

# Draft Land Use & Development Code Additions and Amendments for the Mission Canyon Community Plan Area

## 1. MISSION CANYON OVERLAY

### Chapter 35.28 - Overlay Zones

#### 35.28.210 - Community Plan Overlay

##### H. Mission Canyon Community Plan area

1. Mission Canyon Scenic Corridor Development Standards. All development located on lots adjacent to Mission Canyon Road from the Plan area southern boundary at Rocky Nook Park to the intersection with Foothill Road (Scenic Corridor Map – Mission Canyon Community Plan) shall be in compliance with the following development standards:

a. Setbacks. The front setback of any portion of a lot adjacent to Mission Canyon Road shall be 80 feet from road centerline and 55 feet from right-of-way. This setback shall be applied for new structures, additions to existing structures, and instances when an existing structure is damaged or demolished and rebuilt.

(1) Detached accessory structures, other than those allowed in Section 35.30.150.D, shall not be located closer than the principal dwelling to the front setback.

b. Fences Gates, Gateposts and Walls.

(1) The historic character of original stone walls and gateposts shall be preserved and restored. Incompatible materials such as metal, chain link, wood or plastic shall not be used in front of or to increase the height of stone walls.

(2) New fences and walls located within a front setback area adjacent to Mission Canyon Road shall not exceed 3.5 feet in height. New fences and walls shall be constructed of natural materials that acknowledge through design the contextual setting of Mission Canyon. Chain link and bamboo fences, and plaster or stucco walls shall not be allowed within the front setback.

c. Historic Landmarks Advisory Commission Review.

(1) All projects requiring a Land Use Permit shall be reviewed on an advisory level by the Historic Landmarks Advisory Commission within the context of the historic setting including Mission Santa Barbara, Santa Barbara Museum of Natural History, “Glendessary House” (a County Landmark), and “Rockwood” (the Santa Barbara Woman’s Club).

## 2. OTHER LUDC ORDINANCE AMENDMENTS

### Chapter 35.20 Development and Land Use Approval Requirements

#### 35.20.040 - Exemptions from Planning Permit Requirements

The requirements of this Development Code that one or more planning permits (e.g., Coastal Development Permit, Land Use Permit, Conditional Use Permit, Minor Conditional Use Permit, Development Plan) be obtained prior to proposed development or the establishment of a land use do not apply to the land uses, structures, and activities identified by this Section.

**A. General requirements for exemption.** The land uses, structures, and activities identified by Subsection B. (Exempt activities and structures) below, are exempt from the planning permit requirements of this Development Code only when:

1. The use, activity, or structure is established and operated in compliance with the setback requirements, height limits, parking requirements, and all other applicable standards of this Article (Zones and Allowable Land Uses), [Article 35.3 \(Site Planning and Other Project Standards\)](#), all applicable standards in Articles 35.4 through 35.7 of this Development Code, the required provisions and conditions of any existing, approved permits for the subject lot and, where applicable, [Chapter 35.101 \(Nonconforming Uses, Structures, and Lots\)](#); and
2. Any permit or approval required by regulations other than this Development Code is obtained (for example, a Building Permit and/or Grading Permit).

**B. Exempt activities and structures.** The following are exempt from all planning permit requirements of this Development Code when in compliance with Subsection A. (General requirements for exemptions) above, except if addressed by Policy OS-O-5 and Development Standards 5.1 through 5.3 of the Orcutt Community Plan, the MT-GOL (Mountainous-Goleta) zone, the ESH-GOL (Environmentally Sensitive Habitat-Goleta) overlay zone, the RC-GOL (Riparian Corridor-Goleta) overlay zone, and the ESH overlay zone within the Coastal Zone.

**2. Activities and structures exempt within the Inland area.** The following activities and structures are exempt within the Inland area, in addition to those listed in Subsection B.1 (Activities and structure exempt both within the Inland area and the Coastal Zone) above, but are not exempt in the Coastal Zone.

**a. Damaged or destroyed structure.** The replacement or restoration of a conforming structure damaged or destroyed by a disaster, as determined by the Director.

- (1) The replaced or restored structure shall comply with all requirements of the applicable zone (including permitted uses), shall be for the same use, shall be in the same general footprint location, and shall not exceed the floor area, height, or bulk of the destroyed structure by more than 10 percent, or 250 square feet, whichever is less. For the purposes of this Section only, bulk is defined as total interior cubic volume as measured from the exterior surfaces of the structure.

[\(a\) Mission Canyon Community Plan area. Notwithstanding Section 35.20.040.2.a\(1\) above, the replacement or restoration of a conforming structure located within the Mission Canyon Community Plan area that is damaged or destroyed by a disaster shall require a land use permit and shall require Design Review in compliance with Section 35.82.070](#)

[\(Design Review\)](#).

- (2) If the Director determines that the exterior design or specifications are proposed to be changed, the restored or replaced structure shall require Design Review in compliance with [Section 35.82.070 \(Design Review\)](#), if the structure is otherwise required to have Design Review (e.g. the site is within the Design Control overlay).

## **Chapter 35.30 - Standards for All Development and Land Uses**

### **35.30.070 - Fences and Walls**

- A. Purpose.** This Section provides regulations for the installation, construction, and placement of fences on private property. For the purposes of this Section, a regulation for a "fence" applies to fences, walls, gates, gateposts, and other structures in the nature of a fence, except where any of these are specifically identified and separately regulated by this Section.
- B. Measurement of fence height.** Fence height shall be measured as the vertical distance between the natural grade at the base of the lower side of the fence, and the top edge of the fence material. See Figure 3-1.
- C. Height limits and permit requirements.** Each fence shall comply with following the height limits and permit requirements. In no case shall the height of the fence exceed the height limit established for the applicable zone by [Article 35.2 \(Zones and Allowable Land Uses\)](#). Additionally, a fence on a corner lot shall comply with the vision clearance requirements in [Section 35.30.090 \(Height Measurement and Exceptions and Limitations\)](#).
  - 1. Non-Agricultural zones.** Each fence shall comply with the height limits and permit requirements in Table 3-1.
  - 2. Agricultural zones.** Each fence shall comply with the height limits and permit requirements in Table 3-2 below.
  - 3. Exception to height limits.** A maximum of 10 percent of the total linear length of a wall or fence may be allowed to exceed the maximum height specified for exemption from a permit in Subsections C.1 (Non-Agricultural zones) or C.2 (Agricultural zones) above, where the review authority first determines that topographic or other unavoidable conditions will destroy its architectural integrity if held to the maximum height specified for its entire length.
  - 4. Retaining wall exemption.** A retaining wall (retaining earth only) that is not over four feet in height measured from the bottom of a footing to the top of the wall, and does not require a Grading Permit in compliance with County Code Chapter 14 is exempt from Coastal Development Permit or Land Use Permit requirements except when located within 300 feet of the edge of a coastal bluff or the inland extent of any beach, or within an Environmentally Sensitive Habitat area located in the Coastal Zone.

**Table 3-1 - Fence Height and Permit Requirements in all Zones Except in Agricultural Zones**

Fence Location	Permit Requirement		
	Exempt from Planning Permit (1,2)	Coastal Development or Land Permit Required	Minor Conditional Use Permit Required
Within required front setback	Fence 6 ft or less in height; gatepost 8 ft or less in height	Not Applicable (3)	Fence more than 6 ft high; gatepost more than 8 ft high
Within side and rear setbacks	Fence 8 ft or less in height; gatepost 10 ft or less in height	Not Applicable	Fence more than 8 ft high; gatepost more than 10 ft high
Within interior lot setback 20 ft or less from a street right-of-way	Fence 6 ft or less in height; gatepost 8 ft or less in height.	Not Applicable	Fence more than 6 ft high; gatepost more than 8 ft high
Within interior lot setback more than 20 ft from a street right-of-way	Fence 8 ft or less in height; gatepost 10 ft or less in height	Not Applicable	Fence more than 8 ft high; gatepost more than 10 ft high
Outside of a required setback	Fence 8 ft or less in height; gatepost 10 ft or less in height	Fence more than 8 ft high; gatepost more than 10 ft high	Not Applicable

**Notes:**

- (1) Within the Coastal Zone, fences shall be exempt only if the development will:
- a. Not be located within or adjacent to a wetland, beach, environmentally sensitive habitat or on or within 50 feet of a coastal bluff; and
  - b. Not result in any potential adverse effects to public access to the beach or public hiking and equestrian trails (including where there is substantive evidence of prescriptive rights); and
  - c. Not result in significant adverse impacts to scenic views from beaches, parklands, public viewing areas, and public roadways.
- If the fence does not meet the preceding criteria for an exemption, than a Coastal Development Permit in compliance with Section 35.82.050 (Coastal Development Permits) is required.

(2) Mission Canyon Community Plan area. Within the Mission Canyon Community Plan area, excluding the Mission Canyon Scenic Corridor, fences and gates 3.5 feet or less in height and gateposts 4 feet or less in height within the front setback shall be exempt from planning permits.

(3) In the Mission Canyon Scenic Corridor, fences, gates, and gateposts within the front setback shall require the approval of a Land Use Permit in compliance with Section 35.82.110 (Land Use Permits). Maximum height for fences and gates shall not exceed 3.5 feet and gateposts shall not exceed 4 feet. Fences and gates in the side setback shall not exceed 3.5 feet within 25 feet of the front property line.

Within the Mission Canyon Community Plan area, excluding the Mission Canyon Scenic Corridor, fences and gates greater than 3.5 feet and less than or equal to 6 feet in height; and gateposts greater than 4 feet and less than or equal to 8 feet, shall require the approval of a Land Use Permit in compliance with Section 35.82.110 (Land Use Permits).

**35.30.120 - Outdoor Lighting**

**C. Mission Canyon Community Plan area.**

1. General. The regulations contained in this Subsection shall be known and referred to as the "Outdoor Lighting Regulations for the Mission Canyon Plan Area."
2. Purpose and intent. The purpose of this Subsection is to create standards for outdoor lighting that minimize light pollution, glare, and light trespass caused by inappropriate or misaligned light fixtures. These standards conserve energy and preserve the nighttime sky while maintaining nighttime safety, utility, security and productivity. The intent of this Subsection is to preserve and protect the nighttime environment of Mission Canyon by regulating unnecessary and excessive outdoor lighting.

**3. Definitions.** For the purposes of this Subsection the following words and phrases shall have the meanings respectively ascribed to them by this Subsection. The illustrations of the defined words or phrases are merely illustrative. If any conflict exists between the text of a definition and the corresponding illustration, the text shall govern.

Directional Lighting Methods. Direction of light downward, rather than upward or outward, with the intention of directing light where it is needed on the ground. Downward lighting also prevents unnecessary and unwanted spillover of light to adjacent areas and properties.

Fossil Fuel Lighting. Fossil fuel light produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels, for example: gas, propane and kerosene lighting.

High Intensity Discharge Lamp. High pressure sodium, mercury vapor, metal halide, low pressure sodium, and other similar lamps.

Light Pollution. Any artificial light which causes a detrimental effect on the environment, astronomical research, enjoyment of the night sky or causes undesirable glare or light trespass.

Light Trespass. Artificial light that produces unnecessary and/or unwanted illumination of an adjacent property.

Luminous Tube Lighting. Gas filled glass tubing which when subjected to high voltage becomes luminescent in a color characteristic of the gas used (neon, argon, etc.).

Outdoor Light Fixture. Artificial illuminating devices, outdoor fixtures, lamps and other similar devices, permanently installed or portable, used for flood lighting, general illumination or advertisement. Such devices shall include outdoor lighting for:

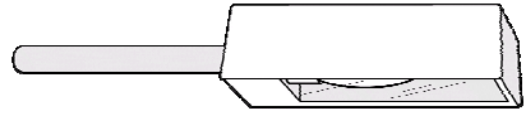
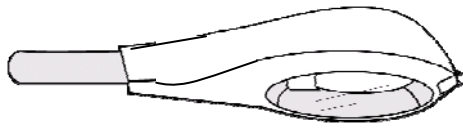
1. Buildings and structures
2. Recreational facilities
3. Parking lots
4. Landscape lighting
5. Billboards and other signs
6. Street lighting
7. Walkway lighting

Outdoor Recreation Facility. An area designated for active recreation, whether publicly or privately owned, including but not limited to: baseball and softball diamonds, soccer and football fields, equestrian arenas, golf courses, tennis courts and swimming pools.

Shielding. A barrier around a fixture that helps to conceal the lamp and control light distribution.

Fully Shielded. Outdoor light fixtures with a solid barrier that emit no light rays above the horizontal plane and effectively obscure the visibility of the lamp.

**Fully Shielded Fixtures**



2. Partially Shielded. A fixture that may allow some light to pass through a semi-translucent barrier, and/or may allow visibility of the lamp from certain perspectives.



3. Unshielded. Unshielded means light fixtures lacking any means to restrict light emitted above the horizontal plane.



**4. Approved materials and methods of installation.**

a. The provisions of this Subsection are not intended to prevent the use of any design, material or method of installation not specifically proscribed by this Subsection provided any such alternate has been approved by the County. The Department may approve any such alternate provided that the proposed design, material or method:

- (1.) Provides approximate equivalence to the specific requirements of this article; or
- (2.) Is otherwise satisfactory and complies with the intent of this article.

## **5. Prohibited Lights**

- (a) All illuminated advertising signs on and off premises shall be prohibited.
- (b) All outside illumination for aesthetic, recreational, and/or decorative purposes for any structure and/or surrounding landscape that is not fully shielded shall be prohibited between 10:00 p.m. and sunrise. All outside illumination between 10:00 p.m. and sunrise shall be shielded.
- (c) Searchlights, laser source lights, or similar high intensity lights shall not be permitted except in emergencies, by police and/or fire personnel, or for the purposes of gathering meteorological data.

## **6. Exemptions.** The following are exempt from the provisions of this ordinance:

- (a) All outdoor lighting fixtures existing and legally installed prior to the effective date of this Subsection are exempt from the shielding requirements of this Subsection. Existing lighting fixtures shall be subject to the requirements of Subsection C.5 requiring lights that are not fully shielded to be turned off at 10:00 p.m. Existing shielded lights are not subject to a turn-off time.
- (b) Fossil fuel light.
- (c) Traffic control signals and devices.
- (d) Street lights installed prior to the effective date of this ordinance.
- (e) Temporary emergency lighting (i.e. fire, police, public works).
- (f) Moving vehicle lights.
- (g) Seasonal decorations with individual lights in place no longer than 60 days.
- (h) Fully shielded security lights that are controlled by a motion-sensor switch and which do not remain on longer than 10 minutes after activation.
- (i) Projects with approved construction plans prior to the effective date of this ordinance are excluded from compliance with the ordinance in the initial installation only.
- (j) Solar walkway lights.

## **7. General Requirements.** All non-exempt light fixtures requiring a County permit for their installation shall be subject to the following general requirements:

- (a) All outdoor light fixtures installed after the effective date of this article and thereafter maintained upon private property, public property, or within the public right-of-way shall be fully shielded.
- (b) Illumination from light fixtures shall be shielded to minimize glare extending towards roadways.
- (c) All replaced or repaired lighting fixtures requiring a permit shall be subject to the requirements of this ordinance.
- (d) Light trespass and glare shall be reduced to the maximum extent feasible through directional lighting methods.



(e) Externally illuminated signs and building identification lights shall use top mounted light fixtures which shine downward and are fully shielded.

**8. Submission of Plans and Evidence of Compliance.** The applicant shall submit as part of the permit application for any permit required by the County for work involving outdoor light fixtures (except for exempt fixtures in compliance with Subsection C.6) evidence that the proposed work will comply with this Subsection. The submission shall contain:

(a) Plans showing the locations of outdoor lighting fixtures.

(b) Descriptions of the outdoor lighting fixtures including manufacturer's catalog cuts and drawings. Descriptions and drawings shall include lamp or bulb type, wattage, beam angle, and shielding.

The above plans and descriptions shall be sufficiently complete to readily determine whether compliance with the requirements of this Subsection has been met.

## **Chapter 35.36 - Parking and Loading Standards**

### **35.36.050 - Required Number of Spaces: Residential Uses**

**1. Mission Canyon Community Plan area.** Within the Mission Canyon Community Plan area: 3 spaces per dwelling unit for new dwelling units permitted after the effective date of the Mission Canyon Community Plan. Three spaces shall also be required for a dwelling unit in the following circumstances:

a. Additions to the dwelling unit, either individually or combined, are greater than 50 percent of the gross floor area of the dwelling as it existed as of the effective date of the Mission Canyon Community Plan, or

b. A remodel of an existing dwelling results in an increase in the number of bedrooms that existed as of the effective date of the Mission Canyon Community Plan.

### **35.36.080 - Standards for All Zones and Uses**

#### **B. Construction and Design.**

2. Except as provided below, uncovered parking areas and driveways shall be paved with a minimum of two inches of asphalt, concrete, or equivalent on a suitable base.

(a) **Mission Canyon Community Plan area.** Within the Mission Canyon Community Plan area the following parking spaces shall be paved with permeable materials on a suitable base, including concrete pavers, turf block, permeable asphalt, etc.

(1) One of the three required parking spaces associated with the principal dwelling on a lot zoned R-1\E-1 where the principal use is residential.

(2) In any zone, any parking spaces that are provided in addition to the required number of spaces.

(3) The use of permeable materials shall be encouraged for parking spaces or driveways not subject to Fire Department minimum structural design standards for emergency access.



**H Location.** Except as provided below, off-street parking spaces shall not be located in the required front or side setback unless specifically allowed by this Development Code. Provisions shall be made for direct access from the street to each parking space. The access shall be adequate for standard size automobiles unless the parking area is restricted to compact cars.

1. Mission Canyon Community Plan area. Within the Mission Canyon Community Plan area, one of the three required parking spaces associated with the principal dwelling on a lot zoned R-1\E-1 where the principal use is residential may be located in the front setback provided the location is approved in compliance with Section 35.82.070 (Design Review).

(a) Tandem parking may be allowed on residentially zoned lots of 7,000 square feet or less.

## Chapter 35.42 - Standards for Specific Land Uses

### 35.42.230 - Residential Second Units

**D. Exclusion areas.** Except as provided below, because of the adverse impacts on the public health, safety, and welfare, Residential Second Units shall not be allowed in Special Problem Areas designated by the Board based upon the findings that Special Problem Areas by definition are areas having present or anticipated flooding, drainage, grading, soils, geology, road width, access, sewage disposal, water supply, location, or elevation problems.

2. Within a Special Problem Area other than the Mission Canyon Special Problem Area, etc.

## Chapter 35.80 - Permit Review and Decisions

### 35.82.070 - Design Review

**C. Exceptions to Design Review Requirements.** Design review shall not be required for the following:

**1. General.**

b. Fences, gates, gateposts and walls as follows; however, fences, gates, gateposts and walls that are integral to the structure (e.g., are connected to the structure or form a courtyard adjacent to the structure) shall be included as part of the architectural review of a new residence, a remodeling, or an addition to a structure requiring architectural review:

(1) Fences, gates, gateposts and walls located in the front setback area that are exempt from a planning permit in compliance with Table 3-1 (Fence Height and Permit Requirements in all Zones Except in Agricultural Zones).

### F. Findings required for approval.

#### 6. Additional findings required for Design Review applications within the Mission Canyon Plan Area.

a. Plans for new or altered structures subject to the provisions of Section 35.28.080 (Design Control Overlay) will be in compliance with the Mission Canyon Residential Design Guidelines as applicable. The Mission Canyon Residential Design Guidelines, which are intended to serve as a guide only, shall constitute "additional design standards" for purposes of Section 35.82.070(F)(1)(i).

- b. Large visible understories (greater than 4 ft in height) and exposed retaining walls are minimized.
- c. Retaining walls are colored and textured (e.g., with earth tone and split faces) to match adjacent soils or stone, and visually softened with appropriate landscaping.
- d. The visible portion of a retaining wall above finished grade does not exceed a height of six feet. The Board of Architectural Review may grant an exemption to this finding if a written finding is made that the exemption will allow a project that:
  - (1) Furthers the intent of protecting hillsides and watersheds;
  - (2) Enhances and promotes better structural and/or architectural design; and
  - (3) Minimizes visual or aesthetic impacts.

**7. Additional findings required for Design Review applications within the Mission Canyon Scenic Corridor.**

- a. New buildings or alterations to existing structures shall not impede views of, or interfere with the visual character of the scenic corridor.
- b. New buildings or alterations to existing structures shall be reviewed within the context of traditional architecture in the vicinity including Mission Santa Barbara, the Santa Barbara Museum of Natural History, and “Rockwood” (the Santa Barbara Woman’s Club). While no particular architectural style is prescribed for this area, project design should promote a smooth transition from the City of Santa Barbara’s “El Pueblo Viejo Landmark District” (around the Mission) to Mission Canyon. In this area, high quality construction and materials for exterior finishes shall be used.
- c. Where a traditional Spanish architectural style is proposed, the use of two-piece terra cotta (Mission “C-tile”) roof is required.

**35.82.130 - Modifications**

**B. Applicability.**

**3. Allowed Modifications.**

- f. Reduction of parking spaces.** A reduction in the required number and/or a modification in the design or location of parking spaces and loading zones may be allowed provided that in no case shall:
  - (1) The number of required parking spaces be reduced in the High Density Student Residential (SR-H), Medium Density Student Residential (SR-M) or Single Family Restricted (SF) overlay zones, and within the Mission Canyon Community Plan area.

**35.101.020 - Nonconforming Uses of Land and Structures**

A nonconforming use may be continued subject to the following provisions, so long as the use remains otherwise lawful.

**A. Structural change.**

**1. Allowed enlargements, extensions, moving, reconstruction, or structural alterations.**

Except as listed below or otherwise provided in this Development Code, no existing structure devoted to a nonconforming use under this Development Code shall be enlarged, extended, moved, reconstructed, or structurally altered unless the use is changed to a use allowed in the zone in which it is located.

**a. Seismic retrofits allowed.** Seismic retrofits as defined in [Chapter 35.110 \(Definitions\)](#) in compliance with [Section 35.20.040 \(Exemptions from Planning Permit Requirements\)](#), may be allowed but shall be limited exclusively to compliance with earthquake safety standards and other applicable Building Code requirements, including State law (e.g., Title 24, California Code of Regulations).

**b. Rehabilitation of dwellings.** Existing structures devoted to a nonconforming residential use may be enlarged, extended, reconstructed, relocated, and/or structurally altered in compliance with Subsection F. (Limited exceptions for certain nonconforming residential uses) below.

**c. Rehabilitation of dwellings threatened due to coastal erosion.** Existing structures devoted to a nonconforming residential use that are threatened due to coastal erosion may be enlarged, extended, reconstructed, relocated, and/or structurally altered provided all of the following criteria are met:

- (1) The structure is located on property zoned either SR-M or SR-H.
- (2) Any alteration complies with the setback and height requirements of the applicable zone.
- (3) Any alteration does not result in the removal of required parking spaces.
- (4) Any alteration does not result in an increase in the number of bedrooms within the dwelling, unless the increase is in compliance with the bedroom density standards of the applicable zone.

**d. Normal maintenance and repair.** Provided no structural alterations are made, normal maintenance and repair may occur.

**e. Historical landmarks.** A structure that has been declared to be a historical landmark in compliance with a resolution of the Board may be enlarged, extended, reconstructed, relocated, and/or structurally altered provided the County Historical Landmarks Advisory Commission has reviewed and approved the proposed structural alterations and has determined that the proposed structural alterations will help to preserve and maintain the landmark in the long-term.

**f. Historical structures.**

**(1) Mission Canyon Community Plan area.** A structure located in the Mission Canyon Community Plan area that is eligible for either Place of Historic Merit or Landmark status as determined by the Historical Landmark Advisory Commission in compliance with County Code Chapter 18A may be enlarged,

extended, reconstructed, relocated, and/or structurally altered provided the County Historical Landmarks Advisory Commission has reviewed and approved the proposed alterations and has determined that the proposed alterations will help to preserve and maintain the historic character in the long-term.

2. **Accessory to a conforming use.** No structure accessory to a nonconforming use under this Development Code shall be enlarged, erected, or extended unless the structure is also accessory to a conforming use.

**B. Expansion or extension.**

1. An existing nonconforming use may be extended throughout or relocated within an existing structure; provided, no structural alterations are made except those required by law or ordinance (e.g., Building Code regulations).
2. No existing nonconforming use shall be extended to occupy any land outside of the structure.
3. No existing nonconforming use of land outside structures, or not involving structures, shall be enlarged, extended, or increased to occupy a greater area of land than was occupied at the time the use became nonconforming, or moved to any portion of the lot not currently occupied by the nonconforming use.

**C. Allowed changes of use.** A nonconforming use may only be changed to a conforming use.

**D. Abandonment/discontinuance.** A nonconforming use that is discontinued for a continuous period of at least 12 consecutive months shall be considered to be abandoned and the rights to continue the nonconforming use shall terminate. If a nonconforming use is abandoned, any future use shall comply with the provisions of the zone in which the use is located.

**E. Damage.** This Section identifies the standards for allowing the continuation of a nonconforming use in a structure or other development that is damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs.

**1. Non-residential uses.**

- a. **Damage 75 percent or more.** If structure or other development dedicated to a nonresidential nonconforming use is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs to an extent of 75 percent or more of the replacement cost of the total structure before the damage, as determined by the Director, then the nonconforming use shall be discontinued and the damaged structure or other development thereafter used only in compliance with regulations of the zone in which it is located, unless allowed to continue by the Zoning Administrator, in compliance with [Section 35.82.095 \(Hardship Determinations\)](#).
- b. **Damage less than 75 percent.** If the damage caused by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs is less than 75 percent of the replacement cost of the total structure before the damage, as determined by the Director, the structure or other developments may be restored to the same or lesser size and in the same general

footprint location. The nonconforming use may be resumed and continued as before, or on a lesser scale, but shall not be enlarged or intensified.

2. **Residential uses.** Except in industrial zones, structures dedicated to nonconforming residential dwelling uses (e.g., one-family, two-family, and multi-family units, and second residential units), that are damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs, the structures may be reconstructed to the same or lesser size and in the same general footprint location. The nonconforming residential dwelling use may be resumed and continued as before, or on a lesser scale, but shall not be enlarged, expanded, or intensified (e.g., increase in gross floor area, increase in the number of bedrooms). If the structure dedicated to a nonconforming residential dwelling use is located in an industrial zone, the damage standards of Subsection E. 1 (Non-residential uses) above, shall apply.
3. **Reconstruction shall commence within 24 months.** The restoration of a nonconforming use allowed in compliance with Subsection E.1 (Non-residential uses) and Subsection E.2 (Residential uses) above, shall commence within 24 months of the time of damage and be diligently carried out to completion.
  - a. The 24-month time limit may be extended by the Director for a maximum of 12 months for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Department before the expiration of the 24-month period.
  - b. If the restoration of the nonconforming use does not commence within 24 months or the extended time period that may be granted by the Director, it shall not be restored except in full compliance with the applicable zone regulations and other provisions of this Development Code.

### **35.101.030 - Nonconforming Structures**

A structure that is conforming as to use but nonconforming as to height, lot coverage, setbacks, or other requirements concerning the structure may remain so long as it is otherwise lawful, subject to the following provisions.

#### **A. Structural change, expansion, or extension.**

1. **Enlargements or extensions allowed in limited circumstances.** Except as listed below or otherwise provided in this Development Code, a nonconforming structure may not be enlarged, extended, moved, or structurally altered unless the enlargement, extension, etc., complies with the height, lot coverage, setback, and other requirements of this Development Code.
  - a. **Seismic retrofits allowed.** Seismic retrofits as defined in [Chapter 35.110 \(Definitions\)](#); in compliance with [Section 35.20.040 \(Exemptions from Planning Permit Requirements\)](#) may be allowed but shall be limited exclusively to compliance with earthquake safety standards and other applicable Building Code requirements, including State law (e.g., Title 24, California Code of Regulations).
  - b. **Normal maintenance and repair.** Normal maintenance and repair may occur provided no structural alterations are made.

- c. **Historical landmarks.** A structure that has been declared to be a historical landmark in compliance with a resolution of the Board may be enlarged, extended, reconstructed, relocated, and/or structurally altered provided the County Historical Landmarks Advisory Commission has reviewed and approved the proposed structural alterations and has determined that the proposed structural alterations will help to preserve and maintain the landmark in the long-term.

**d. Historical structures.**

(1) Mission Community Plan area. A structure located in the Mission Canyon Community Plan area that is eligible for either Place of Historic Merit or Landmark status as determined by the Historical Landmark Advisory Commission in compliance with County Code Chapter 18A may be enlarged, extended, reconstructed, relocated, and/or structurally altered provided the County Historical Landmarks Advisory Commission has reviewed and approved the proposed alterations and has determined that the proposed alterations will help to preserve and maintain the historic character in the long-term.

2. **Accessory living quarters.** No living quarters may be extended into an accessory structure located in the required front, side, or rear setbacks by any addition or enlargement.

**B. Damage.** This Section identifies the standards for allowing the reconstruction or restoration of a nonconforming structure that is damaged by earthquake, fire, flood, vandalism or other calamity beyond the control of the owner of the structure.

1. **One-family dwellings.** Nonconforming one-family dwellings that are damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure may be reconstructed to the same or lesser size in the same general footprint location.

**2. Structures other than one-family dwellings - Inland area.**

**a. Damage 75 percent or more.**

- (1) If a nonconforming structure, other than a one-family dwelling, is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure to an extent of 75 percent or more of the replacement cost of the total structure before the damage, as determined by the Director, then the structure may not be reconstructed unless allowed by the Zoning Administrator, in compliance with [Section 35.82.095 \(Hardship Determinations\)](#).
- (2) If the damaged nonconforming structure is accessory to a primary structure and there is substantial question regarding the extent of damage, as determined by the Director, the Zoning Administrator shall first find, in compliance with [Section 35.82.140 \(Nonconforming Status and Extent of Damage Determination\)](#) that the structure is nonconforming and shall determine the extent of damage.

**b. Damage less than 75 percent.**

- (1) Where a nonconforming structure, other than a one-family dwelling, is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure to an extent of less than 75 percent of the replacement



cost of the total structure before the damage, as determined by the Director, the structure may be reconstructed to the same or lesser size in the same general footprint location.

- (2) If the damaged nonconforming structure is accessory to a primary structure, notice of the potential reconstruction shall be given in compliance with [Section 35.106.020 \(Notice of Public Hearing and Review Authority Action\)](#). If a request for public hearing is received by the Department within the applicable period of time, then the reconstruction of the accessory structure shall not commence unless the Zoning Administrator first finds, in compliance with [Section 35.82.140 \(Nonconforming Status and Extent of Damage Determination\)](#) that the structure is nonconforming and that the extent of damage is less than 75 percent.

**3. Structures other than one-family dwellings - Coastal Zone.**

**4. Sites within the Carpinteria Agricultural overlay zone.**

**5. Sites within the Montecito Coastal Zone.**

**6. Sites within the Toro Canyon Plan Area.**

**7. Sites within the Mission Canyon Plan Area.** Notwithstanding the above, the following standards apply to nonconforming structures on lots **located** within the Mission Canyon Community Plan Area. In case of a conflict, the standards of this Subsection shall take precedence.

**a. Residential structures.** For the purpose of this Subsection, “residential structure” shall mean primary dwellings, residential second units, farm employee dwellings, guesthouses, and all attached appurtenances (e.g., garages and storage rooms) that share at least one common wall with the residential structure. One detached private garage structure may be included within the meaning of “residential structure” in compliance with Section 35.82.140 (Nonconforming Status and Extent of Damage Determination).

- (1) A residential structure that is damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure may be reconstructed to the same or lesser size on the same site and in the same general footprint location.
- (2) A residential structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Mission Canyon Community Plan, which requires partial or complete reconstruction or structural repair due to normal wear-and-tear (e.g., structural pest damage or dry rot) may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location.
- (3) A residential structure that is nonconforming solely due to its location within an Environmentally Sensitive Habitat area or Environmentally Sensitive Habitat buffer area may be expanded upward, or outward and away from the Environmentally Sensitive Habitat area, consistent with Development Standard BIO-MC-1.9 of the Mission Canyon Community Plan and in a manner that



otherwise complies with the regulations of the Mission Canyon Community Plan and this Development Code.

**b. Non-residential structures, not including agricultural support structures.**

- (1) A nonconforming non-residential structure that is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure to an extent of 75 percent or more of the replacement cost of the total structure before the damage, as determined by the Director, may be reconstructed to the same or lesser size on the same site and in the same general footprint location, provided that the reconstruction complies with the regulations of the Toro Canyon Plan, Mission Canyon Community Plan and this Development Code to the maximum extent feasible, and if allowed by the review authority in compliance with Section 35.82.095 (Hardship Determinations).
- (2) A nonconforming non-residential structure that requires partial or complete reconstruction or structural repair due to normal wear-and-tear (e.g., structural pest damage or dry rot) may be reconstructed or structurally repaired to the same or lesser size on the same site and in the same general footprint location, provided that the repair or reconstruction conforms with the regulations of the Toro Canyon Plan, Mission Canyon Community Plan and this Development Code to the maximum extent feasible and if allowed by the review authority in compliance with Section 35.82.095 (Hardship Determinations).

**8. Reconstruction shall commence within 24 months.**

- a. The reconstruction or restoration of a nonconforming structure that is required due to damage by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure shall commence within 24 months of the time of damage and be diligently carried out to completion.
- b. Within the Mission Canyon Community Plan area and the Toro Canyon Plan area, reconstruction or structural repair required due to normal wear and tear (e.g., structural pest damage or dry rot) as allowed above shall commence within 24 months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried out to completion.
- c. The 24-month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Department before the expiration of the 24-month time period.
- d. If the reconstruction or restoration of the structure does not commence within 24 months or the extended time period that may be granted by the Director, it shall not be restored except in full compliance with the applicable zone regulations and other provisions of this Development Code.
  - (1) Within the Mission Canyon Community Plan area and the Toro Canyon Plan area, where the reconstruction or structural repair allowed above does not commence within the specified 24 months or the extended time period that may be granted by the Director, the structure shall not be reconstructed or repaired

except in full compliance with the regulations of the Mission Canyon Community Plan and the Toro Canyon Area Plan.

**9. Applicability of permit requirements.**

- a. Exempt from Development Code permit requirements.** The restoration of a nonconforming structure that is damaged by earthquake, fire, flood, vandalism or other calamity beyond the control of the owner of the structure shall be exempt from the permit requirements of this Development Code only if the structure complies with the provisions of this Section and if the structure conforms to the specifications documented to exist before the damage or destruction, as determined by the Director. Full compliance with applicable Building Code provisions is still required.
- b. Design Review required.** If the Director determines that the exterior design or specifications are proposed to be changed or the footprint of the structure is relocated, the restored structure shall be subject to the provisions of Section 35.82.070 (Design Review) if otherwise subject to review (e.g., the site is within the D-Design Control overlay, Montecito Community Plan overlay) in compliance with this Development Code.
- c. Subject to Development Code permit requirements.** If the structure is proposed to be altered from the original specifications, as determined by the Department, the restoration shall be subject to all applicable permit requirements of this Development Code.

**Chapter 35.28 - Overlay Zones**

**35.28.111 – Environmentally Sensitive Habitat Area – Mission Canyon (ESH-MC) Overlay Zone**

**A. Purpose and intent.** The ESH-MC (Environmentally Sensitive Habitat Area - Mission Canyon) overlay zone is applied to areas within the Mission Canyon Community Plan with unique natural resources and/or sensitive animal or plant species, where existing and potential development and other activities may despoil or eliminate the resources. This overlay is intended to:

1. Protect and preserve specified areas in which plant or animal life or their habitats are either rare or especially valuable because of their role in the ecosystem, and that could be easily disturbed or degraded by human activities and developments; and
2. Ensure that each project permitted in the overlay zone is designed and carried out in a manner that will provide maximum feasible protection to sensitive habitat areas.

**B. Applicability.**

**1. Boundary determinations.** The zoning map, and the process described in Subsection C.3 (Boundary determination) below, shall guide determining whether this overlay zone applies to any area of land or water. The requirements of this Section do not apply if the process in Subsection C.3 (Boundary determination) below, results in a determination that the habitat area delineated on the zoning map is not located on the particular site.

**2. Identification of newly documented sensitive habitat areas.** If an environmentally sensitive habitat area is identified by the County on site during permit application review, but the habitat area is not included in the ESH-MC overlay zone, the provisions of Subsections C.

through F. below, shall apply. The County will periodically update the zoning map to apply the ESH overlay zone to the new habitat areas and applicable setback areas.

**3. Relationship to primary zone.** Each land use and proposed development within the ESH-MC overlay shall comply with all applicable requirements of the primary zone, in addition to the requirements of this Section.

**4. Additional requirements.** The biological resource policies and development standards in the Mission Canyon Community Plan shall apply to any area of land or water zoned ESH-MC in addition to the requirements of this Section.

a. Vegetation clearance for fuel management for existing structures shall adhere to standards specified in the California Fire Code, County of Santa Barbara Fire Code, and Mission Canyon Community Wildfire Protection Plan.

(1) Vegetation clearance for fuel management within ESH shall maintain the habitat's structural integrity and ecological functions that physically support species (i.e., stream bank stabilization, erosion control and water quality, shading effects of tree canopies).

**C. Permit and processing requirements.**

**1. Land Use Permit requirement.** A Land Use Permit in compliance with Section 35.82.110 (Land Use Permits) shall be required for the following activities, in addition to those required to have a Land Use Permit by the primary zone.

a. Exemptions: Vegetation management plans approved by Santa Barbara County Fire Department and vegetation clearance for annual fuel management purposes for existing structures shall not require a Land Use Permit.

b. The removal of native vegetation, except for vegetation fuel management consistent with Subsection B.4.a above, along 50 linear feet or more of a creek bank or removal that, when added to the previous removal of native vegetation within the affected habitat on the site, would total 50 or more linear feet of native vegetation along a creek bank.

c. Within ESH areas, vegetation clearance for fuel management associated with new dwelling units or additions to dwelling units, either individually or combined, which are greater than 50 percent of the gross floor area of the dwelling as it existed as of the effective date of the Mission Canyon Community Plan, shall be subject to the following:

(1) If a biological report is determined to be necessary by the Director, per Subsection C.3.c below (Boundary determination), the report shall describe vegetation clearance for fuel management within ESH. The plan shall be prepared by a qualified biologist, in consultation with County Fire Department, and shall contain measures to ensure that the habitat's structural integrity (e.g., stable stream banks, tree canopies providing shade, adequate ground cover for erosion control and wildlife cover) and ecological functions (e.g., maintenance of water quality) that physically support species are maintained.

d. Grading in excess of 50 cubic yards of cut or fill.

**2. Minor Conditional Use Permit requirement.** Except for vegetation fuel management consistent with Subsection B.4.a above, a Minor Conditional Use Permit shall be required where native vegetation is proposed to be removed from more than one acre, or 500 linear feet of creek bank, or where grading would exceed 1,500 cubic yards of cut and fill.

**3. Boundary determination.** The process for delineating the precise boundary of an environmentally sensitive habitat occurs during the review of an application for development, or other activity that requires a Land Use Permit in compliance with this Section.

a. Upon receipt of an application for a project within the ESH-MC overlay zone, the Department shall determine if the proposed project is located in or within 100 feet of an environmentally sensitive habitat area by reviewing the Mission Canyon Community Plan ESH Map and, where appropriate, by conducting a site visit.

b. If the project is determined by the Director to not be located in or within 100 feet of an environmentally sensitive habitat area, the project shall not be subject to the requirements of this Section, or the biological resource ESH policies and development standards in the Mission Canyon Community Plan.

c. If the Director determines that the proposed project is located in or within 100 feet of an environmentally sensitive habitat area, a site inspection by the Department biologist may be required. If the Director determines a biological report is necessary to identify the environmentally sensitive habitat area, the report shall be prepared by a qualified biologist to be selected jointly by the Department and the applicant. Upon completion of the site inspection, and if determined by the review authority to be necessary, conditions shall be applied to the permit that will protect the environmentally sensitive habitat area to the maximum extent feasible, consistent with the biological resource policies and development standards in the Mission Canyon Community Plan.

**4. Dispute resolution.** If the environmentally sensitive habitat boundary determined through the process specified in Subsection C.3 (Boundary determination) above is disputed by the applicant, further study of the potential environmentally sensitive habitat on the site shall be required.

a. If the Director determines, based upon additional evidence presented by a qualified biologist, that a site does not contain biological resources and sensitive habitats identified as environmentally sensitive habitat in the Mission Canyon Community Plan, the project proposed on the lot shall not be subject to the requirements of this Section.

b. In the event there is disputed biological evidence, third-party review by another qualified biologist shall be required, at the expense of the applicant, before the environmentally sensitive habitat designation may be found inapplicable. If the Director determines that the preponderance of credible evidence in a biological assessment does not support rescinding the environmentally sensitive habitat designation or modifying the environmentally sensitive habitat boundary, the area shall remain mapped as environmentally sensitive habitat and the project shall comply with all applicable requirements of this Section.

**D. Application requirements.** An application for development shall be submitted in compliance with Chapter 35.80 (Permit Application Filing and Processing).

**E. Finding required for permit approval.** Prior to approval of any permit for a project within the ESH-MC overlay zone, the review authority shall first find that the proposed project complies with all applicable biological resource policies and development standards in the Mission Canyon Community Plan.

**F. Conditions of approval.** A permit shall be conditioned to ensure consistency with the Mission Canyon Community Plan.

1. The conditions may, among other matters, limit the size, kind, or character of the proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, or require the alteration of the design of the project to ensure protection of the habitat.

2. The conditions may also include deed restrictions and conservation and resource easements. Any regulation of the primary zone, except permitted or conditionally permitted uses, may be altered by express conditions in the permit, to achieve the purposes of this overlay zone, provided that the alteration is not less restrictive than the regulations of the primary zone.

## **ARTICLE 35.11 - Glossary**

### **Chapter 35.110 - Definitions**

#### **35.110.020 - Definitions of Specialized Terms and Phrases**

**M. Definitions, "M."**

**Mission Canyon Community Plan.** That portion of the County located within the boundaries of the Mission Canyon Community Plan area as shown on the Mission Canyon Community Plan Land Use Map.

**Mission Canyon Scenic Corridor.** A corridor of land consisting of lots adjacent to Mission Canyon Road located south of Foothill Road, as shown on the Mission Canyon Community Plan Scenic Corridor Map.