



COUNTY OF S
CALIFORNIA

MONTECITO PLANNING COMMISSION

COUNTY ENGINEERING BUILDING
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TO THE HONORABLE BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA, CALIFORNIA

MONTECITO PLANNING COMMISSION
HEARING OF JUNE 3, 2020

RE: *COVID-19 Temporary Development Standards Suspension Ordinance Amendments; 20ORD-00000-00005, 20ORD-00000-00006*

Hearing on the request of the County of Santa Barbara Planning and Development Department, that the Montecito Planning Commission:

a) Case No. 20ORD-00000-00006

Adopt a resolution recommending to the Board of Supervisors (Board) that the Board adopt an ordinance (Case No. 20ORD-00000-00006) amending Division 35.7, Montecito Planning Permit Procedures, and Division 35.9, Montecito Land Use and Development Code Administration, of Section 35-2, of the Santa Barbara County Montecito Land Use and Development Code (MLUDC), of Chapter 35, Zoning, of the Santa Barbara County Code; and

Recommend that the Board determine that ordinance Case No. 20ORD-00000-00006 is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15301, 15303, 15305, and 15061(b)(3) of the State Guidelines for the Implementation of CEQA; and

b) Case No. 20ORD-00000-00005

Adopt a resolution recommending to the County Planning Commission that it recommend to the Board of Supervisors (Board) that the Board adopt an ordinance (Case No. 20ORD-00000-00005) amending Division 11, Permit Procedures, and Division 12, Administration, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code.

Recommend that the County Planning Commission recommend that the Board determine that ordinance Case No. 20ORD-00000-00005 is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15301, 15303, 15305, 15061(b)(3), and 15265 of the State Guidelines for the Implementation of CEQA.

The proposed zoning ordinance amendments are designed to temporarily allow non-residential uses to use outdoor areas to ensure proper physical distancing or other public health requirements can be met and to provide other temporary forms of relief. The ordinance amendments would authorize the temporary suspension of compliance with the project description and/or conditions of approval related to the following development standards: setbacks; site coverage maximums; minimum open space; parking and loading standards; signs; the requirement that uses shall occur within a completely enclosed building; restrictions on uses in the right of way; limitations on food service at wineries and tasting rooms in the coastal zone; and/or other development standards as determined by the Director to be necessary for the protection of public health related to COVID-19.

Dear Honorable Members of the Board of Supervisors:

At the Montecito Planning Commission special hearing of June 3, 2020, Commissioner Newman moved, seconded by Commissioner Kupiec and carried by a vote of 5 to 0 to:

Case No. 20ORD-00000-00006

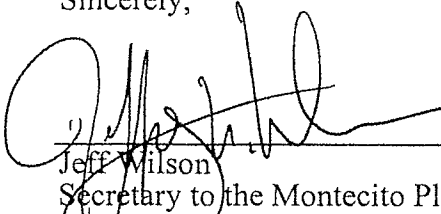
1. Make the required findings for approval of the ordinance amendment (Attachment A of the staff report dated May 27, 2020), including California Environmental Quality Act (CEQA) findings, and recommend that the Board of Supervisors make the findings for approval of the proposed ordinance amendment;
2. Recommend that the Board of Supervisors determine the ordinance amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15301, 15303, 15305, and 15061(b)(3), included as Attachment B of the staff report dated May 27, 2020; and,
3. Adopt a Resolution recommending that the Board of Supervisors approve Case No. 20ORD-00000-00006, an ordinance amending Section 35-2, the MLUDC, of Chapter 35, Zoning, of the Santa Barbara County Code (Attachment C of the staff report dated May 27, 2020) as revised at the hearing of June 3, 2020.

Case No. 20ORD-00000-00005

1. Make the required findings for approval of the ordinance amendment, including CEQA findings, and recommend to the County Planning Commission that the County Planning Commission make the findings for approval and recommend that the Board of Supervisors make the findings for approval of the proposed ordinance amendment (Attachment D of the staff report dated May 27, 2020);
2. Recommend to the County Planning Commission that the County Planning Commission recommend to the Board of Supervisors that the Board determine that the ordinance amendment is exempt from CEQA pursuant to CEQA Guidelines Sections 15301, 15303, 15305, and 15061(b)(3), included as Attachment E of the staff report dated May 27, 2020; and,
3. Adopt a resolution recommending that the County Planning Commission adopt a resolution recommending that the Board approve Case No. 20ORD-00000-00005, an ordinance amending Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa

Barbara County Code (Article II) (Attachment F of the staff report dated May 27, 2020) as revised at the hearing of June 3, 2020.

Sincerely,



Jeff Wilson
Secretary to the Montecito Planning Commission

cc: Case File: 20ORD-00000-00005, 20ORD-00000-00006
Planning Commission File
Jenna Richardson, Deputy County Counsel
Tess Harris, Supervising Planner
Joe Dargel, Supervising Planner

Attachments: Attachment A – 20ORD-00000-00004 (MLUDC) Findings
Attachment C – 20ORD-00000-00004 (MLUDC) Resolution and Proposed Ordinance
Attachment D – 20ORD-00000-00005 (Article II) Findings
Attachment F – 20ORD-00000-00005 (Article II) Resolution and Proposed Ordinance

JW/dmv

ATTACHMENT A: 20ORD-00000-00006 MLUDC FINDINGS

1.0 CEQA FINDINGS

The Montecito Planning Commission finds, and recommends that the Board of Supervisors find, that the proposed project, 20ORD-00000-00006, is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3), 15301, 15303, and 15305. Please see Attachment B to the Staff Report dated May 27, 2020, Notice of Exemption.

2.0 ADMINISTRATIVE FINDINGS

In compliance with Section 35.494.060 of the Santa Barbara County Montecito Land Use and Development Code (MLUDC), the following findings shall be made by the Montecito Planning Commission in order to recommend approval of a text amendment to the MLUDC, and the Board of Supervisors shall adopt the following findings in order to approve a text amendment to the MLUDC:

2.1 **The request is in the interests of the general community welfare.**

The Montecito Planning Commission incorporates by reference the Emergency findings in the Ordinance Amendment and finds that the proposed ordinance amendment is in the interest of the general community welfare because it is necessary to protect the health, safety, and welfare of the residents in the unincorporated area of Santa Barbara County. The temporary suspension of compliance with certain requirements of approved permits protects public health and supports a phased reopening of Santa Barbara County in a manner that effectively limits the spread of COVID-19. The ordinance amendment will authorize, for approved projects, the temporary suspension of compliance with project descriptions and/or conditions of approval that implement setbacks, site coverage maximums, minimum open space, parking and loading standards, signs, the requirement that uses shall occur within a completely enclosed building, restrictions on uses in the right of way, or other development standards as determined to be necessary by the Director for the protection of public health related to COVID-19. The temporary suspension of compliance with these conditions will allow applicable businesses and community entities to reopen, which supports the local economy, provides local employment opportunities, and supports the general welfare of the population, while meeting state and local public health requirements for physical distancing to effectively limit the spread of COVID-19. The ordinance amendment is temporary in nature and is in effect until December 16, 2020 or until the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, whichever is earlier, and therefore would not cause long-term impacts to communities. Pursuant to the ordinance amendment, 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. Finally, the ordinance amendments are further refined to ensure that the suspension is limited to project changes that are necessary to ensure physical distancing and/or comply with other public health requirements put in place by federal, State, or local public health officials to limit the spread of COVID-19, ensuring the interests of the community welfare are met. Additional requirements are also in place, including that projects obtain encroachment or other applicable County or State permits or approvals, apply only to non-residential projects, does not result in the

expansion of existing capacity of the business or community entity, and does not allow the construction or erection of new permanent structures.

2.2 The request is consistent with the Comprehensive Plan, the requirements of the State planning and zoning laws, and this Development Code.

The Montecito Planning Commission finds that the ordinance amendment is consistent with the Comprehensive Plan, the requirements of the State planning and zoning laws, and the Montecito Land Use and Development Code because the temporary suspension of development standards will protect the public health, support economic development, are temporary in nature, and support a phased reopening of the Santa Barbara County in a manner that effectively limits the spread of COVID-19.

As described in the Planning Commission staff report, dated May 27, 2020 and incorporated herein by reference, the ordinance amendment will authorize, for approved projects, the temporary suspension of compliance with certain portions of the project description, conditions of approval, and/or development standards that implement setbacks, site coverage maximums, minimum open space, parking and loading standards, signs, the requirement that uses shall occur within a completely enclosed building, restrictions on uses in the right of way, or other development standards to be temporarily suspended as determined to be necessary by the Director for the protection of public health related to COVID-19. The ordinance amendment does not alter the purpose and intent of any policies of the Comprehensive Plan and Community Plans as they are temporary in nature. The suspension is limited to project changes that are necessary to ensure physical distancing and/or comply with other public health requirements put in place by federal, State, or local public health officials to limit the spread of COVID-19. Pursuant to the ordinance amendment, 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, as well as comply with all other aspects of its project description, conditions of approval, applicable development standards, and the comprehensive Plan, including Coastal Land Use Plan policies. Finally, the temporary suspension of development standards for applicable projects as authorized by the Ordinance amendment supports the local economy and general welfare of the community by allowing projects to meet state and local public health guidelines for physical distancing, but do not allow projects to operate in violation of any federal, state, or local public health orders, require projects to obtain encroachment or other applicable County permits. The ordinance amendment applies only to non-residential projects, does not allow the construction or erection of new permanent structures, and requires that the capacity of businesses or community entities not be increased.

The ordinance amendment is consistent with and furthers the purpose of the Governor's orders related to COVID-19, discussed in detail in the Emergency findings in the Ordinance Amendment and incorporated by reference.

2.3 The request is consistent with good zoning and planning practice.

The Montecito Planning Commission finds that the proposed ordinance amendment is consistent with good zoning and planning practices because the temporary suspension of compliance with certain requirements of approved permits when necessary to ensure

physical distancing and/or comply with other public health requirements put in place by federal, state, or local public health officials to limit the spread of COVID-19 will protect the public health, support economic development, and support a phased reopening of the Santa Barbara County in a manner that effectively limits the spread of COVID-19. These temporary accommodations will allow businesses and community entities that have an approved permit to operate as previously-approved, with modifications necessary to protect public health. The ordinance amendment is further consistent with good zoning and planning practice because it does not alter the purpose and intent of any policies of the Comprehensive Plan and Community Plans as the ordinance amendments are temporary in nature and are drafted to allow applicable projects to comply with state and local mandates to protect the public health during a phased re-opening of the County. Pursuant to the ordinance amendment, 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. Finally, the temporary suspension of certain requirements of approved permits as authorized by the ordinance amendment supports the local economy and general welfare of the community by allowing projects to meet state and local public health guidelines for physical distancing, but do not allow projects to operate in violation of any federal, state, or local public health orders. The ordinance amendment requires projects to obtain encroachment or other applicable County or State permits, applies only to non-residential projects, does not allow the construction or erection of new permanent structures, and requires that the capacity of businesses or community entities not be increased.

ATTACHMENT C: MONTECITO LUDC RESOLUTION

RESOLUTION OF THE SANTA BARBARA COUNTY MONTECITO PLANNING
COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING TO THE BOARD)
OF SUPERVISORS THE ADOPTION OF AN AMENDMENT)
TO SECTION 35-2, THE SANTA BARBARA COUNTY)
MONTECITO LAND USE AND DEVELOPMENT CODE, OF)
CHAPTER 35, ZONING, OF THE COUNTY CODE,)
AMENDING DIVISION 35.7, PLANNING PERMIT) RESOLUTION NO.: 20 - 2
PROCEDURES, AND DIVISION 35.9, MONTECITO LAND)
USE AND DEVELOPMENT CODE ADMINISTRATION, TO) CASE NO.: 20ORD-00000-00006
IMPLEMENT NEW REGULATIONS REGARDING THE)
TEMPORARY SUSPENSION OF CERTAIN)
REQUIREMENTS OF APPROVED PERMITS TO SUPPORT)
A PHASED RE-OPENING OF SANTA BARBARA COUNTY)
IN A MANNER THAT PROTECTS PUBLIC HEALTH AND)
EFFECTIVELY SLOWS THE SPREAD OF COVID-19.)

WITH REFERENCE TO THE FOLLOWING:

- A. On November 27, 2007, by Ordinance 4660, the Board of Supervisors adopted the Santa Barbara County Montecito Land Use and Development Code, Section 35-2 of Chapter 35 of the Santa Barbara County Code.
- B. On March 4, 2020, Governor Newsom declared a State of Emergency related to conditions caused by COVID-19; and on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic.
- C. On March 12, 2020, the Health Officer of the County of Santa Barbara determined that there is an imminent and proximate threat to public health from the introduction of COVID-19 in the County of Santa Barbara, and proclaimed a Local Health Emergency.
- D. On March 17, 2020, the Board of Supervisors ratified the Local Health Emergency proclamation.
- E. On March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing all individuals living in the State of California to stay at home except as needed to facilitate authorized, necessary activities or to maintain the continuity of operations of critical infrastructure.
- F. On May 21, 2020 a new County of Santa Barbara Health Officer Order No. 2020-8.2 was issued allowing the County of Santa Barbara to begin to reopen businesses that qualify under

Stage 2 (e.g., retail, dine-in restaurants). Additional businesses and community entities will be allowed to reopen in later phases.

- G. To encourage recovery of businesses, restaurants, retail, and other community entities that were required to close or curtail operations under the Governor's shelter in place Executive Order N-33-20, the County has created the Small Business and Community Partnership Enhancement Program (SBCPEP). This program contemplates how to allow businesses to conduct operations within safe physical distancing parameters recommended by the Centers for Disease Control and Prevention as the local community begins a phased reopening.
- H. The Montecito Planning Commission now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of the County to recommend that the Board of Supervisors adopt an ordinance (Case No. 20ORD-00000-00006) amending Division 35.7 (Planning Permit Procedures) and Division 35.9 (Montecito Land Use and Development Code Administration) of Section 35-2 of Chapter 35 of the Santa Barbara County Code, the Santa Barbara County Montecito Land Use and Development Code, to implement new regulations regarding the temporary suspension of compliance with certain requirements of approved permits in order to protect public health and support a phased re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19.
- I. The Montecito Planning Commission recommends that the Board of Supervisors adopt regulations that allow for the temporary expansion or extension of nonconforming uses related to certain development standards if necessary related to COVID-19 and also to allow hardship time extensions related to delays caused by COVID-19 for applicable projects.

Said Ordinance is attached hereto as Exhibit 1 and is incorporated herein by reference.
- J. The proposed MLUDC ordinance amendment is consistent with the Santa Barbara County Comprehensive Plan including the Montecito Community Plan, and the requirements of the California planning, zoning, and development laws, as discussed in Section 7.0 of the staff report, dated May 27, 2020 and incorporated herein by reference.
- K. The proposed ordinance is in the interest of the general community welfare since it will authorize the temporary suspension of compliance with certain requirements of approved permits related to the following development standards: setbacks; site coverage maximums; minimum open space; parking and loading standards; signs; the requirement that uses shall occur within a completely enclosed building; restrictions on uses in the right of way; and/or other development standards as determined to be necessary by the Director for the protection of public health related to COVID-19.
- L. The Montecito Planning Commission has held a duly noticed public hearing in compliance with Government Code Section 65854 on the proposed ordinance at which hearing the proposed ordinance was explained and comments invited from the persons in attendance.

- M. Whereas Section 65855 of the Government Code requires inclusion of the reason for the recommendation, which is to authorize the temporary suspension of compliance with the project description and/or conditions of approval related to certain zoning ordinance development standards to protect public health and support a phased reopening of the County in a manner that effectively limits the spread of COVID-19, and the relationship of the proposed amendment to applicable general and specific plans, which is hereby identified as consistent, as stated in Section 7.0 of the staff report, dated May 27, 2020, and incorporated herein by reference.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The above recitations are true and correct.
2. In compliance with the provisions of Section 65855 of the Government Code, the Montecito Planning Commission recommends that the Board of Supervisors of the County of Santa Barbara, State of California, following the required noticed public hearing, approve and adopt the above mentioned ordinance Case No. 20ORD-00000-00006, based on the findings included as Attachment A of the Montecito Planning Commission Staff Report dated May 27, 2020.

The Montecito Planning Commission recommends that the Board of Supervisors adopt regulations that allow for the temporary expansion or extension of nonconforming uses related to certain development standards if necessary related to COVID-19 and also to allow hardship time extensions related to delays caused by COVID-19 for applicable projects

3. The County Planning Commission endorses and transmits a certified copy of this resolution to the Board of Supervisors in compliance with Government Code Section 65855 and Section 2-25.2 of the County Code.
4. The Chair of this Montecito Planning Commission is hereby authorized and directed to sign and certify all documents, and other materials in accordance with this resolution to show the above described action by the Montecito Planning Commission.

PASSED, APPROVED AND ADOPTED this June 3, 2020, by the following vote:

AYES: Senauer, Kupiec, Pulice, Keller, Newman

NOES:

ABSTAIN:

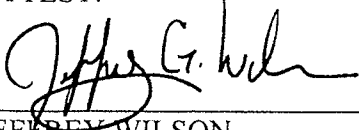
ABSENT:



DONNA SENAUER, CHAIR

SANTA BARBARA COUNTY MONTECITO PLANNING COMMISSION

ATTEST:



JEFFREY WILSON
SECRETARY TO THE MONTECITO PLANNING COMMISSION

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By



Deputy County Counsel

EXHIBITS:

1. 20ORD-00000-00006

EXHIBIT 1: MLUDC 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 SANTA BARBARA COUNTY CODE, TO IMPLEMENT NEW REGULATIONS REGARDING THE TEMPORARY SUSPENSION OF COMPLIANCE WITH CERTAIN REQUIREMENTS OF APPROVED PERMITS TO SUPPORT A PHASED RE-OPENING OF SANTA BARBARA COUNTY IN A MANNER THAT PROTECTS PUBLIC HEALTH AND EFFECTIVELY LIMITS THE SPREAD OF COVID-19, BY AMENDING: DIVISION 35.7, MONTECITO PLANNING PERMIT PROCEDURES; AND DIVISION 35.9, MONTECITO LAND USE AND DEVELOPMENT CODE ADMINISTRATION.

Case No. 20ORD-00000-00006

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

SECTION 1. Emergency Findings. The Board of Supervisors finds that this ordinance is necessary to protect life, property, or the environment and for the immediate preservation of the public peace, health and safety and to preserve physical distancing requirements to slow the spread of the COVID-19 virus while business and community entities reopen. This ordinance shall take effect immediately upon its approval by at least a four-fifths vote of the Board of Supervisors pursuant to California Government Code Section 25123(d) based upon the following declaration of facts:

1. Section 12-5(a) of the Santa Barbara County Code, empowers the County of Santa Barbara, Director of Emergency Services, to proclaim a local emergency if the Board of Supervisors is not in session; and
2. Section 8558(c) of the Government Code defines a “Local Emergency” as: “the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat”; and
3. A novel coronavirus, COVID-19, causes infectious disease. The first confirmed U.S. case occurred in January 2020 in Washington State. COVID-19 symptoms may include fever, cough, and shortness of breath; but those infected may be completely asymptomatic. Outcomes have ranged from mild to severe illness, and in some cases death. The Centers for Disease Control and Prevention considers the virus to be a very serious public health threat; and

4. On March 4, 2020, Governor Newsom declared a State of Emergency related to conditions caused by COVID-19; and on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and
5. On March 12, 2020, the Director of Emergency Services proclaimed a Local Emergency related to COVID-19 pursuant to Government Code Section 8550 *et seq.* and Chapter 12, Section 12-5(a) of the Santa Barbara County Code. The Board of Supervisors ratified this proclamation on March 17, 2020; and
6. On March 12, 2020, the Health Officer of the County of Santa Barbara determined that there is an imminent and proximate threat to public health from the introduction of COVID-19 in the County of Santa Barbara, and proclaimed a Local Health Emergency as a result. The Board of Supervisors ratified this proclamation on March 17, 2020; and
7. In direct response to the lack of healthcare infrastructure, governments across the nation are taking actions to slow the spread of COVID-19 in order to “flatten the curve” of infection and reduce the numbers of individuals infected at any one time by minimizing situations where the virus can spread; and
8. In furtherance of this effort, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, requiring all persons residing in the State to remain in their homes or places of residence, except as needed to maintain the continuity of operations for critical infrastructure (the “State Stay-at-Home Order”); and
9. On March 19, 2020, the State Public Health Officer ordered all individuals living in the State of California to stay home or at their place of residence, except as needed to maintain continuity of operations for the federal critical infrastructure sectors; and
10. In May 2020, Governor Newsom’s Office released a four-stage COVID-19 pandemic Resilience Roadmap for beginning to reopen businesses and community entities in the State of California and declared California to be in Stage 2 of its response; and
11. Stage 2 of California’s COVID-19 pandemic response plan allows for gradual reopening of retail starting with low risk sectors such as curbside retail, manufacturing, and logistics. Later in Stage 2, there are to be relaxed retail restrictions and reopening of schools, offices, and limited hospitality and personal services. Stage 3 of California’s COVID-19 pandemic response plan contemplates reopening of higher-risk workplaces; and
12. On May 4, 2020, Governor Newsom issued Executive Order N-60-20 to allow a County to pursue a variance to move further into Stage 2 upon notification and certification through submission of a written attestation to the California Department of Public Health Office; and
13. On May 20, 2020, the California Department of Public Health Office approved and posted to the State’s website the County of Santa Barbara’s Variance Attestation allowing the County to move further into Stage Two to include dine-in restaurants and retail; and

14. On May 21, 2020, the Health Officer of the County of Santa Barbara issued a Health Officer Order to provide guidance on the reopening of lower-risk businesses. In that order, essential and lower-risk businesses that may open or remain open are identified and required to implement physical distancing when in operations; and
15. The Board of Supervisors finds that as businesses and community entities start to reopen pursuant to State and local laws and guidance, there may be a need for increased use of outdoor areas to allow for adequate physical distancing when local businesses and community entities reopen; and
16. The Board of Supervisors now finds that it is appropriate for the Director of Planning and Development to temporarily suspend the requirement for strict compliance to certain portions of the project description, conditions of approval, and/or the development standards for approved projects if the temporary project change is necessary to ensure physical distancing and/or comply with other public health requirements put in place by federal, State, or local public health officials to limit the spread of COVID-19 and other requirements are met; and
17. This ordinance is based on evidence of increasing transmission of COVID-19 both within the County and worldwide, scientific evidence regarding the most effective approach to slow transmission of communicable diseases generally and COVID-19 specifically, as well as best practices as currently known and available to protect the public from the risk of spread of or exposure to COVID-19; and
18. This ordinance is promulgated due to the propensity of the virus to spread person to person and also because the virus is causing property loss due to its proclivity to attach to surfaces for prolonged periods of time; and
19. This ordinance is intended to reduce the likelihood of exposure to COVID-19, thereby slowing the spread of COVID-19 in the County of Santa Barbara and communities worldwide. As the presence of infected individuals increases, the difficulty and magnitude of tracing individuals who may have been exposed rises exponentially; and
20. This ordinance is issued in accordance with, and incorporates by reference: the March 4, 2020 Proclamation of a State Emergency issued by Governor Gavin Newsom; the March 12, 2020 Declaration of Local Health Emergency and Proclamation of Emergency based on an imminent and proximate threat to public health from the introduction of novel COVID-19 in the County; the March 17, 2020 Resolution of the Board of Supervisors ratifying the County Declaration of Local Health Emergency and Proclamation of Emergency regarding COVID-19; the guidance issued on March 11, 2020 by the California Department of Public Health regarding large gatherings of 250 people or more; the March 13, 2020 Presidential Declaration of a National Emergency due to the national impacts of COVID-19; the guidance issued on March 15, 2020 by the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials through the United States and around the world recommending the cancellation of gatherings involving more than fifty (50) or more persons in a single space at the same time; the March 16, 2020 order of the State Public Health Officer prohibiting all gatherings with expected presence above ten (10) individuals; Governor Newsom's Executive Order N-33-20 of March 19, 2020 ordering all persons to stay at home to protect the health and well-being of

all Californians and to establish consistency across the state in order to slow the spread of COVID-19; the March 22, 2020, Presidential Declaration of a Major Disaster in California beginning on January 20, 2020 under Federal Emergency Management Agency (FEMA) Incident DR-4482-CA; Governor Newsom's Executive Order N-60-20 of May 4, 2020 allowing counties to pursue a variance to move further into Stage 2; the May 8, 2020 order of the County of Santa Barbara Health Officer requiring physical distancing and not gathering in groups; and the May 21, 2020 order of the County of Santa Barbara Health Officer regarding physical distancing protocols for businesses and entities remaining in operation or reopening operations.

SECTION 2:

DIVISION 35.7, Planning Permit Procedures, of the Montecito Land Use and Development Code ("MLUDC"), is hereby amended to revise Subsection A, Contents of checklist, of Section 35.474.040, Changes to an Approved Project, of Chapter 35.474, Post Approval Procedures, to read as follows:

- A. **Contents of application.** An application for a change to an approved or issued planning permit shall be submitted in compliance with Chapter 35.470 (Permit Application Filing and Processing).
1. Temporary suspension of compliance with the project description and/or conditions of approval to an approved project necessary to protect public health and effectively limit the spread of COVID-19, as detailed in Subsection F (Temporary suspension of compliance with the project description and/or conditions of approval to an approved project necessary to protect public health), below, do not require submittal of an application, but do require submittal of a checklist and additional materials.
 - a. Prior to implementation of the temporary changes, the owner/applicant may, and is encouraged to, submit to the Director a completed checklist, revised site plan, photos, and description of proposal describing the temporary changes and how the requirements of Subsection 35.498.090.C.3 (Requirements) will be met.
 - b. Within 30 days of implementing temporary changes to an approved project, the owner/applicant shall submit to the Director a completed checklist, revised site plan, photos, and description of proposal describing the temporary changes and how the requirements of Subsection 35.49.090.C.3 (Requirements) have been met.

SECTION 3:

DIVISION 35.7, Planning Permit Procedures, of the MLUDC, is hereby amended to add Subsection F, Temporary suspension of compliance with the project description and/or conditions of approval to an approved project necessary to protect public health, of Section 35.474.040, Changes to an Approved Project, of Chapter 35.474, Post Approval Procedures, to read as follows:

- F. Temporary suspension of compliance with the project description and/or conditions of approval to an approved project necessary to protect public health.** For the time period specified in Subsection 35.498.090.C.1 (Temporary time period), approval of a Minor Change, Substantial Conformity Determination, Amendment, or Revision is not required for temporary changes to an approved project related to the standards in Section 35.498.090.C.2, below, that are necessary to protect public health and effectively limit the spread of COVID-19 and that comply with the standards set forth in Section 35.498.090.C.3, below.

SECTION 4:

DIVISION 35.9, Montecito Land Use and Development Code Administration, of the MLUDC, is hereby amended to add Subsection C, Temporary suspension of compliance in order to protect public health, of Section 35.498.090, Penalty for Violation of Conditions, of Chapter 35.498, Enforcement and Penalties, to read as follows:

C. Temporary suspension of compliance in order to protect public health. In order to protect public health and support a phased reopening of the Santa Barbara County in a manner that effectively limits the spread of COVID-19 by allowing for the use of outdoor areas to ensure that physical distancing and/or other public health requirements can be met and to provide other forms of relief, the following provisions apply for the temporary time period specified below.

1. Temporary time period. Subsections 35.474.040.F and 35.498.090.C (ordinance amendments related to COVID-19) shall take effect on June 16, 2020 and expire on December 16, 2020 or when the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, whichever is earlier.

a. The expiration date of these temporary amendments may be extended or revised by the Board of Supervisors by adoption of future ordinance amendments. Unless otherwise extended or amended by the Board, upon expiration this ordinance, shall be repealed and shall be of no further force or effect.

2. Development standards. For approved projects, this section authorizes the temporary suspension of compliance with the project description and/or conditions of approval related to the following standards provided the requirements of Subsection C.3, below, are met:

a. Setbacks.

b. Site coverage maximums.

c. Minimum open space.

d. Parking and loading standards.

e. Signs.

f. The requirement that uses shall occur within a completely enclosed building.

g. Restrictions on uses in the right of way.

h. Other development standards as determined to be necessary by the Director for the protection of public health related to COVID-19.

3. Requirements. To be eligible for the temporary suspension of compliance, all of the following requirements must be met:

a. The temporary changes to an approved project that render the project unable to strictly comply with its project description, conditions of approval, and/or the development standards listed in Subsection C.2, above, are necessary to ensure physical distancing and/or comply with other public health requirements put in place by federal, State, or local public health officials to limit the spread of COVID-19.

b. The owner/applicant must follow all State and local directives regarding reopening of businesses or community entities during the COVID-19 pandemic response, including certification or attestation and COVID-19 protection plan. Public health restrictions related to COVID-19 are subject to rapid change and nothing in this Subsection C is intended, nor shall it be construed, to allow approved projects to operate in violation of any federal, State, or local public health orders.

- c. The project otherwise complies with its project description, conditions of approval, applicable development standards, and Comprehensive Plan policies.
- d. Any State or local permit or approval required by regulations other than this Development Code is obtained (e.g., a business purposes encroachment permit, health permit, alcoholic beverage control license, fire department authorization).
- e. The approved project is non-residential.
- f. The use does not occur within environmentally sensitive habitat. No native vegetation or environmentally sensitive habitat would be removed to accommodate the use of outdoor areas.
- g. The use of outdoor areas does not result in the expansion of the existing capacity of the business or community entity (e.g., a restaurant with 20 indoor tables and 40 person capacity maintains the same number of tables and capacity with more space between the tables).
- h. No structures are proposed, constructed, or erected (temporary coverings, such as canopies or umbrellas, to shade occupants from the sun and/or weather are allowed).

4. Enforcement.

- a. If a completed checklist, revised site plan, photos, and description of proposal are not submitted pursuant to Subsection 35.474.040.A.1, or upon submittal the Director determines, in the Director's sole discretion, that the requirements of Subsection C.3, above, are not satisfied, the Director may notify the owner/applicant that the suspension of compliance to protect public health is not applicable and the Director may initiate enforcement action. The Director's action is not subject to appeal.
- b. If a completed checklist, revised site plan, photos, and description of proposal are submitted pursuant to Section 35.474.040.A.1 and the requirements of Subsection C.3, above, are met, as determined in the sole discretion of the Director, strict compliance to the applicable portions of the project description, conditions of approval, and/or the development standards listed in Subsection 2, above, is not required and the temporary changes to the project shall not constitute a violation subject to penalties, for the time period specified in Subsection C.1, above. The Director's action is not subject to appeal.

SECTION 5:

All existing indices, section references and numbering, and figure and table numbers contained in the MLUDC are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

SECTION 6:

Except as amended by this Ordinance, the MLUDC shall remain unchanged and shall continue in full force and effect.

SECTION 7:

This ordinance shall take effect and be in full force immediately upon adoption by at least a four-fifths vote of the Board of Supervisors pursuant to Government Code Section 25123 and shall remain in effect and operative until December 16, 2020 or when the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, whichever is earlier. 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. Unless otherwise extended or amended by the Board, upon expiration this ordinance, shall be repealed and shall be of no further force or effect.

SECTION 8:

Public health restrictions related to COVID-19 are subject to rapid change. Even if the Board of Supervisors adopts this Ordinance, the Board of Supervisors retains all of its statutory planning and zoning authority. For example, the Board of Supervisors may still take action(s) later to change or remove the temporary suspension and may do so without the temporary changes to a project receiving: 1) an amortization period prior to removal; and/or 2) legal nonconforming use status.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

GREGG HART, CHAIR
BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy Clerk

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Deputy County Counsel

ATTACHMENT D: 20ORD-00000-00005 ARTICLE II FINDINGS

3.0 CEQA FINDINGS

The Montecito Planning Commission finds, and recommends that the County Planning Commission recommend that the Board of Supervisors find, that the proposed project, 20ORD-00000-00005, is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3), 15301, 15303, and 15305. Please see Attachment E to the Staff Report dated May 27, 2020, Notice of Exemption.

4.0 ADMINISTRATIVE FINDINGS

In compliance with Section 35-180.6 of the Santa Barbara County Article II Coastal Zoning Ordinance (Article II), the following findings shall be made by the Montecito County Planning Commission in order to recommend approval of a text amendment to Article II, and the Board of Supervisors shall adopt the following findings in order to recommend approval of or approve a text amendment to Article II:

2.1 **The request is in the interests of the general community welfare.**

The Montecito Planning Commission incorporates by reference the Emergency findings in the Ordinance Amendment and finds that the proposed ordinance amendment is in the interest of the general community welfare because it is necessary to protect the health, safety, and welfare of the residents in the unincorporated area of Santa Barbara County. The temporary suspension of compliance with certain requirements of approved permits protects public health and supports a phased reopening of Santa Barbara County in a manner that effectively limits the spread of COVID-19. The ordinance amendment will authorize, for approved projects, the temporary suspension of compliance with project descriptions and/or conditions of approval that implement setbacks, site coverage maximums, minimum open space, parking and loading standards, signs, the requirement that uses shall occur within a completely enclosed building, restrictions on uses in the right of way, limitations on food service at wineries and tasting rooms, or other development standards as determined to be necessary by the Director for the protection of public health related to COVID-19. The temporary suspension of compliance with these conditions will allow applicable businesses and community entities to reopen, which supports the local economy, provides local employment opportunities, and supports the general welfare of the population, while meeting state and local public health requirements for physical distancing to effectively limit the spread of COVID-19. The ordinance amendment is temporary in nature and is in effect immediately after the Executive Director of the Coastal Commission executes a waiver pursuant to Pub. Resources Code § 30611 until December 16, 2020 or until the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, whichever is earlier, and therefore would not cause long-term impacts to communities. Pursuant to the ordinance amendment, projects are also required to follow all state and local directives regarding the reopening of businesses or community entities during the COVID-19 pandemic response. Finally, the ordinance amendments are further refined to ensure that the suspension is limited to project changes that are necessary to ensure physical distancing and/or comply with other public health requirements put in place by federal, State, or local public health officials to limit the spread of COVID-19, ensuring the interests of the community welfare are met. Additional requirements are also in place, including that projects obtain encroachment or other applicable County or State permit or approvals, apply only to non-residential

projects, does not result in the expansion of existing capacity of the business or community entity, and does not allow the construction or erection of new permanent structures.

2.2 The request is consistent with the Comprehensive Plan, the requirements of the State planning and zoning laws, and this Development Code.

The Montecito Planning Commission finds that the ordinance amendment is consistent with the Comprehensive Plan, the requirements of the State planning and zoning laws, and the Article II Coastal Zoning Ordinance because the temporary suspension of development standards will protect the public health, support economic development, are temporary in nature, and support a phased reopening of the Santa Barbara County in a manner that effectively limits the spread of COVID-19.

As described in the Planning Commission staff report, dated May 27, 2020 and incorporated herein by reference, the ordinance amendment will authorize, for approved projects, the temporary suspension of compliance with certain portions of the project description, conditions of approval, and/or development standards that implement setbacks, site coverage maximums, minimum open space, parking and loading standards, signs, the requirement that uses shall occur within a completely enclosed building, restrictions on uses in the right of way, limitations on food service at wineries and tasting rooms, or other development standards to be temporarily suspended as determined to be necessary by the Director for the protection of public health related to COVID-19. The ordinance amendment does not alter the purpose and intent of any policies of the Comprehensive Plan and Community Plans as they are temporary in nature. The suspension is limited to project changes that are necessary to ensure social distancing and/or comply with other public health requirements put in place by federal, State, or local public health officials to limit the spread of COVID-19. Pursuant to the ordinance amendment, 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, as well as comply with all other aspects of its project description, conditions of approval, applicable development standards, and the comprehensive Plan, including Coastal Land Use Plan policies. Finally, the temporary suspension of development standards for applicable projects as authorized by the ordinance amendment supports the local economy and general welfare of the community by allowing projects to meet state and local public health guidelines for physical distancing, but do not allow projects to operate in violation of any federal, state, or local public health orders, require projects to obtain encroachment or other applicable County permits. The ordinance amendment applies only to non-residential projects, does not allow the construction or erection of new permanent structures, and requires that the capacity of businesses or community entities not be increased.

The ordinance amendment is consistent with and furthers the purpose of the Governor's orders related to COVID-19, discussed in detail in the Emergency findings in the Ordinance Amendment and incorporated by reference.

2.3 The request is consistent with good zoning and planning practice.

The Montecito Planning Commission finds that the proposed ordinance amendment is consistent with good zoning and planning practices because the temporary suspension of compliance with certain requirements of approved permits when necessary to ensure physical distancing and/or comply with other public health requirements put in place by federal, state, or local public health officials to limit the spread of COVID-19 will protect the public health, support economic development, and support a phased reopening of the Santa Barbara County in a manner that effectively limits the spread of COVID-19. These temporary accommodations will allow businesses and community entities that have an approved permit to operate as previously-approved, with modifications necessary to protect public health. The ordinance amendment is further consistent with good zoning and planning practice because it does not alter the purpose and intent of any policies of the Comprehensive Plan and Community Plans as they are temporary in nature and are drafted to allow applicable projects to comply with state and local mandates to protect the public health during a phased re-opening of the County. Pursuant to the ordinance amendment, 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. Finally, the temporary suspension of certain requirements of approved permits as authorized by the ordinance amendment supports the local economy and general welfare of the community by allowing projects to meet state and local public health guidelines for physical distancing, but do not allow projects to operate in violation of any federal, state, or local public health orders. The ordinance amendment requires projects to obtain encroachment or other applicable County or State permits, applies only to non-residential projects, does not allow the construction or erection of new permanent structures, and requires that the capacity of businesses or community entities not be increased.

ATTACHMENT F: ARTICLE II RESOLUTION

RESOLUTION OF THE SANTA BARBARA COUNTY MONTECITO PLANNING
COMMISSION
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING TO THE COUNTY)
PLANNING COMMISSION THAT IT RECOMMEND TO)
THE BOARD OF SUPERVISORS THE ADOPTION OF AN)
AMENDMENT TO THE SANTA BARBARA COUNTY)
ARTICLE II COASTAL ZONING ORDINANCE, OF) RESOLUTION NO.: 20 - 3
CHAPTER 35, ZONING, OF THE COUNTY CODE,)
AMENDING DIVISION 11, PERMIT PROCEDURES, AND) CASE NO.: 20ORD-00000-00005
DIVISION 12 ADMINISTRATION, TO IMPLEMENT NEW)
REGULATIONS REGARDING THE TEMPORARY)
SUSPENSION OF CERTAIN REQUIREMENTS OF)
APPROVED PERMITS TO SUPPORT A PHASED)
RE-OPENING OF SANTA BARBARA COUNTY IN A)
MANNER THAT PROTECTS PUBLIC HEALTH AND)
EFFECTIVELY SLOWS THE SPREAD OF COVID-19)

WITH REFERENCE TO THE FOLLOWING:

- A. On July 19, 1982, by Ordinance 3312, the Board of Supervisors adopted the Coastal Zoning Ordinance, Article II of Chapter 35 of the Santa Barbara County Code.
- B. On March 4, 2020, Governor Newsom declared a State of Emergency related to conditions caused by COVID-19; and on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic.
- C. On March 12, 2020, the Health Officer of the County of Santa Barbara determined that there is an imminent and proximate threat to public health from the introduction of COVID-19 in the County of Santa Barbara, and proclaimed a Local Health Emergency.
- D. On March 17, 2020, the Board of Supervisors ratified the Local Health Emergency proclamation.
- E. On March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing all individuals living in the State of California to stay at home except as needed to facilitate authorized, necessary activities or to maintain the continuity of operations of critical infrastructure.
- F. On May 21, 2020 a new County of Santa Barbara Health Officer Order No. 2020-8.2 was issued allowing the County of Santa Barbara to begin to reopen businesses that qualify under

Stage 2 (e.g., retail, dine-in restaurants). Additional businesses and community entities will be allowed to reopen in later phases.

- G. To encourage recovery of businesses, restaurants, retail, and other community entities that were required to close or curtail operations under the Governor's shelter in place Executive Order N-33-20, the County has created the Small Business and Community Partnership Enhancement Program (SBCPEP). This program contemplates how to allow businesses to conduct operations within safe physical distancing parameters recommended by the Centers for Disease Control and Prevention as the local community begins a phased reopening.
- H. The Montecito Planning Commission now finds that it is in the interest of the orderly development of the County and important to the preservation of the health, safety, and general welfare of the residents of the County to recommend to the County Planning Commission that it recommend that the Board of Supervisors adopt an ordinance (Case No. 20ORD-00000-00005) amending Division 11 (Permit Procedures) and Division 12 (Administration) of Article II of Chapter 35 of the Santa Barbara County Code, the Coastal Zoning Ordinance, to implement new regulations regarding the temporary suspension of compliance with certain requirements of approved permits in order to protect public health and support a phased re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19.

Said Ordinance is attached hereto as Exhibit 1 and is incorporated herein by reference.
- I. The proposed Article II ordinance amendment is consistent with the Coastal Act of 1976, the Santa Barbara County Coastal Land Use Plan, the Santa Barbara County Comprehensive Plan including the community and area plans, and the requirements of the California planning, zoning, and development laws, as discussed in Section 7.0 of the staff report, dated May 27, 2020 and incorporated herein by reference.
- J. The proposed ordinance is in the interest of the general community welfare since it will authorize the temporary suspension of compliance with certain requirements of approved permits related to the following development standards: setbacks; site coverage maximums; minimum open space; parking and loading standards; signs; the requirement that uses shall occur within a completely enclosed building; restrictions on uses in the right of way; limitations on food service at wineries and tasting rooms; and/or other development standards as determined to be necessary by the Director for the protection of public health related to COVID-19.
- K. The Montecito Planning Commission recommends that the County Planning Commission recommends that the Board of Supervisors adopt regulations that allow for the temporary expansion or extension of nonconforming uses related to certain development standards if necessary related to COVID-19 and also to allow hardship time extensions related to delays caused by COVID-19 for applicable projects.

- L. The Montecito Planning Commission has held a duly noticed public hearing in compliance with Government Code Section 65854 on the proposed ordinance at which hearing the proposed ordinance was explained and comments invited from the persons in attendance.
- M. Whereas Section 65855 of the Government Code requires inclusion of the reason for the recommendation, which is to authorize the temporary suspension of compliance with the project description and/or conditions of approval related to certain zoning ordinance development standards to protect public health and support a phased reopening of the County in a manner that effectively limits the spread of COVID-19, and the relationship of the proposed amendment to applicable general and specific plans, which is hereby identified as consistent, as stated in Section 7.0 of the staff report, dated May 27, 2020, and incorporated herein by reference.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

- 1. The above recitations are true and correct.
- 2. In compliance with the provisions of Section 65855 of the Government Code, the Montecito Planning Commission recommends that the County Planning Commission recommend that the Board of Supervisors of the County of Santa Barbara, State of California, following the required noticed public hearing, approve and adopt the above mentioned recommendation of this Commission, based on the findings included as Attachment D of the Montecito Planning Commission Staff Report dated May 27, 2020.

The Montecito Planning Commission recommends that the County Planning Commission recommend that the Board of Supervisors adopt regulations that allow for the temporary expansion or extension of nonconforming uses related to certain development standards if necessary related to COVID-19 and also to allow hardship time extensions related to delays caused by COVID-19 for applicable projects.

- 3. The Montecito Planning Commission endorses and transmits a certified copy of this resolution to the County Planning Commission and the Board of Supervisors in compliance with Government Code Section 65855 and Section 2-25.2 of the County Code.
- 4. The Chair of this Montecito Planning Commission is hereby authorized and directed to sign and certify all documents, and other materials in accordance with this resolution to show the above described action by the Montecito Planning Commission.


PASSED, APPROVED AND ADOPTED this June 3, 2020, by the following vote:

AYES: Senauer, Kupiec, Pulice, Keller, Newman

NOES:

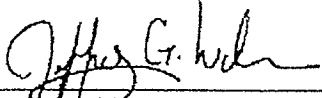
ABSTAIN:

ABSENT:



DONNA SENAUER, CHAIR
MONTECITO PLANNING COMMISSION

ATTEST:



JEFFREY WILSON
SECRETARY TO THE MONTECITO PLANNING COMMISSION

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By


Deputy County Counsel

EXHIBITS:

1. 20ORD-00000-00005

EXHIBIT 1: ARTICLE II COASTAL ZONING ORDINANCE AMENDMENT

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE II, THE SANTA BARBARA COUNTY COASTAL ZONING ORDINANCE, OF CHAPTER 35, ZONING, OF THE SANTA BARBARA COUNTY CODE (ARTICLE II), TO IMPLEMENT NEW REGULATIONS REGARDING THE TEMPORARY SUSPENSION OF COMPLIANCE WITH CERTAIN REQUIREMENTS OF APPROVED PERMITS TO SUPPORT A PHASED RE-OPENING OF SANTA BARBARA COUNTY IN A MANNER THAT PROTECTS PUBLIC HEALTH AND EFFECTIVELY LIMITS THE SPREAD OF COVID-19, BY AMENDING: DIVISION 11, PERMIT PROCEDURES; AND DIVISION 12, ADMINISTRATION.

Case No. 20ORD-00000-00005

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

SECTION 1. Emergency Findings. The Board of Supervisors finds that this ordinance is necessary to protect life, property, or the environment and for the immediate preservation of the public peace, health and safety and to preserve physical distancing requirements to slow the spread of the COVID-19 virus while business and community entities reopen. This ordinance shall take effect immediately upon its approval by at least a four-fifths vote of the Board of Supervisors pursuant to California Government Code Section 25123(d) based upon the following declaration of facts:

1. Section 12-5(a) of the Santa Barbara County Code, empowers the County of Santa Barbara, Director of Emergency Services, to proclaim a local emergency if the Board of Supervisors is not in session; and
2. Section 8558(c) of the Government Code defines a “Local Emergency” as: “the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat”; and
3. A novel coronavirus, COVID-19, causes infectious disease. The first confirmed U.S. case occurred in January 2020 in Washington State. COVID-19 symptoms may include fever, cough, and shortness of breath; but those infected may be completely asymptomatic. Outcomes have ranged from mild to severe illness, and in some cases death. The Centers for Disease Control and Prevention considers the virus to be a very serious public health threat; and

4. On March 4, 2020, Governor Newsom declared a State of Emergency related to conditions caused by COVID-19; and on March 11, 2020, the World Health Organization declared COVID-19 a global pandemic; and
5. On March 12, 2020, the Director of Emergency Services proclaimed a Local Emergency related to COVID-19 pursuant to Government Code Section 8550 *et seq.* and Chapter 12, Section 12-5(a) of the Santa Barbara County Code. The Board of Supervisors ratified this proclamation on March 17, 2020; and
6. On March 12, 2020, the Health Officer of the County of Santa Barbara determined that there is an imminent and proximate threat to public health from the introduction of COVID-19 in the County of Santa Barbara, and proclaimed a Local Health Emergency as a result. The Board of Supervisors ratified this proclamation on March 17, 2020; and
7. In direct response to the lack of healthcare infrastructure, governments across the nation are taking actions to slow the spread of COVID-19 in order to “flatten the curve” of infection and reduce the numbers of individuals infected at any one time by minimizing situations where the virus can spread; and
8. In furtherance of this effort, on March 19, 2020, Governor Newsom issued Executive Order N-33-20, requiring all persons residing in the State to remain in their homes or places of residence, except as needed to maintain the continuity of operations for critical infrastructure (the “State Stay-at-Home Order”); and
9. On March 19, 2020, the State Public Health Officer ordered all individuals living in the State of California to stay home or at their place of residence, except as needed to maintain continuity of operations for the federal critical infrastructure sectors; and
10. In May 2020, Governor Newsom’s Office released a four-stage COVID-19 pandemic Resilience Roadmap for beginning to reopen businesses and community entities in the State of California and declared California to be in Stage 2 of its response; and
11. Stage 2 of California’s COVID-19 pandemic response plan allows for gradual reopening of retail starting with low risk sectors such as curbside retail, manufacturing, and logistics. Later in Stage 2, there are to be relaxed retail restrictions and reopening of schools, offices, and limited hospitality and personal services. Stage 3 of California’s COVID-19 pandemic response plan contemplates reopening of higher-risk workplaces; and
12. On May 4, 2020, Governor Newsom issued Executive Order N-60-20 to allow a County to pursue a variance to move further into Stage 2 upon notification and certification through submission of a written attestation to the California Department of Public Health Office; and
13. On May 20, 2020, the California Department of Public Health Office approved and posted to the State’s website the County of Santa Barbara’s Variance Attestation allowing the County to move further into Stage Two to include dine-in restaurants and retail; and

14. On May 21, 2020, the Health Officer of the County of Santa Barbara issued a Health Officer Order to provide guidance on the reopening of lower-risk businesses. In that order, essential and lower-risk businesses that may open or remain open are identified and required to implement physical distancing when in operations; and
15. The Board of Supervisors finds that as businesses and community entities start to reopen pursuant to State and local laws and guidance, there may be a need for increased use of outdoor areas to allow for adequate physical distancing when local businesses and community entities reopen; and
16. The Board of Supervisors now finds that it is appropriate for the Director of Planning and Development to temporarily suspend the requirement for strict compliance to certain portions of the project description, conditions of approval, and/or the development standards for approved projects if the temporary project change is necessary to ensure physical distancing and/or comply with other public health requirements put in place by federal, State, or local public health officials to limit the spread of COVID-19 and other requirements are met; and
17. This ordinance is based on evidence of increasing transmission of COVID-19 both within the County and worldwide, scientific evidence regarding the most effective approach to slow transmission of communicable diseases generally and COVID-19 specifically, as well as best practices as currently known and available to protect the public from the risk of spread of or exposure to COVID-19; and
18. This ordinance is promulgated due to the propensity of the virus to spread person to person and also because the virus is causing property loss due to its proclivity to attach to surfaces for prolonged periods of time; and
19. This ordinance is intended to reduce the likelihood of exposure to COVID-19, thereby slowing the spread of COVID-19 in the County of Santa Barbara and communities worldwide. As the presence of infected individuals increases, the difficulty and magnitude of tracing individuals who may have been exposed rises exponentially; and
20. This ordinance is issued in accordance with, and incorporates by reference: the March 4, 2020 Proclamation of a State Emergency issued by Governor Gavin Newsom; the March 12, 2020 Declaration of Local Health Emergency and Proclamation of Emergency based on an imminent and proximate threat to public health from the introduction of novel COVID-19 in the County; the March 17, 2020 Resolution of the Board of Supervisors ratifying the County Declaration of Local Health Emergency and Proclamation of Emergency regarding COVID-19; the guidance issued on March 11, 2020 by the California Department of Public Health regarding large gatherings of 250 people or more; the March 13, 2020 Presidential Declaration of a National Emergency due to the national impacts of COVID-19; the guidance issued on March 15, 2020 by the Centers for Disease Control and Prevention, the California Department of Public Health, and other public health officials through the United States and around the world recommending the cancellation of gatherings involving more than fifty (50) or more persons in a single space at the same time; the March 16, 2020 order of the State Public Health Officer prohibiting all gatherings with expected presence above ten (10) individuals; Governor Newsom's Executive Order N-33-20 of March 19, 2020 ordering all persons to stay at home to protect the health and well-being of

all Californians and to establish consistency across the state in order to slow the spread of COVID-19; the March 22, 2020, Presidential Declaration of a Major Disaster in California beginning on January 20, 2020 under Federal Emergency Management Agency (FEMA) Incident DR-4482-CA; Governor Newsom's Executive Order N-60-20 of May 4, 2020 allowing counties to pursue a variance to move further into Stage 2; the May 8, 2020 order of the County of Santa Barbara Health Officer requiring physical distancing and not gathering in groups; and the May 21, 2020 order of the County of Santa Barbara Health Officer regarding physical distancing protocols for businesses and entities remaining in operation or reopening operations.

SECTION 2:

DIVISION 11, Permit Procedures, of Article II, the Santa Barbara County Coastal Zoning Ordinance ("Article II"), is hereby amended to add a new Section 35-179E, Temporary Suspension of Compliance with the Project Description and/or Conditions of Approval to an Approved Project Necessary to Protect Public Health, to read as follows:

Section 35-179E – Temporary Suspension of Compliance with the Project Description and/or Conditions of Approval to an Approved Project Necessary to Protect Public Health. In order to protect public health and support a phased reopening of the Santa Barbara County in a manner that effectively limits the spread of COVID-19 by allowing for the use of outdoor areas to ensure that physical distancing and/or other public health requirements can be met and to provide other forms of relief, certain temporary changes to an approved project may be allowed.

1. For the time period stated in Subsection 35-185.9.1 (Temporary Time Period), temporary changes to an approved project that are necessary to ensure physical distancing and/or comply with other public health requirements put in place by federal, state, or local public health officials to limit the spread of COVID-19 and that meet the requirements as detailed in Subsection 35-185.9.3 (Requirements) of Section 35-185.9 (Suspension of Compliance in order to Protect Public Health) do not require submittal of an application for the following:
 - a. Minor Changes to Coastal Development Permits (Section 35-169.10)
 - b. Substantial Conformity, Amendments and Revisions for Conditional Use Permits (Section 35-172.11)
 - c. Substantial Conformity, Amendments and Revisions for Development Plans (Section 35-174.10)
 - d. Minor Changes to Zoning Clearances (Section 35-179A.6)

Section 35-179E.1 shall take precedence over any conflicting provisions of Article II.
2. Prior to implementation of the temporary changes to an approved project authorized under Section 35-185.9, the owner/applicant may, and is encouraged to, submit to the Director a completed checklist, revised site plan, photos, and description of proposal describing the temporary changes and how the requirements of Subsection 35-185.9.3 (Requirements) will be met.
3. Within 30 days of implementing temporary changes to an approved project authorized under Section 35-185.9, the owner/applicant shall submit to the Director a completed checklist, revised site plan, photos, and description of proposal describing the temporary changes and how the requirements of Subsection 35-185.9.3 (Requirements) have been met.

SECTION 3:

DIVISION 12, Administration, of Article II, is hereby amended to add a new Subsection 35-185.9, Temporary Suspension of Compliance in order to Protect Public Health, of Section 35-185, Enforcement, Legal Procedures, and Penalties, to read as follows:

Section 35-185.9 – Temporary Suspension of Compliance in order to Protect Public Health. In order to protect public health and support a phased reopening of the Santa Barbara County in a manner that effectively limits the spread of COVID-19 by allowing for the use of outdoor areas to ensure that physical distancing and/or other public health requirements can be met and to provide other forms of relief, the following provisions apply for the temporary period specified below.

1. **Temporary Time Period.** Sections 35-179E and 35-185.9 (ordinance amendments related to COVID-19) shall be in effect immediately after the Executive Director of the Coastal Commission executes a waiver pursuant to Pub. Resources Code § 30611, and expire on December 16, 2020, or when the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated, whichever is earlier.
 - a. The expiration date of these temporary amendments may be extended or revised by the Board of Supervisors by adoption of future ordinance amendments. Unless otherwise extended or amended by the Board, upon expiration this ordinance, shall be repealed and shall be of no further force or effect.

2. **Development Standards.** For approved projects, this section authorizes the temporary suspension of compliance with the project description and/or conditions of approval related to the following standards provided the requirements of Subsection 3, below, are met:
 - a. Setbacks.
 - b. Site coverage maximums.
 - c. Minimum open space.
 - d. Parking and loading standards.
 - e. Signs.
 - f. The requirement that uses shall occur within a completely enclosed building.
 - g. Restrictions on uses in the right of way.
 - h. Limitations on food service at wineries and tasting rooms.
 - i. Other development standards as determined to be necessary by the Director for the protection of public health due related to COVID-19.

3. **Requirements.** To be eligible for the temporary suspension of compliance, all of the following requirements must be met:
 - a. The temporary changes to an approved project that render the project unable to strictly comply with its project description, conditions of approval, and/or the development standards listed in Subsection 2, above, are necessary to ensure physical distancing and/or comply with other public health requirements put in place by federal, State, or local public health officials to limit the spread of COVID-19.
 - b. The owner/applicant must follow all State and local directives regarding reopening of businesses or community entities during the COVID-19 pandemic response, including certification or attestation and COVID-19 protection plan. Public health restrictions related to COVID-19 are subject to rapid change and nothing in this Section 35-185.9 is intended, nor shall it be construed, to allow approved projects to operate in violation of any federal, State, or local public health orders.

- c. The project otherwise complies with its project description, conditions of approval, applicable development standards, and Comprehensive Plan, including Coastal Land Use Plan policies.
- d. Any state or local permit or approval required by regulations other than Article II is obtained (e.g., a business purposes encroachment permit, health permit, alcoholic beverage control license, fire department authorization).
- e. The approved project is non-residential.
- f. The use does not occur within environmentally sensitive habitat. No native vegetation or environmentally sensitive habitat would be removed to accommodate the use of outdoor areas.
- g. To ensure public access is not obstructed, there is no expansion onto beaches.
- h. The use of outdoor areas does not result in the expansion of the existing capacity of the business or community entity (e.g., a restaurant with 20 indoor tables and a 40 person capacity maintains the same number of tables and capacity with more space between the tables).
- i. No structures are proposed, constructed, or erected.

4. Enforcement.

- a. If the completed checklist, revised site plan, photos, and description of proposal are not submitted pursuant to Subsection 35-179E.2, or upon submittal the Director determines, in the Director's sole discretion, that the requirements of Subsection 3, above, are not satisfied, the Director may notify the owner/applicant that the suspension of compliance to protect public health is not applicable and the Director may initiate enforcement action. The Director's action is not subject to appeal.
- b. If a completed checklist, revised site plan, photos, and description of proposal are submitted pursuant to Subsection 35-179E.2 and the requirements of Subsection 3, above, are met, as determined in the sole discretion of the Director, strict compliance to the applicable portions of the project description, conditions of approval, and/or the development standards listed in Subsection 2, above is not required and the temporary changes to the project shall not constitute a violation subject to penalties, for the time period specified in Subsection 1, above. The Director's action is not subject to appeal.

SECTION 4:

All existing indices, section references and numbering, and figure and table numbers contained in Article II, the Santa Barbara County Coastal Zoning Ordinance, are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

SECTION 5:

Except as amended by this Ordinance, Article II, the Santa Barbara County Coastal Zoning Ordinance, shall remain unchanged and shall continue in full force and effect.

SECTION 6:

This ordinance shall be in effect immediately after the Executive Director of the Coastal Commission executes a waiver pursuant to Pub. Resources Code § 30611. 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. Unless otherwise extended or amended

by the Board, upon expiration this ordinance, shall be repealed and shall be of no further force or effect.

SECTION 7:

Public health restrictions related to COVID-19 are subject to rapid change. Even if the Board of Supervisors adopts this Ordinance, the Board of Supervisors retains all of its statutory planning and zoning authority. For example, the Board of Supervisors may still take action(s) later to change or remove the temporary suspension and may do so without the temporary changes to a project receiving: 1) an amortization period prior to removal; and/or 2) legal nonconforming use status.

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

GREGG HART, CHAIR
BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy Clerk

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By: _____
Deputy County Counsel