

ATTACHMENT F: 11ORD-00000-00013 MONTECITO LUDC ORDINANCE AMENDMENT

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 35-2, THE SANTA BARBARA COUNTY MONTECITO LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE BY AMENDING DIVISION 35.2, MONTECITO ZONES AND ALLOWABLE LAND USES, DIVISION 35.3, MONTECITO SITE PLANNING AND OTHER PROJECT STANDARDS, DIVISION 35.4, MONTECITO STANDARDS FOR SPECIFIC LAND USES, DIVISION 35.7, MONTECITO PLANNING PERMIT PROCEDURES, AND DIVISION 10, GLOSSARY, TO IMPLEMENT NEW REGULATIONS AND MAKE OTHER MINOR CLARIFICATIONS, CORRECTIONS AND REVISIONS.

Case No. 11ORD-00000-00013

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION 1:

DIVISION 35.2, Montecito Zones and Allowable Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection B.2.e (Onsite wastewater treatment systems) of Section 35.420.040 (Exemptions from Planning Permit Requirements) of Chapter 35.420, Development and Land Use Approval Requirements, to read as follows:

- e. **Onsite wastewater treatment systems.** Onsite wastewater treatment systems, not including alternative wastewater treatment systems, and the installation and performance testing of drywells for sewage disposal.

SECTION 2:

DIVISION 35.2, Montecito Zones and Allowable Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35.423.050, Residential Zones Development Standards, of Chapter 35.423, Residential Zones, to read as follows:

35.423.050 - Residential Zones Development Standards

- A. General development standards.** Development within the residential zones shall be designed, constructed, and established in compliance with the requirements in Table 2-10 (Residential Zone Development Standards) and all applicable standards in Division 35.3 through Division 35.6 of this Development Code. These standards apply within the Coastal Zone and Inland area, except where noted.
- B. Accessory storage of materials.** Storage accessory to the principal structure or use on the site on which the storage is located is subject to the following standards. A Land Use Permit in compliance with Section 35.472.110 (Land Use Permits) is not required to establish accessory storage except when 1) this Subsection B. requires a permit for a specific type of storage, or 2) the storage involves construction of a new structure or alteration of an existing structure that is not exempt from a Land Use Permit in compliance with Section 35.420.040 (Exemptions from Planning Permit Requirements), or 3) the accessory storage is not in compliance with Section 35.420.040 (Exemptions from Planning Permit Requirements). However, other permits may be required in compliance with Chapter 17 (Solid Waste Services), Chapter 19 (Junk Yards and Dumps) and Chapter 23 (Motor Vehicles and Traffic) of the County Code. Nothing in this Subsection 35.423.050.B shall be construed as preventing the enforcement or implementation of the provisions of Chapter 17 (Solid Waste Services), Chapter 19 (Junk Yards and Dumps) and Chapter 23 (Motor Vehicles and Traffic) of the County Code.

1. Building materials and equipment used in a construction project.

- a. The following storage of building materials and equipment used in a construction project is allowed on residentially zoned lots. Storage of building materials and equipment include stockpiles of construction materials, tools, equipment, and building components assembly operations.
 - (1) **Same or adjacent lot.** The storage of building materials and equipment used in a construction project on the same lot on which the construction is occurring or on a lot adjacent to the lot on which the construction is occurring provided:
 - (a) There is a valid building permit or planning permit in effect for the construction project; and
 - (b) When storage is proposed on a lot adjacent to the lot on which the construction is occurring, the planning permit application for the construction project shall also include the adjacent lot and shall describe the storage proposed to occur on the adjacent lot.
 - (2) **Construction related to an approved Final Development Plan.** The storage of building materials and equipment used in a construction project where concurrent development is occurring on several lots at the same time in compliance with an approved Final Development Plan or other planning permit or building permit that allows construction activities to occur on several lots that are proximate to one another.
- b. The storage of building materials and equipment not allowed by Subsection B.1.a, above, or B.2, below, is considered a Contractor Equipment Storage Yard which is not allowed in residential zones.

2. Outdoor storage of miscellaneous materials. The storage of miscellaneous materials including articles, building materials not associated with the construction of a structure for which there is an valid planning or building permit), equipment, junk, motor vehicle parts, scrap or tools outside of a fully enclosed or fully screened structure is subject to the following requirements.

- a. **Area occupied by stored materials.**
 - (1) Stored materials shall be limited to the following maximum area, based upon the lot area of the lot.

<u>Lot Area (gross)</u>	<u>Maximum Allowed Area of Storage</u>
<u>Less than 10,000 sq. ft.</u>	<u>300 sq. ft.</u>
<u>10,000 sq. ft. to less than 1 acre</u>	<u>500 sq. ft.</u>
<u>One acre or larger</u>	<u>1,000 sq. ft.</u>

- (2) No more than 100 square feet of the maximum allowed area of storage shown in the table above may be devoted to the storage of junk, including scrap material, salvage material or used material held for recycling, reuse or resale.
- b. **Maximum height of stored materials:** Five feet.
- c. **Screening required.** Except for stacked, cut firewood for on-site domestic use only, the outdoor storage of miscellaneous materials shall be enclosed within a six-foot high solid wood fence or masonry wall.
- d. **Location of storage.** Storage of miscellaneous materials shall not be located within required front setback or side setback areas in compliance with Section 35.423.050 (Residential Zones Development Standards).
- e. **Modification of standards allowed with a Conditional Use Permit.** The storage of miscellaneous materials that does not comply with the standards contained in Subsection a.

through d. of Subsection B.2., above, may be allowed in compliance with a Conditional Use Permit approved in compliance with Section 35.472.060 (Conditional Use Permits).

- f. Noncompliance deemed a violation of this Development Code.** As of [six months from the effective date of these regulations], storage of miscellaneous materials that does not comply with the standards contained in Subsections a. through d. of Subsection B.2, above, or is not allowed by a Conditional Use Permit approved in compliance with Section 35.472.060 (Conditional Use Permits) as allowed by Subsection B.2.e, above, shall be considered a violation of this Development Code and subject to enforcement and penalties in compliance with Chapter 35.498 (Enforcement and Penalties).

- C. Motor vehicle assembly, dismantling, maintenance, repair, restoration, etc.** The assembling, disassembling, modifying, repairing, restoration, servicing, wrecking or otherwise working (hereinafter referred to as “work” within the meaning of this Subsection C) on a motor vehicle is allowed only in compliance with the following standards. This Subsection C. shall not apply to occasional minor maintenance such as changing belts, hoses, oil and spark plugs. Nothing in this Subsection C. shall be construed as preventing the enforcement or implementation of the provisions of Chapter 17 (Solid Waste Services) or Chapter 19 (Junk Yards and Dumps) or Chapter 23 (Motor Vehicles and Traffic) of the County Code.

1. Work is restricted to vehicles that are registered with the California Department of Motor Vehicles to a person residing on the lot on which the work occurs. Residing on a lot does not include transient occupancies where the occupancy is for a period of less than 30 days.
2. Vehicle dismantling shall not occur outside of a fully enclosed or fully screened structure and such vehicles shall not be kept, parked or stored outside of a fully enclosed or fully screened structure or on parking spaces required in compliance with Section 35.436.050 (Required Number of Spaces: Residential Uses).
3. Any storage of vehicle parts located outside of a fully enclosed or fully screened structure shall be in compliance with Subsection B. (Accessory storage of materials), above, and shall not be located on parking spaces required in compliance with Section 35.436.050 (Required Number of Spaces: Residential Uses).
4. Work associated with the preparation for sale of vehicles or vehicle parts for sale is not allowed.
- 5. Modifications to standards allowed with a Conditional Use Permit.** Work that does not comply with the standards contained in Subsections C.1 through C.4, above, may be allowed in compliance with a Conditional Use Permit approved in compliance with Section 35.472.060 (Conditional Use Permits).
- 6. Noncompliance deemed a violation of this Development Code.** As of [six months from the effective date of these regulations], any motor vehicle assembly, dismantling, maintenance, repair, restoration, etc that does not comply with the standards contained in Subsections C.1 through C.4, above, or is not allowed by a Conditional Use Permit approved in compliance with Section 35.472.060 (Conditional Use Permits) as allowed by Subsection C.5, above, shall be considered a violation of this Development Code and subject to enforcement and penalties in compliance with Chapter 35.498 (Enforcement and Penalties).

Table 2-10 Residential Zone Development Standards

Development Feature	Requirement by Zone	
	R-1 /E-1 & R-1/E-1 (CZ) Single Family Residential	R-2 & R-2 (CZ) Two-Family Residential
Minimum lot size	<i>Minimum area and width for lots proposed in new subdivisions.</i>	
Area, width	See Subsection 35.423.040.A (Minimum lot size)	
Residential density	<i>Maximum number of dwelling units allowed on a lot. The actual number of units allowed will be determined through subdivision or planning permit approval.</i>	
Maximum density	1 one-family dwelling per lot; plus one second unit where allowed by Section 35.442.160 (Residential Second Units).	1 one-family dwelling or 1 two-family dwelling per lot.
Setbacks	<i>Minimum setbacks required. See Section 35.430.150 (Setback Requirements and Exceptions) for exceptions.</i>	
Front - Primary	Inland - 50 ft from road centerline and 20 ft from the edge of the right-of-way. Coastal - 50 ft from road centerline and 20 ft from right-of-way, or 20 ft from private easement serving 5 or more lots.	
Front - Secondary	Lot less than 100 ft wide - 20% of lot width - 10 ft minimum Lot 100 ft wide or more - Same as primary front setback.	
Side	10% of lot width, where minimum lot area requirement is: 2 acres or less - 5 ft minimum, 10 ft maximum required; 3 acres or more - 10 ft minimum, 20 ft maximum required.	10% of lot width, 5 ft minimum, 10 ft maximum required.
Rear	Inland - 25 ft Coastal - 25 ft; 15 ft if rear abuts permanent open space or a street without access.	
Accessory structures	See 35.442.020 (Accessory Structures and Uses)	
Building separation	Inland - 10 ft between a dwelling or guesthouse and any other detached structure on the same site. Coastal - 5 ft between a dwelling or guesthouse and another detached structure	
Site coverage	<i>Maximum percentage of net site area that may be covered by buildings.</i>	
Maximum coverage	None	
Height limit	<i>Maximum allowable height of structures, except where a lesser height is required by design review or other provisions of this Development Code. See Section 35.430.090 (Height Measurement, Exceptions and Limitations) for height measurement requirement and height limit exceptions.</i>	
Maximum height	Inland - 35 ft and 2 stories Coastal - 25ft	25 ft
Exception	The height is restricted to 16 ft for any portion of a structure located above an area of the site where the finished grade is 10 ft or more above the existing grade, except where a project received final design review approval prior to 11/5/92.	
Landscaping	See Chapter 35.434 (Landscaping Standards).	
Parking	See Chapter 35.436 (Parking and Loading Standards).	
Signs	See Chapter 35.438 (Sign Standards).	

Table 2-10 - Residential Zone Development Standards - Continued

Development Feature	Requirement by Zone	
	DR & DR (CZ) Design Residential	PRD & PRD (CZ) Planned Residential Development
Minimum lot size	<i>Minimum area and width for lots proposed in new subdivisions.</i>	
Area, width	None	
Residential density	<i>Maximum number of dwelling units allowed on a lot. The actual number of units allowed will be determined through subdivision or planning permit approval. Required land area is expressed as gross area.</i>	
Maximum density	See Table 2-11 (DR Zone Maximum Density)	As specified by the Comprehensive Plan.
Setbacks	<i>Minimum setbacks required. See Section 35.430.150 (Setback Requirements and Exceptions) for exceptions. Required building separation is between buildings on the same site.</i>	
Front - Primary	Inland - 20 ft from right-of-way Coastal - 50 ft from public road centerline; 45 ft from a private road centerline; 20 ft from a right-of-way.	As determined by Final Development Plan.
Front - Secondary	Inland - 20 ft from right-of-way. Coastal - Lot less than 100 ft wide - 20% of lot width, 10 ft minimum; Lot 100 ft wide or more - same as primary front setback.	
Side	Inland - 10 ft, except where a larger setback is required by the Montecito Commission in the review of a discretionary planning permit for light, air, or privacy. Coastal - One-half the height of the structure subject to the setback.	
Rear	Inland - Same as side. Coastal - One-half the height of the structure subject to the setback.	
Accessory Structures	See Section 35.442.020 (Accessory Structures and Uses).	
Building separation	Inland - 10 ft between a habitable building and any other building on the same site. Coastal - 5 ft between a habitable structure and another structure.	
Site coverage	<i>Maximum percentage of net site area that may be covered by buildings.</i>	
Maximum coverage	Inland - 30 % Coastal - 30% for structures containing dwelling units.	Inland - 30 % Coastal - 30% for structures containing dwelling units; 50% for all structures.
Height limit	<i>Maximum allowable height of structures. See Section 35.430.090 (Height Measurement, Exceptions and Limitations).</i>	
Maximum height	35 ft	
Exception	The height is restricted to 16 ft for any portion of a structure located above an area of the site where the finished grade is 10 ft or more above the existing grade, except where a project received final design review approval prior to 11/5/92.	
Open space	<i>Minimum percentage of gross site area to be maintained as common open space.</i>	
Minimum open space	See Section 35.423.060.B (Open Space)	See Section 35.423.070.E (Open Space)
Landscaping	See Chapter 35.434 (Landscaping Standards).	
Parking	See Chapter 35.436 (Parking and Loading Standards).	
Signs	See Chapter 35.438 (Sign Standards).	

SECTION 3:

DIVISION 35.3, Montecito Site Planning and Other Project Standards, of Section 35.2, the Santa Barbara Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35.436.090, Standards for Residential Zones and Uses, of Chapter 35.436, Parking and Loading Standards, to add a new Subsection G, Exterior Parking, to read as follows:

G. Exterior parking. The following standards apply to the keeping, parking, or storage (hereinafter referred to as “parked” or “parking” within the meaning of this Subsection G) of operative and inoperative motor vehicles outside of a fully enclosed or fully screened structure. A Land Use Permit in compliance with Section 35.472.110 (Land Use Permits) is not required to establish exterior parking except when 1) this Subsection 35.436.090.G requires a permit, or 2) the parking involves construction of a new structure or alteration of an existing structure that is not exempt from a Land Use Permit in compliance with Section 35.420.040 (Exemptions from Planning Permit Requirements), or 3) the parking is not in compliance with Section 35.420.040 (Exemptions from Planning Permit Requirements). However, other permits may be required in compliance with Chapter 17 (Solid Waste Services), Chapter 19 (Junk Yards and Dumps) and Chapter 23 (Motor Vehicles and Traffic) of the County Code. Nothing in this Subsection 35.436.090.G shall be construed as preventing the enforcement or implementation of the provisions of Chapter 17 (Solid Waste Services), Chapter 19 (Junk Yards and Dumps) and Chapter 23 (Motor Vehicles and Traffic) of the County Code.

1. Current registration or certificate of non-operation required. All vehicles parked on a lot outside of a fully enclosed or fully screened structure shall either:

- a. Have a current, unexpired registration with the California Department of Motor Vehicles that allows the vehicle to be driven, moved, towed or left standing (parked) upon any road or street; or,
- b. Have a current, unexpired certificate of non-operation or planned non-operation on file with the California Department of Motor Vehicles.

2. Limitation on number.

- a. Not including the number of vehicles for which parking spaces are required to be provided in compliance with Section 35.436.050 (Required Number of Spaces: Residential Uses), the exterior parking of operative motor vehicles is allowed provided that the number of such vehicles parked on a lot outside of a fully enclosed or fully screened structure does not exceed one per each bedroom located within the dwelling(s) on the lot.

(1) Parking allowed in compliance with this Subsection G.2.a. may be located on driveways including portions of driveways located within a required front setback or side setback area provided:

- (a) Any portion of a driveway on which parking occurs shall be paved with a minimum of two inches of asphalt, concrete, or equivalent on a suitable base.
- (b) The width of any portion of a driveway located in a front setback area driveway shall not exceed 50 percent of the adjacent street frontage for each front setback area.
- (c) All parking located within a required front setback shall be located within one contiguous area for each street frontage.

b. Additional parking allowed. In addition to exterior parking allowed in compliance with Subsection G.2.a, above, the exterior parking of operative and inoperative motor vehicles that are registered with the California Department of Motor Vehicles to a person(s) residing on the lot on which the parking occurs outside of a fully enclosed or fully screened structure is allowed in compliance with the following standards.

- (1) The number of vehicles and the area used for the parking of said vehicles shall be limited to the following maximum number and area based upon the lot area of the lot on which the vehicles are parked:

<u>Lot Area (net)</u>	<u>Maximum Allowed Number of Vehicles</u>	<u>Maximum Allowed Parking Area</u>
<u>Less than 10,000 sq. ft.</u>	<u>1</u>	<u>140 sq. ft.</u>
<u>10,000 sq. ft. to less than 20,000 sq. ft.</u>	<u>2</u>	<u>420 sq. ft.</u>
<u>20,000 sq. ft. or larger</u>	<u>3</u>	<u>700 sq. ft.</u>

- (2) Any area used for parking shall be located so that vehicles parked thereon are not visible from any public road or other area of public use (e.g., park, trail), or any adjoining lot.
- (3) On lots having a net lot area of less than 20,000 square feet, vehicles shall not be parked in any area located between the front line of the lot and the principal dwelling.

3. Additional standards for inoperative motor vehicles. The parking of inoperative motor vehicles outside of a fully enclosed or fully screened structure shall also comply with the following standards in addition to the standards listed in Subsections G.1 and G.2, above:

- a. Vehicles shall not be parked on parking spaces required in compliance with Section 35.436.050 (Required Number of Spaces: Residential Uses).
- b. Any area use for parking shall be designed and installed to prevent the discharge of pollutants onto adjacent lots and adjacent streets.
- c. Vehicles that are parked for a period in excess of 14 consecutive days without being moved under their own motive power shall be drained of gasoline, oil and other flammable liquids.
- d. The parking of inoperative motor vehicles regulated under Subsection 35.423.050.C (Motor vehicle assemble, dismantling, maintenance, repair, restoration, etc.) shall also be in compliance with the requirements of that Subsection.

4. Modifications to standards allowed with a Conditional Use Permit. Parking of motor vehicles that does not comply with the standards contained in Subsections G.1 through G.3, above, may be allowed in compliance with a Conditional Use Permit approved in compliance with Section 35.472.060 (Conditional Use Permits).

5. Noncompliance deemed a violation of this Development Code. As of [six months from the effective date of these regulations], the parking of motor vehicles that does not comply with the standards contained in Subsections G.1 through G.3, above, or is not allowed by a Conditional Use Permit approved in compliance with Section 35.472.060 (Conditional Use Permits) as allowed by Subsection G.4, above, shall be considered a violation of this Development Code and subject to enforcement and penalties in compliance with Chapter 35.498 (Enforcement and Penalties).

SECTION 4:

DIVISION 35.4, Montecito Standards for Specific Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection F.1, Household pets, of Section 35.442.040, Animal Keeping, of Chapter 35.442, Standards for Specific Land Uses, to read as follows:

- 1. Household pets.** Where allowed in Table 4-1 through Table 4-4, household pets shall be kept in compliance with the following standards. The restrictions contained in this Subsection F.1 shall not apply if an animal may be kept in compliance with a different “Type of Animal or Animal Keeping Activity” listed in Table 4-1 through Table 4-4 for the applicable zone.
- a. The keeping of household pets shall be accessory to a residential use of a dwelling located on the lot where the animal keeping occurs.

Table 4-3 Animal Keeping in Commercial Zones: CN, CV		E	Allowed use, no permit required (Exempt)
		P	Permitted Use, Land Use or Coastal Permit Required
		CUP	Conditional Use Permit required
		S	Permit requirement set by Specific Use Regulations
		—	Use not allowed
Type of Animal or Animal Keeping Activity	Zone and Permit Requirement (1)	Maximum Number of Animals per Lot (2)	Additional Regulations
Household pets	CN	— <u>E</u>	35.442.040.F.1
	CV	E	
Wildlife species rehabilitation	CN	E	None
	CV	E	

Notes:

- (1) The zone type includes both the Coastal Zone and the Inland area unless listed separately (e.g., CV and CV CZ).
 (2) See Subsection 35.442.040.G (Multiple animal types) above.

Table 4-4 Animal Keeping in Special Purpose Zones: PU, REC		E	Allowed use, no permit required (Exempt)
		P	Permitted Use, Land Use or Coastal Permit Required
		CUP	Conditional Use Permit required
		S	Permit requirement set by Specific Use Regulations
		—	Use not allowed
Type of Animal or Animal Keeping Activity	Permit Requirement by Zone (1)	Maximum Number of Animals per Lot (2)	Additional Regulations
Household pets	<u>PU</u>	—	35.442.060.F.1
	<u>REC</u>	<u>E</u>	
Wildlife species rehabilitation	PU	E	None
	REC	E	

Notes:

- (1) The zone type includes both the Coastal Zone and the Inland area unless listed separately (e.g., PU and PUCZ).
 (2) See Subsection 35.442.040.G (Multiple animal types) above.

SECTION 6:

DIVISION 35.4, Montecito Standards for Specific Land Uses, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection G.8., Storage of trailers as accessory to a residential use, of Section 35.442.180, Temporary Uses and Trailers, of Chapter 35.442, Standards for Specific Land Uses, to read as follows:

- 8. Storage of trailers as accessory to a residential use.** Trailers ~~designed for or capable of human habitation or occupancy~~ may be stored on a lot, as accessory to the residential use of the lot provided all the following standards are complied with: Watercraft may be kept on the trailer that is stored on the lot.
- a. Trailers shall not be kept, parked or stored in:
 - (1) Required front setback areas.
 - (2) Parking spaces required in compliance with Section 35.436.050 (Required Number of Spaces: Residential Uses).
 - ab. Trailers, including anything that is stored in or on the trailer, shall not exceed 8.5 feet in width, 13.5 feet in height (as measured from the surface upon which the vehicle stands to the top of the roof of the trailer), and 40 feet in length.
 - bc. Trailers, including anything that is stored in or on the trailer, shall be screened from view from abutting streets.
 - ed. The trailer shall not be used for human habitation while kept, parked or stored on the lot.
 - e. Trailers holding vehicles or used to store materials shall be in compliance with Subsection 35.423.050.B (Accessory Storage).
 - ef. Within the Coastal Zone, the storage of a trailer does not require a Coastal Development

Permit in compliance with Section 35.472.050 (Coastal Development Permits) if the trailer will:

- (1) Not be located within or adjacent to a wetland, beach, an environmentally sensitive habitat area, or on or within 50 feet of a coastal bluff; and
- (2) Not result in any potential adverse effects to public access to the beach or public hiking and equestrian trails (including where there is substantial evidence of prescriptive rights); and
- (3) Not result in significant adverse impacts to scenic views from beaches, parklands, public viewing areas and public roadways.

SECTION 7:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35.470.030, Application Preparation and Filing, of Chapter 35.470, Permit Application Filing and Processing, to read as follows:

Section 35.470.030 - Application Preparation and Filing.

A. Application contents. Each application for a permit, amendment, or other matter pertaining to this Development Code shall be filed with the Director on a Department application form, together with required fees and/or deposits, and all other information and materials as identified in the Department application for the specific type of application. Submittal requirements may be increased or waived on a project specific basis as determined necessary or appropriate by the Director. It is the responsibility of the applicant to establish evidence in support of the findings required by the applicable permit, amendment, or other matter pertaining to this Development Code.

1. Defense and indemnification agreement.

a. Unless disallowed by State law, at the time of the filing of an application, the Owner and/or Applicant shall agree, as part of the application, to defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, an approval of the application by the County.

- (1) A defense and indemnification agreement completed by the applicant on a form provided by the Department shall be submitted with the application at the time of filing the application with the Director. An application will not be accepted for processing and processing of an application will not commence unless a executed defense and indemnification agreement acceptable by the County is submitted with the application.

B. Eligibility for filing. An application may only be filed by the owner of the subject property, or other person with the written consent of the property owner, or as otherwise authorized by this Development Code.

SECTION 8:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection G.3, Time limits and extensions, of Section 35.472.060, Conditional Use Permits, of Chapter 35.472, Permit Review and Decisions, to read as follows:

3. Time limits and extensions. ~~At the time of approval of a Conditional Use Permit, a time limit shall be established within which the Coastal Development Permit, Land Use Permit or Zoning Clearance shall be issued.~~

a. Conditional Use Permits without approved phasing plans. If at the time of approval of a Conditional Use Permit the Conditional Use Permit does not include an approved phasing plan for development of the project authorized by the Conditional Use Permit, then a time

limit shall be established within which the required Coastal Development Permit or Land Use Permit or Zoning Clearance shall be issued.

- a.(1) The time limit shall be a reasonable time based on the nature and size of the proposed development or use.
 - b.(2) If a time limit is not specified, the time limit shall be 18 months from the effective date of the Conditional Use Permit.
 - d.(3) The Montecito Commission may extend the time limit in compliance with Section 35.474.030 (Time Extensions).
 - e.(4) If the required time limit in which to obtain the required Coastal Development Permit or Land Use Permit or Zoning Clearance has expired and an application for an extension has not been submitted, then the Conditional Use Permit shall be considered void and of no further effect.
- b. Conditional Use Permits with approved phasing plans.** If at the time of approval of a Conditional Use Permit the Conditional Use Permit includes a phasing plan for development of the project authorized by the Conditional Use Permit, then the required Land Use Permit or Zoning Clearance shall be issued within the time limit(s) established by the phasing plan.
- (1) The time limit may be extended only by revising the phasing plan for development of the project authorized by the Conditional Use Permit in compliance with Subsection C. (Substantial Conformity Determinations), Subsection D. (Amendments) or Subsection E. (Revisions) of Section 35.474.040 (Changes to an Approved Project).
 - (2) If the required time limit(s) in which to obtain the required Land Use Permit or Zoning Clearance for the first phase of the project authorized by the Conditional Use Permit has expired and an application to revise the phasing plan has not been submitted, then the Conditional Use Permit shall be considered void and of no further effect.
 - (3) If the required time limit(s) in which to obtain the required Land Use Permit or Zoning Clearance for any subsequent phase of the project authorized by the Conditional Use Permit has expired and an application to revise the phasing plan has not been submitted, then:
 - (a) The Conditional Use Permit shall be considered void and of no further effect as to that phase and any subsequent phase(s) of the project.
 - (b) The Conditional Use Permit is automatically revised to eliminate phases of project from the project authorized by the Conditional Use Permit that are considered void and of no further effect in compliance with Subsection 3.b.(3)(a), above.

SECTION 9:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection G, Time limits and extensions, of Section 35.472.080, Development Plans, of Chapter 35.472, Permit Review and Decisions, to read as follows:

G. Time limits and extensions.

1. **Preliminary Development Plans.** Preliminary Development Plans shall expire two years after approval unless a time extension is approved in compliance with Section 35.474.030 (Time Extensions).
2. **Final Development Plans.** ~~Final Development Plans shall expire five years after approval unless substantial physical construction has been completed on the development or a time extension is approved in compliance with Section 35.474.030 (Time Extensions).~~
 - (a) **Final Development Plans without approved phasing plans.** If at the time of approval of a Final Development Plan the Final Development Plan does not include an approved phasing

plan for development of the project authorized by the Final Development Plan, then the Final Development Plan shall expire five years after approval unless substantial physical construction has been completed on the development or a time extension is approved in compliance with Section 35.474.030 (Time Extensions).

(b) Final Development Plans with approved phasing plans. If at the time of approval of a Final Development Plan the Final Development Plan includes a phasing plan for development of the project authorized by the Final Development Plan, then the required Land Use Permit or Zoning Clearance shall be issued within the time limit(s) established by the phasing plan.

(1) The time limit may be extended only by revising the phasing plan for development of the project authorized by the Final Development Plan in compliance with Subsection C. (Substantial Conformity Determinations), Subsection D. (Amendments) or Subsection E. (Revisions) of Section 35.474.040 (Changes to an Approved Project).

(2) If the required time limit(s) in which to obtain the required Land Use Permit or Zoning Clearance for the first phase of the project authorized by the Final Development Plan has expired and an application to revise the phasing plan has not been submitted, then the Final Development Plan shall be considered to have expired and of no further effect.

(3) If the required time limit(s) in which to obtain the required Land Use Permit or Zoning Clearance for any subsequent phase of the project authorized by the Final Development Plan has expired and an application to revise the phasing plan has not been submitted, then:

(i) The Final Development Plan shall be considered to have expired and of no further effect as to that phase and any subsequent phase(s) of the project.

(ii) The Final Development Plan is automatically revised to eliminate phases of project from the project authorized by the Final Development Plan that are considered to have expired and of not further effect in compliance with Subsection 2.(b)(3)(i), above.

SECTION 10:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection F, Permit Expiration, of Section 35.472.110, Land Use Permits, of Chapter 35.472, Permit Review and Decisions, to read as follows:

F. Permit expiration.

1. A Land Use Permit shall remain valid only as long as compliance with all applicable requirements of this Development Code and the permit continues.
2. The approval or conditional approval of a Land Use Permit shall be valid for 12 months unless a time extension is approved in compliance with Section 35.474.030 (Time Extensions) except that a Land Use Permit approved or conditionally approved and unissued as of [effective date of ordinance] shall be valid for 12 months following [effective date of ordinance] unless a time extension is approved in compliance with Section 35.474.030 (Time Extensions).
3. A Land Use Permit shall expire two years from the date of issuance if the use and/or structure for which the permit was issued has not been established or commenced in compliance with the effective permit unless a time extension is approved in compliance with Section 35.474.030 (Time Extensions).

SECTION 11:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection B.3.a of Section 35.472.120, Modifications, of Chapter 35.472,

Permit Review and Decisions, to read as follows:

- a. **Maximum setback reduction of 20 percent.** The area of each front, side or rear setback area shall not be reduced by more than 20 percent of the minimum setback area required in compliance with the applicable zone regulations.
 - (1) If a portion of a front, side or rear setback area that is requested to be reduced is occupied by a nonconforming structure(s) at the time of application for the Modification, then the setback area occupied by the nonconforming structure(s) shall be added to the amount of setback area requested to be reduced in determining whether the requested reduction in front, side or rear setback area would exceed 20 percent of the minimum setback area required in compliance with the applicable zone regulations.

SECTION 12:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection D., Processing, of Section 35.472.120, Modifications, of Chapter 35.472, Permit Review and Decisions, to read as follows:

D. Processing.

1. The Department shall review the application in compliance with the requirements of the California Environmental Quality Act.
2. The project shall be subject to the provisions of Section 35.472.070 (Design Review), and shall be scheduled to be heard by the Montecito Board of Architectural Review for preliminary review and approval only, before the project is heard by the Montecito Commission.
3. The Montecito Commission shall hold at least one noticed public hearing on the requested Modification, unless waived in compliance with Subsection D.7, below, and approve, conditionally approve, or deny the request.
4. Notice of the hearing shall be given and the hearing shall be conducted in compliance with Chapter 35.496 (Noticing and Public Hearings).
5. The ~~Montecito Commission~~ review authority, in approving the Modification, may require conditions as deemed reasonable and necessary to promote the purpose and intent of this Development Code and the public health, safety, and general welfare.
6. The action of the ~~Montecito Commission~~ review authority is final subject to appeal in compliance with Chapter 35.492 (Appeals).
7. **Waiver of public hearing.** The requirement for a public hearing may be waived by the Director in compliance with the following requirements. If the requirement for a public hearing is waived, then the Director shall be the review authority for the Modification application. A listing of Modification applications for which the public hearing may be waived shall be provided on the Montecito Commission's hearing agendas.
 - a. Notice that a public hearing shall be held upon request by any person is provided to all persons who would otherwise be required to be notified of a public hearing as well as any other persons known to be interested in receiving notice in compliance with Chapter 35.496 (Noticing and Public Hearings).
 - (1) The notice shall include a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal any action taken on the Modification application.
 - b. A written request for public hearing is not received by the Department within the 15 working days immediately following the date the notice is provided in compliance with Subsection D.7.a, above.

SECTION 13:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection E, Permit and Reclamation Plan requirements, of Section 35.472.140, Reclamation and Surface Mining Permits, of Chapter 35.472, Permit Review and Decisions, to read as follows:

E. Permit and Reclamation Plan requirements. The following requirements apply to all surface mining operations in all zones.

- 1. Conditional Use Permit and Reclamation Plan required prior to commencement of surface mining operations.** County approval of a Conditional Use Permit in compliance with Section 35.472.060 (Conditional Use Permits), a Reclamation Plan prepared in compliance with SMARA and this Section, and a lead agency approved financial assurance shall be required prior to the commencement of any surface mining operations, unless the operations are exempted by the provisions of SMARA, the State Regulations, or Subsection D.1 (Exemptions) above.
- 2. Coastal Development Permit or Land Use Permit Zoning Clearance required prior to commencement of development authorized by a Conditional Use Permit and Reclamation Plan.** A surface mine operator shall obtain a Coastal Development Permit in compliance with Section 35.472.050 (Coastal Development Permits) or a Land Use Permit in compliance with Section 35.472.110 (Land Use Permits) Zoning Clearance shall be issued in compliance with Section 35.472.190 (Zoning Clearances), as applicable, prior to the initiation of mining and reclamation activities approved ~~under~~ in compliance with a Conditional Use Permit and Reclamation Plan. ~~The surface mine operator shall also obtain a~~ A separate Coastal Development Permit or Land Use Permit Zoning Clearance issued in compliance with Section 35.472.190 (Zoning Clearances) shall be issued prior to implement implementation of a Reclamation Plan.

SECTION 14:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection D.4, Land Use Permits, of Subsection D, Processing, of Section 35.474.030, Time Extensions, of Chapter 35.474, Post Approval Procedures, to read as follows:

- 4. Land Use Permits.** The Director may extend the time limit of an approved or conditionally approved, and an issued, Land Use Permit one time for 12 additional months for good cause shown only if the Director first finds that the applicable findings for approval required in compliance with Subsection 35.472.110.E (Findings required for approval) that were made in conjunction with the initial approval of the Land Use Permit can still be made.

SECTION 15:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection C.1, Notice and public hearing not required, and Subsection C.2, Action not subject to appeal, of Section 35.474.040, Changes to an Approved Project, of Chapter 35.474, Post Approval Procedures, to read as follows:

- 1. Notice and public hearing not required Contents of application.** ~~No public notice or public hearing shall be required for Substantial Conformity Determinations~~ An application for an Substantial Conformity Determination shall be submitted in compliance with Chapter 35.470 (Permit Application Filing and Processing).
- 2. Action not subject to appeal Processing.** An application for an Substantial Conformity Determination shall be processed as follows:

- a. **Review authority.** The Director shall be the review authority for the application for the Substantial Conformity Determination.
- b. **Compliance with adopted plans.** The Director shall review the application for the Substantial Conformity Determination for compliance with the Comprehensive Plan and applicable community and area plans, this Development Code and other applicable conditions and regulations, and approve, conditionally approve, or deny the Substantial Conformity Determination.
- c. **Notice and public hearing.** Notice of an application or pending decision on a Substantial Conformity Determination and a public hearing shall not be required before the Director takes action on an application for an Substantial Conformity Determination.
- d. **Action and appeal.** The action of the Director is final and not subject to appeal.

SECTION 16:

DIVISION 35.7, Montecito Planning Permit Procedures, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Subsection D, Amendments, of Section 35.474.040, Changes to an Approved Project, of Chapter 35.474, Post Approval Procedures, to read as follows:

- D. Amendments.** Where a change to an approved Conditional Use Permit or Final Development is determined by the Director to not be in substantial conformity with the approved permit in compliance with Subsection C, above, the ~~Director~~ review authority may approve, conditionally approve or deny an application to add, alter, relocate, replace, or otherwise amend a Conditional Use Permit or Final Development Plan in compliance with the following.
1. **Area under review.**
 - a. ~~Conditional Use Permits.~~ The location within the project site that is under review was analyzed for potential environmental impacts and policy consistency under the processing of the approved permit.
 - b. ~~Development Plans.~~ The location within the project site area of the proposed new development that is under review the subject of the application for the Amendment:
 - a. ~~(1)~~ Was analyzed for potential environmental impacts and policy consistency as part of the processing of the approved permit and an Addendum to the previous environmental document could be prepared in compliance with the California Environmental Quality Act; or
 - b. ~~(2)~~ Was not analyzed for potential environmental impacts and policy consistency as part of the processing of the approved permit, but the proposed new development could be found exempt from environmental review in compliance with the California Environmental Quality Act.
 2. **Contents of application.** An application for an Amendment shall be submitted in compliance with Chapter 35.470 (Permit Application Filing and Processing).
 3. **Processing.** An application for an Amendment shall be processed as follows:
 - a. The Department shall review the application in compliance with the requirements of the California Environmental Quality Act.
 - b. The Department shall refer the applications to the Board of Architectural Review and the Subdivision/Development Review Committee for review and recommendations to the review authority. This requirement may be waived by the Director if determined to be unnecessary by the Director.
 - c. Notice shall be given in compliance with Section 35.496.020 (Notice of Public Hearing and Review Authority Action).

d. Review authority, action and appeal.

- (1) The Director shall be the review authority for the application for the Amendment.
- (2) The Director shall review the application for the Amendment for compliance with the Comprehensive Plan and applicable community and area plans, this Development Code and other applicable conditions and regulations, and approve, conditionally approve, or deny the Amendment. A public hearing shall not be required before the Director takes action on an application for an Amendment.
- (3) The action of the Director is final subject to appeal in compliance with Chapter 35.492 (Appeals).

e. Findings. ~~An application~~ The application for the Amendment shall be approved or conditionally approved only if the Director first makes all of the following additional findings:

~~a. In addition to the findings required for approval of a Conditional Use Permit or Final Development Plan identified in Subsection 35.472.060.E (Findings required for approval of Conditional Use Permits other than Conditional Use Permit applications submitted in compliance with Chapter 35.438 (Sign Standards)) or Subsection 35.472.080.E (Findings required for approval), as applicable, the Amendment is consistent with the specific findings of approval, including the environmental review findings in compliance with the California Environmental Quality Act, if applicable, which were made when the Conditional Use Permit or Final Development Plan was initially approved.~~

~~b. The environmental impacts related to the proposed Amendment are determined to be substantially the same or less than those identified during the processing of the previously approved Conditional Use Permit or Final Development Plan.~~

(1) That the findings required for approval of the Conditional Use Permit or Final Development Plan, including any environmental review findings made in compliance with the California Environmental Quality Act, that were previously made when the Conditional Use Permit or Final Development Plan was initially approved are still applicable to the project with the addition of the development proposed by the application for the Amendment.

(2) That the environmental impacts related to the development proposed by the applications for the Amendment are determined to be substantially the same or less than those identified during the processing of the previously approved Conditional Use Permit or Final Development Plan.

~~3. **Public hearing not required.** A public hearing shall not be required before the Director takes action on an application for an Amendment to an approved Conditional Use Permit or Final Development Plan, however; notice shall be given at least 10 days before the date of the Director's decision on the Amendment in compliance with Chapter 35.106 (Noticing and Public Hearings).~~

4. Requirements prior to commencement of development authorized by an Amendment. A Zoning Clearance issued in compliance with Section 35.472.190 (Zoning Clearances) shall be required to allow the development and/or use authorized by the Amendment prior to the commencement of the development and/or use authorized by the Amendment.

SECTION 17:

DIVISION 35.10, Glossary, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35.500.020, Definitions of Specialized Terms and Phrases, of Chapter 35.500, Definitions, to amend the existing definitions of "Driveway" and "Trailer," to read as follows:

Driveway.

1. A designated passageway providing vehicular access between an alley or street and a garage or carport, a designated parking area, or other driveway or street.
2. A private right-of-way that provides vehicular access from a public or private street to private property either abutting or adjacent to the right-of-way, or away from the right-of-way, and that is not, and under the minimum lot area requirements of this Development Code cannot be, divided into more than four separate lots.

Trailer. A vehicle with or without motor power which is designed or used for hauling materials, personal property, or vehicles, including watercraft, or for human habitation, office, or storage including camper, recreational vehicle, travel trailer, and mobile home but not including mobile homes on a permanent foundation.

SECTION 18:

DIVISION 35.10, Glossary, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is amended to amend Section 35.500.020, Definitions of Specialized Terms and Phrases, of Chapter 35.500, Definitions, to add the following new definitions of “Adjacent,” “Bedroom,” “Contractor’s Equipment Storage Yard,” “Inoperative motor vehicle,” “Operative motor vehicle,” “Vehicle” and “Wastewater Treatment System, Alternative” to read as follows:

Adjacent. See “abut.”

Bedroom. An enclosed habitable room within the conditioned area of a structure that (1) is arranged, designed or intended to be occupied by one or more persons primarily for sleeping purposes, (2) complies with applicable building and housing codes, and (3) is permitted by Santa Barbara County to be used as a bedroom. Also known as a sleeping room.

Contractor’s Equipment Storage Yard. Indoor or outdoor facilities operated by, or on behalf of a licensed contractor for the storage of equipment, vehicles, and/or other materials commonly used in the individual contractor's type of business; storage of materials used for repair and maintenance of the contractor's own equipment; and buildings or structures for uses including equipment repair. Includes building contractors, landscape contractors, sign contractors, etc. Does not include office-only facilities that are not located on the same site as storage and/or maintenance facilities, which are instead included under the definition of "Office - Business/Service." Does not include junk yards.

Fully enclosed or fully screened structure. A structure, constructed of permanent, solid materials, with a roof that completely covers the structure, doors or gates that are kept closed and latched, and walls that extend from the foundation floor either to the roof of the structure or to a sufficient height such that any contents of the fully enclosed or fully screened structure are not visible when viewed from the outside other than when viewed through a window. A fully enclosed or fully screened structure does not include a carport or other accessory structure that allows the contents therein to be observed from outside the structure other than when viewed through a window. Does not include awnings, fabric shelters, tents and similar structures of a nonpermanent type of construction.

Motor vehicle. Vehicles that have their own motive power and that are used for the transportation of people or goods on streets. Motor vehicle includes motorcycles, passengers, trucks, and recreational vehicles with motive power.

Motor vehicle, inoperative. A motor vehicle that is incapable of being immediately started and moved under its own power without any modifications or repairs or does not have a current, unexpired registration with the California Department of Motor Vehicles that allows the vehicle to be driven, moved, towed or left standing (parked) upon any road or street.

Motor vehicle, operative. A motor vehicle that is able to be immediately started without any modifications or repairs and has a current, unexpired registration with the California Department of Motor Vehicles that allows the vehicle to be driven, moved, towed or left standing (parked) upon any road or street.

Vehicle. A device by which any person or property may be propelled, moved or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

Wastewater Treatment System, Alternative. A wastewater treatment system that utilizes a mound or evapo-transpiration type system to treat sewage before disposal.

SECTION 20:

Except as amended by this Ordinance, Division 35.2, Division 35.4, Division 35.7, and Division 35.10 of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 21:

This ordinance shall take effect and be in force 30 days from the date of its passage and before the expiration of 15 days after its passage a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ day of _____, 2011, by the following vote:

- AYES:
- NOES:
- ABSTAINED:
- ABSENT:

JONI GRAY
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

CHANDRA L. WALLAR
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By _____
Deputy County Counsel