

**ATTACHMENT 5:**

**MONTECITO LUDC CEQA NOTICE OF EXEMPTIONS**

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TO: Santa Barbara County Clerk of the Board of Supervisors  
FROM: Noel Langle, Senior Planner  
Planning and Development Department

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(s):** Not applicable.

**Case No.:** 15ORD-00000-00003

**Location:** The proposed ordinance amendment would apply solely to the unincorporated area of Santa Barbara County located within the Montecito Community Plan Area not including the Coastal Zone.

**Project Title:** 2016 General Package Ordinance Amendments.

**Project Description:** 15ORD-00000-00003 proposes to amend 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 35.5, Montecito Resource Management, Division 35.7, Montecito Planning Permit Procedures, Division 35.9, Montecito Land Use and Development Code Administration, Division 35.10, Glossary, and Appendix D, Development Standards for Residential Second Units on Lots Less Than Two Acres in Size Served by Onsite Sewage Disposal Systems, of Section 35-2, the Santa Barbara County Montecito Land Use and Development Code (MLUDC), of Chapter 35, Zoning, of the County Code, regarding:

- Cabaña requirements.
- Community Care facilities.
- CUP Design Review requirements.
- Lot Line Adjustments standards for approval.
- Medical marijuana cultivation regulations cross-reference
- Permit exemptions
- Street Frontage definition
- Wastewater disposal permit requirements and standards for private systems

The proposed ordinances also make other minor corrections and language revisions that do not materially change the existing regulations and serve only to clarify or correct existing language. The proposed ordinance also deletes language that only applies within the Coastal Zone.

Exempt Status:

- Ministerial
- Statutory
- Categorical Exemption
- Emergency Project
- No Possibility of Significant Effect Section 15061(b)(3)

**Cite specific CEQA Guideline Section:** Section 15061(b)(3) - No possibility of significant effect.

CEQA Section 15061(b)(3) states that “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.”

**Reasons to support exemption findings:**

The following provides a brief discussion of the proposed amendments.

**Cabaña requirements:** Cabañas (pool houses) are currently allowed as a structure accessory to the residential use of property in conjunction with a proposed pool or sport court provided that construction of the proposed pool or sport court is completed before or simultaneously with completion of the cabaña. A cabaña may also be approved on a lot that is directly adjacent to the sea. The existing definition of cabaña in the Montecito Land Use and Development Code (MLUDC) limits sport courts to regulation size basketball and tennis courts. Both cabañas and guest houses may contain a wetbar and a full bathroom (i.e., toilet, sink, and bathing facilities); however, the zoning ordinances specifically prohibit cabañas from being used as a guesthouse or dwelling and for overnight accommodations. Unlike a guest house which requires a minimum lot area of two acres in the non-coastal portion of the Montecito Community Plan area, there is no minimum lot size required to have a cabaña. The proposed amendment would:

- Amend the existing definition of Cabaña to read as shown below:

**Cabaña.** A building, the use of which is incidental and accessory to the use of ~~the beach~~, a swimming pool, or sports court (~~i.e., regulation size tennis or basketball court~~), that may include bathrooms, but does not include sleeping quarters or cooking facilities.

- Add the following definitions of Sports Court and Swimming Pool:

**Sports Court.** A structure which consists of a hardscape or other surface having a minimum size of 20 feet by 50 feet that is utilized in connection with a flat game court structure devoted to recreational purposes including basketball, handball, tennis, and volleyball but excluding bocce ball courts, lawn bowling courts and similar facilities, patios, and areas used for driveways or parking of vehicles.

**Swimming pool.** A swimming pool is defined as any open structure containing a body of water, whether above or below the ground, having a minimum length, width and depth of 45 feet, eight feet and 42 inches, respectively, and which shall be designed for and used or intended to be used for swimming by individuals. The following shall be excluded from this definition:

- (1) Hot tubs, spas, including swim spas, and similar facilities.
- (2) Ornamental ponds or water features, developed as landscape design features where swimming is not intended and does not occur.
- (3) Portable, inflatable, and wading pools.

- Add the following restrictions on the use of the cabaña:

The cabaña may be maintained and used as a cabaña provided that the sports court or swimming pool that the cabaña is accessory to is also maintained on the lot. If the sports court or swimming pool to which the cabaña is accessory to is abandoned or removed,

then the use of the cabaña shall cease and the structure shall either be removed or lawfully converted to an allowed accessory structure within 90 days following the abandonment or removal of the sports court or swimming pool.

**Community Care facilities:** Regulations regarding community care facilities (e.g., day care, special care homes) were originally added to the County's zoning ordinances in 1985 and, with the exception of permit requirements for child care, have not been significantly amended since then. Revisions are necessary to be consistent with existing State regulations regarding community care facilities. This amendment revises the existing language to:

- Be better organized and reduce repetition.
- Comply with State requirements.
- Allow day care facilities to be used for adult day care in addition to child day care.

**CUP Design Review requirements:** The MLUDC design review regulations require that any structure or sign proposed within the Montecito Community Plan area is subject to review by the Montecito Board of Architectural Review unless it is otherwise exempt from design review (e.g., minor exterior alterations, solar panels, residential second units). However, the processing requirements for Conditional Use Permits (CUP) only specify that residential structures on lots adjacent to the sea are subject to design review. Therefore, to provide internal consistency within the MLUDC, the amendment revises the CUP processing requirements to:

- Delete the reference to lots adjacent to the sea since this is not applicable outside the Coastal Zone, and
- Include a new requirement that an application for a CUP is subject to review by the Montecito Board of Architectural Review in compliance with Section 35.472.070 (Design Review).

**Lot Line Adjustments standards for approval:** In order to approve a Lot Line Adjustment the review authority must find that any lot involved in the adjustment whose existing area equals or exceeds the minimum lot area requirement of the applicable zone shall not become smaller than the minimum lot area requirement as a result of the adjustment. However, in addition to the minimum lot area requirement, the R-1/E-1 and R-2 zone zones also have a minimum lot width requirement. This amendment adds that in addition to the finding regarding minimum lot area, the review authority, in order to approve a lot line adjustment, must also find that any lot involved in the adjustment whose existing lot width is equals or exceeds the minimum lot width requirement of the applicable zone shall not become smaller than the minimum lot width requirement as a result of the adjustment. This amendment also includes several minor revisions to the existing development standards.

**Medical marijuana cultivation regulations cross-reference:** This amendment revises the existing language in the zoning ordinance that prohibits medical marijuana dispensaries to include a cross-reference to Article X of Chapter 35, Zoning, of the County Code regarding the cultivation of medical marijuana.

**Permit exemptions:** Currently MLUDC Section 35.420.040 (Exemptions from Planning Permit Requirements) is divided into (1) exemptions that apply to both the Inland area and the Coastal Zone, (2) exemptions that only apply within the Inland area, and (3) exemptions that only apply within the Coastal Zone. The amendment to the MLUDC revises Section 35.420.040 to remove all regulations and references that pertain to the Coastal Zone.

Additionally, this section is revised to (1) revise the language regarding exemptions for accessory structures, (2) address when a change in the occupancy or use of a structure does not require a permit, (3) clarify that modification, replacement or repair of an on-site wastewater treatment system does not require a permit under certain circumstances, and (4) clarify that the replacement of an existing and conforming structure does not require a permit.

**Accessory structures.** Currently one story detached accessory structures used as tool or storage sheds, playhouses, gazebos, pergolas, and similar structures, do not require a planning permit provided that the height does not exceed 12 feet, the roof area does not exceed 120 square feet, and the structure does not contain any plumbing or electrical facilities. This amendment revises the existing exemption to specify that the floor area, instead of the roof area, is limited to 120 square feet in order to be consistent with a recent amendment to the building code.

**Change of occupancy or use.** The amendment adds a new exemption to clarify that a change in the occupancy or use of an existing structure that meets the following requirements does not require a new planning permit:

- The occupancy or use that exists prior to the change is a legal, permitted use of the structure.
- The change is from a land use listed as a permitted use in the applicable land use tables to the same land use (e.g., from restaurant, café or coffee shop to a restaurant, café or coffee shop).
- The new occupancy or use does not result in an increase in the number of parking spaces required to be provided on-site.
- The new occupancy or use is established and operated in compliance with the setback requirements, height limits, parking requirements, and all other applicable standards of this Development Code, including any required provisions and conditions of any existing, approved permits for the subject lot.
- Any permit or approval required by regulations other than this Development Code is obtained (for example, a Building Permit and/or Grading Permit).

**Onsite wastewater treatment system modifications.** The amendment adds a new exemption to clarify that in addition to the installation of onsite wastewater treatment systems (not including alternative wastewater treatment systems), the modification, replacement or repair of an existing system does not require a new planning permit provided that the modification, replacement or repair occurs in substantially the same area as the existing system.

**Replacement of existing, conforming structures.** The amendment adds a new exemption to clarify that the replacement of an existing permitted and conforming structure does not require a new planning permit provided:

- The reconstructed structure complies with all requirements of the applicable zone, is for the same use, is located in the same footprint, and does not exceed the floor area, height, or bulk of the existing structure.
- The exterior design or specifications are not proposed to be revised, or, if revisions are proposed, the revisions are determined to be minor by the Director.

- The structure is less than 50 years old or, if the structure is 50 years old or greater, either the Director or the Historic Landmark Advisory Commission has determined that it is not historically significant.

**Street Frontage definition:** When the MLUDC was adopted by the Board of Supervisors, the sign regulations in effect at the time, which were contained in Article I of Chapter 35, Zoning, of the County Code, were incorporated into the MLUDC under Chapter 35.438 (Sign Regulations). Article I defined Street Frontage as “The footage of the property that abuts an improved street or streets open to public use to which the property has access.” However, only the Article IV Zoning Ordinance (the predecessor ordinance to the MLUDC) definition of street frontage as “The portion of a property abutting a public or private street” was included in the MLUDC. To correct this oversight this definition is proposed to be amended to add language that when this term is used in Chapter 35.438 (Sign Standards) it shall mean the portion of a property that abuts an improved street or streets open to public use to which the property has access.

**Wastewater disposal permit requirements and standards for private systems:** The amendments revise the MLUDC to be consistent with existing County standards regarding the design, maintenance and permitting of onsite wastewater treatment systems (OWTS), commonly referred to as septic systems, as follows:

- Rename the following terms as currently listed in the allowable uses for the individual zones:
  - “Wastewater treatment system, individual” is replaced with “Onsite wastewater treatment system, individual, conventional.”
  - “Wastewater treatment system, individual, alternative” is replaced with “Onsite wastewater treatment system, individual, alternative.”
- Add “Onsite wastewater treatment system, individual, supplemental” as a new use category. Supplemental treatment systems are onsite wastewater treatment systems that utilize engineered designs and/or technology to treat effluent to reduce one or more constituents of concern in wastewater. They may also be referred to as Advanced Treatment Systems or Enhanced Treatment Systems. Examples include sand filters, textile filters, and aerobic treatment units. Composting or incinerating toilets are not included within the definition of supplemental treatment systems.
- Delete the existing provision that allows residential second units located on lots less than two acres in size to be served by an OWTS if soil and other constraints for sewage disposal are determined to be particularly favorable by the Public Health Department as this is no longer allowed by the new regulations. This amendment also requires that a residential second unit proposed to be served by an OWTS shall not be allowed in addition to a principal dwelling on a lot less than two gross acres in size if the principal dwelling is served by or is proposed to be served by an OWTS as the new regulations require a one-acre lot size per dwelling.
- Delete the existing provision that allows residential second units to be served by an OWTS if service by a sanitary district is not available because there is a moratorium on new connections as this is also no longer allowed by the new regulations.
- Add several new definitions consistent with how these terms are defined in Chapter 18C.

In conclusion, these amendments serve to clarify and revise existing regulations and permit procedures to comply with State law and make minor text clarifications which will not in an

increase in permitted densities or modifications to resource protection policies. The proposed ordinance amendments also revise existing permit processes to enhance efficiency, add new development standards and restrictions pertaining to specific land uses which will serve to minimize potential adverse impacts to the surrounding area, and correct and clarify existing text provisions.

Therefore, it can be seen with certainty that there is no possibility that this activity may have a significant effect on the environment.

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Department/Division Representative

Date

Acceptance Date (date of final action on project): \_\_\_\_\_

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

*Note: A copy of this form must be posted at Planning and Development six days prior to a decision on the project. Upon project approval, this form must be filed with the County Clerk of the Board and posted by the Clerk of the Board for a period of 30 days.*

Distribution: (for posting six days prior to action, and posting original after project approval)

Hearing Support Staff  
15ORD-00000-00003 file