacks shall not be less than existing.
 8. The open yard shall not be less than existing.
 9. The number of parking spaces shall be no less than the number of existing parking spaces.
 10. The demolition and replacement is not combined with an addition to or expansion of the structure unless otherwise allowed pursuant to Section TBD, Garages and Carports
 11. Notwithstanding any other provision in this subsection, Any alterations and remodels to portions of the building located in the setbacks shall comply with Section TBD, Alterations and Remodels.
 12. Notwithstanding any other provision in this subsection, encroachments into setbacks and open yards are allowed pursuant to Section TBD, Encroachments into Setbacks and Open Yards.
 13. The demolition occurred pursuant to a valid permit.
 14. Construction of the replacement begins within three years of demolition.
- D. **Demolition and Replacement of Potentially Hazardous Nonconforming Buildings Subject to the Seismic Safety Ordinance.** *Placeholder. Substantive changes will not be made to these provisions. They will be formatted for consistency with the NZO structure and incorporated into the Final Hearing Draft.*

28.25.070 Repair and Replacement of Damaged or Destroyed Nonconforming Buildings

A lawful nonconforming building or structure that is damaged or partially destroyed by fire, explosion, earthquake, or natural disaster which is not caused by an act or deliberate omission of a property owner, their agent, or person acting on their behalf or in concert with, may be restored or rebuilt subject to the following provisions.

A. Nonresidential Structures.

1. **Restoration When Damage is 75 Percent or Less of Value.** A nonconforming building or structure used for nonresidential purposes, which is damaged to the extent of not more than 75 percent of its market value immediately prior to the damage, as determined by the Community Development Director, may be restored and the occupancy or use which existed at the time of damage may be continued or resumed, provided that reconstruction, restoration or rebuilding shall commence within a period of one 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.
2. **Restoration When Damage is More than 75 Percent of Value.** In the event such damage or destruction exceeds 75 percent of its market value immediately prior to the damage, as determined by the Community Development Director, 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.
3. **Determination of Market Value.** The Community Development Director 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.

A damaged or destroyed nonconforming building or structure used for residential purposes may be restored or rebuilt and the occupancy and use may be continued or resumed in accordance with the following:

1. The replacement building or structure shall be located within the same building footprint and in the same location on the lot as the building or structure that legally existed prior to the damage or destruction
2. The square footage of the replacement building or structure shall not exceed the square footage of the building or structure that legally existed prior to the damage or destruction, unless otherwise allowed pursuant to Section TBD, Garages and Carports
3. The number of dwelling units shall not be greater than the number existing prior to the damage or destruction.
4. For projects developed using Variable Density, the number of bedrooms per dwelling unit shall not be greater than the number of bedrooms existing prior

to the damage or destruction. For all other multi-unit development, the unit size shall be no greater than the unit size as the existing development.

5. The height of the replacement building or structure shall not exceed the height of the building or structure that was legally permitted prior to the damage or destruction.
6. The building setbacks shall not be less than those which existed prior to the damage or destruction.
7. The open yard shall not be less than that legally existed prior to the damage or destruction.
8. The number of parking spaces shall be no less than the number of parking spaces in existence prior to the damage or destruction.
9. Any alterations and remodels to portions of the building located in the setbacks shall comply with Section TBD, Alterations and Remodels.
10. Encroachments into setbacks and open yards are allowed pursuant to Section TBD, Encroachments into Setbacks and Open Yards, except balconies may not encroach into the interior setback.
11. 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.
12. All permits required under the California Building Code as adopted and amended by the City shall be obtained.
13. The building permit for the reconstruction, restoration or rebuilding must be issued within three years of the occurrence of the damage or destruction.
14. Plans existing in the City's archives shall be used to determine the size, location, use, and configuration of nonconforming buildings and structures. 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.
 - a. Exterior alterations shall be subject to design review, if such review would normally be required by the Santa Barbara Municipal Code.
 - b. 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.

Chapter 28.26 Off-Street Parking and Loading Requirements

To be addressed with Module #3.

Chapter 28.27 Performance Standards

28.27.010 Purpose

The purposes of this Chapter are to:

- A. Establish permissible limits and permit objective measurement of nuisances, hazards, and objectionable conditions;
- B. Ensure that all uses will provide necessary control measures to protect the community from nuisances, hazards, and objectionable conditions; and
- C. Protect industry from arbitrary exclusion from areas of the City.

28.27.020 General Standard

Land or buildings shall not be used or occupied in a manner creating any dangerous, injurious, or noxious fire, explosive or other hazard that would adversely affect the surrounding area.

28.27.030 Measurement of Impacts

Measurements necessary for determining compliance with the standards of this Chapter shall be taken at the lot line of the establishment or use that is the source of a potentially objectionable condition, hazard, or nuisance.

28.27.040 Dust and Fumes

Uses, activities, and processes shall not operate in a manner that emits excessive dust, fumes, smoke, or particulate matter, unless authorized under federal, State, or local law. Sources of air emissions shall comply with all rules established by the Environmental Protection Agency (Code of Federal Regulations, Title 40), the California Air Resources Board, and the Santa Barbara County Air Pollution Control District.

28.27.050 Electromagnetic Interference

No use, activity or process shall cause electromagnetic interference with normal radio and television reception, or with the function of other electronic equipment beyond the lot line of the site in which it is situated. All uses, activities and processes shall comply with applicable Federal Communications Commission regulations.

28.27.060 Fire and Explosive Hazards

All activities, processes and uses involving the use of, or storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Firefighting and fire suppression equipment and devices standard in industry shall be approved by the Fire Department. All incineration is prohibited with the exception of those substances such as, but not limited to, chemicals, insecticides, hospital materials and waste

products, required by law to be disposed of by burning, and those instances wherein the Fire Department deems it a practical necessity.

28.27.070 Glare

No use shall be operated such that significant, direct glare, incidental to the operation of the use is visible beyond the boundaries of the lot where the use is located.

28.27.080 Hazardous and Extremely Hazardous Materials

The use, handling, storage and transportation of hazardous and extremely hazardous materials shall comply with the provisions of the California Hazardous Materials Regulations and the California Fire and Building Codes, as well as the laws and regulations of the California Department of Toxic Substances Control and the County Environmental Health Agency. Activities, processes, and uses shall not generate or emit any fissionable or radioactive materials into the atmosphere, a sewage system or onto the ground.

28.27.090 Heat and Humidity

Uses, activities, and processes shall not produce any emissions of heat or humidity that cause distress, physical discomfort, or injury to a reasonable person, or interfere with ability to perform work tasks or conduct other customary activities. In no case shall heat emitted by a use cause a temperature increase in excess of five degrees Fahrenheit on another property.

28.27.100 Waste Disposal

- A. **Discharges to Water or Sewers.** Liquids and solids of any kind shall not be discharged, either directly or indirectly, into a public or private body of water, sewage system, watercourse, or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board.
- B. **Containment.** Wastes shall be handled and stored so as to prevent nuisances, health, safety and fire hazards, and to facilitate recycling. Closed containers shall be provided and used for the storage of any materials which by their nature are combustible, volatile, dust, or odor producing or edible or attractive to rodents, vermin, or insects.
- C. **Incineration.** There shall be no rubbish or refuse incineration on the premises.

28.27.110 Noise

No use or activity shall create noise levels that exceed the standards set forth in Chapter 9.16, Noise, of the Santa Barbara Municipal Code.

28.27.120 Odors

No person or business shall cause or allow the emission of offensive, noxious, or foul odors in concentrations which are offensive to a reasonable person, which produce a public nuisance or hazard on adjoining property, or which could be detrimental to human, plant, or animal life

28.27.130 Vibration

No vibration shall be produced that is transmitted through the ground and is discernible without the aid of instruments by a reasonable person at the lot lines of the site. Vibrations from temporary construction, demolition, and vehicles that enter and leave the subject parcel (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard.