

## **ATTACHMENT 5: ARTICLE II CZO CEQA NOTICE OF EXEMPTION**

### **NOTICE OF EXEMPTION**

**TO:** Santa Barbara County Clerk of the Board of Supervisors

**FROM:** Tess Harris, Planning & Development

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

**APN:** Not applicable. **Case No.:** 20ORD-00000-00009

**Location:** The proposed Ordinance amendment would apply solely to the unincorporated area of Santa Barbara County located within the coastal zone.

**Project Title:** COVID-19 Temporary Extension of Development Standard Suspension Ordinance Amendment

**Project Description:** 20ORD-00000-00009 proposes to amend Division 11, Permit Procedures, and Division 12, Administration, of Article II, of Chapter 35, Zoning, of the Santa Barbara County Code, to authorize extending the expiration of the temporary allowances from the Temporary Development Standard Suspension Ordinance to the earlier of when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, or when the COVID-19 provisions (Article II Sections 35-161.2.a, 35-179B.D.9, 35-179E, and 35-185.9) are terminated by ordinance amendment.

Temporary changes to approved projects, non-conforming uses, and hardship time extensions consistent with the ordinance amendment would not require a planning permit if requirements related to the temporary suspension are satisfied. This ordinance shall take effect and be in full force 30 days from the date of its passage after the Executive Director of the Coastal Commission executes a waiver pursuant to Pub. Resources Code § 30611 and shall remain in effect and operative until the earlier of when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated or when the COVID-19 provisions are terminated by ordinance amendment. If the Executive Director does not execute a waiver, this ordinance and any portion of it approved by the Coastal Commission shall take effect and be in force 30 days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code 30514, whichever occurs later and shall remain in effect and operative until the earlier of when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated or when the COVID-19 provisions are terminated by ordinance amendment. The termination date of these temporary amendments could be extended or revised by the Board of Supervisors via future ordinance amendments.

**Name of Public Agency Approving and Carrying Out Project:** County of Santa Barbara

**Exempt Status:**

- Ministerial
- Statutory Exemption (Section 15265)
- Categorical Exemption (Sections 15301, 15303 and 15305)
- Emergency Project
- No possibility of Significant Effect (Section 15061(b)(3))

**CEQA Guideline Sections:**

CEQA Guidelines Section 15301 [Existing Facilities] states that a project is exempt from CEQA if the project “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.”

CEQA Guidelines Section 15303 [New Construction or Conversion of Small Structures] states that a project is exempt from CEQA if the project “consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.”

CEQA Guidelines Section 15305 [Minor Alterations in Land Use Limitations] states that a project is exempt from CEQA if the activity consists of “minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density[.]”

CEQA Guidelines Section 15061(b)(3) [Review for Exemption] states that a project is exempt from CEQA if “the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

CEQA Guidelines Section 15265 [Adoption of Coastal Plans and Programs] is also applicable to Article II (Case No. 20ORD-00000-00009) in that it does not apply to activities and approvals pursuant to the California Coastal Act by any local government, as defined by Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program. This section shifts the burden of CEQA compliance from the local agency to the California Coastal Commission.

**Reasons to support exemption findings:** This Ordinance Amendment will amend the expiration date of the Temporary Development Standard Suspension Ordinance that implements regulations regarding the temporary suspension of compliance with certain requirements of approved permits, legal non-

conforming uses, and a hardship time extension in order to protect public health and support a re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19. The revised expiration date would replace “December 16, 2020 or when the proclaimed Santa Barbara County Local Emergency from COVID-19 is terminated, whichever is earlier” to “the earlier of when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, or when the COVID-19 provisions (Article II Sections 35-161.2.a, 35-179B.D.9, 35-179E, and 35-185.9) are terminated by ordinance amendment.” Since the COVID-19 emergency is still in effect, this change will allow businesses and organizations to operate outside normal limitations to accommodate physical distancing. The ordinance amendment is necessary to allow the Temporary Development Standard Suspension Ordinance to stay in effect to continue to protect the health, safety, and welfare of the residents in the unincorporated area of Santa Barbara County, and it supports business and organization operations in a manner that effectively limits the spread of COVID-19.

The amended expiration date for the Temporary Development Standard Suspension Ordinance would not change the fact that the Ordinance does not allow permanent structures to be constructed or erected, no native or environmentally sensitive habitat will be removed to accommodate the use of outdoor areas, expansion onto beaches will not be authorized, and the capacity of the business or community entity will not be able to be expanded. Any state or local permit or approval required by regulations other than the LUDC would be required to be obtained. Therefore, this ordinance amendment is consistent with CEQA Guidelines Sections 15301, 15303, and 15305.

In addition, this Ordinance Amendment is subject to CEQA Guidelines Section 15061(b)(3) because the activity of amending Article II has no possibility of having a significant effect on the environment.

Further, State CEQA Guidelines Section 15265(a) states that CEQA does not apply to activities and approvals pursuant to the California Coastal Act by any local government, as defined in Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program. This project consists of an ordinance amendment to portions of Article II, which is part of the certified LCP to allow for a revised expiration date for COVID-19 provisions. In addition to State CEQA Guidelines Section 15265(a), State CEQA Guidelines Section 15265(c) states that this section shifts the burden of CEQA compliance from the local agency to the California Coastal Commission. Therefore, the California Coastal Commission will analyze CEQA compliance for the Article II ordinance amendment. As indicated in State CEQA Guidelines Section 15265, the Coastal Commission’s program of certifying local coastal programs and long-range land use development plans has been certified under Section 21080.5, Public Resources Code. Therefore, the proposed project will fall within the limits of the Coastal Commission’s program of certifying local coastal programs, and the State CEQA Guidelines Section 15265 statutory exemption is applicable to this project.

There is no substantial evidence that the proposed project involves unusual circumstances, including future activities, resulting in or which might reasonably result in significant impacts which threaten the

environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

This ordinance amendment will amend the expiration date of the Temporary Development Standard Suspension Ordinance that implements regulations regarding the temporary suspension of compliance with certain requirements of approved permits, legal non-conforming uses, and a hardship time extension in order to protect public health and support a re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19. Applicants are required to submit a site plan to Planning and Development. Review of site plans would confirm and ensure that proposed temporary changes to approved projects would not be in a sensitive environment nor impact an environmental resource of hazardous or critical concern. Therefore this exception to the exemption does not apply.

- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

This ordinance amendment will only amend the expiration date of the Temporary Development Standard Suspension Ordinance that implements regulations regarding the temporary suspension of compliance with certain requirements of approved permits, legal non-conforming uses, and a hardship time extension in order to protect public health and support a re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19. The revised expiration date would replace “December 16, 2020 or when the proclaimed Santa Barbara County Local Emergency from COVID-19 is terminated, whichever is earlier” to “the earlier of when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, or when the COVID-19 provisions (Article II Sections 35-161.2.a, 35-179B.D.9, 35-179E, and 35-185.9) are terminated by ordinance amendment.”

As indicated in Attachment A of the County Planning Commission staff report, dated October 8, 2020 (Attachment 11 of the Board Letter dated November 10, 2020), and incorporated herein by reference, the ordinance amendment is consistent with the Comprehensive Plan. The temporary nature of the ordinance ensures that impacts will not be significant. Additionally, the exemption will not result in an increase in the number of structures, the capacity of businesses or community entities would not be increased, and any change in lot coverage would be temporary. Therefore this exception to the exemption would not apply.

**(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**

This ordinance amendment will only amend the expiration date of the Temporary Development Standard Suspension Ordinance that implements regulations regarding the temporary suspension of compliance with certain requirements of approved permits, legal non-conforming uses, and a hardship time extension in order to protect public health and support a re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19. The revised expiration date would replace “December 16, 2020 or when the proclaimed Santa Barbara County Local Emergency from COVID-19 is terminated, whichever is earlier” to “the earlier of when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, or when the COVID-19 provisions (Article II Sections 35-161.2.a, 35-179B.D.9, 35-179E, and 35-185.9) are terminated by ordinance amendment.”

The ordinance amendment is temporary in nature, and therefore would not cause any significant or long-term impacts to communities.

Projects are also required to follow all state and local directives regarding the reopening of business or community entities during the COVID-19 pandemic response. The extension for the temporary suspension of development standards will not have a significant effect on the environment due to unusual circumstances. Therefore this exception to the exemption would not apply.

**(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.**

It is not reasonably foreseeable that projects that use this amended expiration date for the temporary development standard suspension will result in damage to scenic resources within a highway officially designated as a state scenic highway because the ordinance amendment does not allow the construction or erection of new permanent structures. Therefore this exception to the exemption does not apply.

**(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

It is not reasonably foreseeable that projects that use this amended expiration date for the temporary development standard suspension will be located on a site that is designated or listed as a hazardous waste site. Therefore this exception to the exemption does not apply.

**(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.**

It is not reasonably foreseeable that projects that use this amended expiration date for the temporary development standard suspension would cause a substantial adverse change in the significance of historical resources because the ordinance amendment only authorizes an expiration date change from “December 16, 2020 or when the proclaimed Santa Barbara County Local Emergency from COVID-19 is terminated, whichever is earlier” to “the earlier of when the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, or when the COVID-19 provisions (Article II Sections 35-161.2.a, 35-179B.D.9, 35-179E, and 35-185.9) are terminated by ordinance amendment.” A change in expiration date will not affect historic resources.

Further, the COVID-19 ordinance requires projects to obtain any necessary encroachment or other applicable County permits, applies only to non-residential projects and does not allow the construction or erection of new permanent structures.

Therefore, the significance of any historical resource would not result in a substantial adverse change, and this exception to the exemption would not apply.

Lead Agency Contact Person: Tess Harris, Case Planner

Phone #: (805) 568-3319



10/28/2020

Department/Division Representative

Date

Acceptance Date (date of final action on project): 11/10/2020

Date Filed by County Clerk: \_\_\_\_\_

Distribution: Hearing Support Staff and Case File: 20ORD-00000-00009