

ATTACHMENT 6: 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 COUNTY CODE BY AMENDING DIVISION 1, IN GENERAL, DIVISION 2, DEFINITIONS, DIVISION 10, NONCONFORMING STRUCTURES AND USES, AND DIVISION 12, ADMINISTRATION, TO IMPLEMENT NEW REGULATIONS AND DEVELOPMENT STANDARDS REGARDING PERMITTING REQUIREMENTS FOR STRUCTURES THAT HAVE BEEN DAMAGED OR DESTROYED DURING A DEBRIS FLOW EVENT OR OTHER NATURAL EVENT RESULTING IN A SIGNIFICANT CHANGE IN TOPOGRAPHY OR ALTERATION OF DRAINAGE FEATURES.

18ORD-00000-00006

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

SECTION 1:

DIVISION 1, In General, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code is hereby amended to add Section 35.51C, DeMinimis Waiver of Coastal Development Permit, to read as follows:

Section 35-51C. De Minimis Waiver of Coastal Development Permit.

A. General requirements for De Minimis Waiver. If a structure was damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks, streams, waterways, etc.) located on or affecting the lot on which the replaced or restored structure would be located, and is not otherwise exempt pursuant to Section 35.51B, Exemptions from Planning Permit Requirements, the Director may waive the requirement for a Coastal Development Permit through a De Minimis Coastal Development Permit Waiver to replace or restore the structure(s) on the same lot in compliance with this Section, upon a determination that the development meets all of the following criteria and procedural requirements. Such decision is not locally appealable.

- 1. No Adverse Coastal Resource Impacts.** The development has no potential for adverse effects, either individually or cumulatively, on coastal resources;
- 2. Local Coastal Program Consistency.** The development is consistent with the certified Santa Barbara County Local Coastal Program, including the resource protection policies, as applicable;
 - a.** The replaced or restored structure may be relocated on the lot if the Director, in consultation with the Flood Control District, determines the relocation to be

necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as long as the structure otherwise complies with this Chapter and with the applicable policies of the Coastal Land Use Plan.

b. The height of the replaced or restored structure (as measured from the post-event grade to peak roof height) may exceed the height of the destroyed or damaged structure by more than 10 percent if the Director, in consultation with the Flood Control District, determines the change in the finished floor elevation to be necessary to comply with the base flood elevation that exists for the lot after the debris flow or other catastrophic event, as long as the structure otherwise complies with this Chapter and with the applicable policies of the Coastal Land Use Plan. In no case shall the height of the structure, as measured from the lowest, finished floor to the highest part of the structure, excluding chimneys, vents, and noncommercial antennas, exceed the equivalent height of the damaged or destroyed structure by more than 10 percent or exceed the height limit of the applicable zone.

1) For the purposes of this Subsection A.2.b, post-event grade is defined as the existing grade on the lot at the time of application submittal.

c. The restored or replaced structure, even if relocated on the lot or increased in height, shall not require Design Review unless the exterior design or specifications of the replaced or restored structure are substantially different from the prior structure(s), as determined by the Director.

3. **Not Appealable to California Coastal Commission.** The development is not of a type or in a location where an action on the development would be appealable to the Coastal Commission (For development appealable to the Coastal Commission, see Section 35-169.4(2)).

4. **Posting of Public Notice.** At the time the application is submitted, public notice of the proposed De Minimis Waiver for a Coastal Development Permit shall be conspicuously posted at a minimum of one location on the subject lot with at least one notice posted in a location that can be viewed from the nearest street. If the subject lot is a through lot, then the applicant shall conspicuously post a notice adjacent to each street frontage in a location that can be viewed from the street. The notice shall remain onsite until the effective date of the De Minimis Waiver.

5. **Director Determination.** The Director shall provide a notice of determination of the De Minimis Waiver determination to the Executive Director of the Coastal Commission.

6. **Effective Date of Waiver.** Upon receipt of notice of a De Minimis Waiver determination by the Director, the Coastal Commission staff shall report the De Minimis Waiver to the Coastal Commission at the next regularly scheduled meeting. If the Coastal Commission requests at this meeting that the waiver not be

effective, the applicant shall be advised that a Coastal Development Permit is required for the development. Otherwise, the waiver is effective immediately after the Coastal Commission meeting.

- 7. Waiver Expiration.** A De Minimis Waiver shall expire and be of no further force and effect if the authorized development is not commenced pursuant to a valid Grading and/or Building Permit, as applicable, within five years of the effective date of the waiver. If expired, a Coastal Development Permit shall be required for the replaced or restored structure.

SECTION 2:

DIVISION 2, Definitions, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to change Section 35-58, Definitions, to add new definitions of “Base Flood Elevation” and “Debris Flow” to read as follows:

Base Flood Elevation. The computed elevation to which floodwater is anticipated to rise during the base flood, which is a flood having a one percent chance of being equaled or exceeded in any given year. This is the regulatory standard also referred to as the “100-year flood.” Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) which may be supplemented by studies for other areas which allow implementation of Chapter 15A of the County Code and which are recommended to the board of directors by the floodplain administrator and on the flood profiles. The BFE is the regulatory requirement for the elevation or flood-proofing of structures.

Debris Flow. A saturated mass of loose particles, including rock, earth, and other debris, that travels down a slope and often into creek and/or stream channels.

SECTION 3:

DIVISION 10, Nonconforming Structures and Uses, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code is hereby amended to change Subsection 5, Damage, of Section 35.161, Nonconforming Uses of Land, Buildings and Structures, to read as follows:

- 5. Damage.** The purpose of this Section is to identify the standards for allowing the continuation of a nonconforming use in a building, structure, or other development that is damaged or destroyed by fire, flood, earthquake or other natural disaster.
- a. Non-residential Uses.**
- 1) Where buildings, structures, or other development dedicated to a non-residential nonconforming use are damaged by fire, flood, earthquake, or other natural disaster to an extent of 75 percent or more of replacement cost at the time of damage, as determined by the Planning and Development Department, the

nonconforming use shall be discontinued and the damaged building, structure, or other development thereafter used in accordance with regulations of the district in which it is located unless the Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship which would be suffered by the owner of the building, structure, or other development should restoration of the nonconforming use be denied.

- 2) Except as provided below in Subsection 5.a.2.a., ~~W~~where damage caused by fire, flood, earthquake, or other natural disaster is to an extent of less than 75 percent at the time of damage, such building, structure, or other developments may be restored to the same or lesser size and in the same general footprint location, provided however that restoration shall commence within 24 months of the time of damage and be diligently carried to completion,~~and~~.

a. **Damage caused by debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features.**

If the damage caused by debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks, streams, waterways, etc.) of the lot on which the nonconforming use occurs is less than 75 percent of the replacement cost of the total structure before the damage, as determined by the Director, then the restored or replaced structure(s) may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C of this Chapter.

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

- b. **Residential Uses.** Except as provided below in Subsection 5.b.1., ~~W~~where buildings or structures dedicated to nonconforming residential dwelling uses (i.e., single and multi-family units, second residential units, residential uses in the SR-M or SR-H Zone District), except in industrial zones, are damaged or destroyed by fire, flood, earthquake, or other natural disaster, such structures may be reconstructed to the same or lesser size and in the same general footprint location provided that reconstruction shall commence within 24 months of the time of damage and be diligently carried to completion. The nonconforming residential dwelling use may be resumed and continued as before, or on a lesser scale, but shall not be enlarged, expanded, or intensified (e.g., increase in gross floor area, increase in the number of bedrooms). If the building or structure dedicated to a nonconforming residential dwelling use is located in an industrial zone the damage standards of [Section 35-161.5.a](#) shall apply.

- 1) **Damage caused by debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features.** If the structure is damaged or destroyed by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, then the restored or replaced structure may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C of this Chapter.

- c. Except as provided in Subsection 5.c.1., below, the ~~T~~he restoration or reconstruction of a building, structure, or other development dedicated to a nonconforming use that

is damaged or destroyed by fire, flood, earthquake or other natural disaster shall be exempt from the permit requirements of this Article only if the building, structure, or other development complies with the provisions of this Section and if the building, structure, or other development conforms to the specifications documented to exist prior to the damage or destruction as determined by the Planning and Development Department.

- (1) The relocation of a structure and/or a change to its finished floor elevation following a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C.
- d. Except as provided in Subsection 5.d.1., below, if ~~if~~ the Planning and Development Department determines that the exterior design or specifications are proposed to be changed or the footprint of the building or structure is relocated, then the restored or replaced structure, shall be subject to the provisions of [Section 35-184.](#), Board of Architectural Review, if otherwise subject to such review (e.g., the site is within the D-Design Control Overlay District).
- (1) If a structure has been damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features located on or affecting the lot on which the replaced or restored structure would be located, the restored or replaced structure, even if relocated on the lot or increased in height, shall not require Design Review unless the exterior design or specifications of the replaced or restored structure are substantially different from the prior structure(s), as determined by the Director.
- e. Except as allowed herein, if ~~if~~ the building, structure, or other development is proposed to be altered from the original specifications, as determined by the Planning and Development Department, then the restoration or reconstruction shall be subject to all applicable permit requirements of this Article.

SECTION 4:

DIVISION 10, Nonconforming Structures and Uses, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code is hereby amended to change Subsection 2, Damage, of Section 35.162, Nonconforming Buildings and Structures, to read as follows:

2. **Damage.** The purpose of this section is to identify the standards for allowing the restoration or reconstruction of a nonconforming structure that is damaged by fire, flood, earthquake or other natural disaster.
- a. Except for single family residential buildings or structures and greenhouses, packing and shipping facilities, shade and hoop structures, ~~and~~ greenhouse related development in the Carpinteria Agricultural Overlay District, and buildings or structures damaged by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks,

- streams, waterways, etc.), where a nonconforming building or structure is damaged by fire, flood, earthquake, or other natural disaster to an extent of 75 percent or more of the replacement cost at the time of damage, as determined by the Planning and Development Department, such structure may not be reconstructed unless the Zoning Administrator finds that the adverse impact upon the neighborhood would be less than the hardship which would be suffered by the owner of the structure should reconstruction of the nonconforming structure be denied.
- b. Where damage to a nonconforming, non-single family residential building or structure is to an extent of less than 75 percent of the replacement cost at the time of damage, as determined by the Planning and Development Department, such structure may be restored to the same or lesser size in the same general footprint location, except that if an existing non-single family residential building or structure is damaged as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, the restored or replaced structure may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C of this Chapter.
 - c. If a nonconforming single family residential building or structure is damaged or destroyed by fire, flood, earthquake, or other natural disaster, such building or structure may be reconstructed to the same or lesser size in the same general footprint location, except that if an existing single family residential building or structure is damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, the restored or replaced structure may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C of this Chapter.
 - d. Notwithstanding the above, additional provisions exist in [Section 35-214](#) of [Division 15](#) (Montecito Community Plan Overlay District) for parcels identified within the Montecito Community Plan Overlay zone, and in [Section 35-194](#) of [Division 16](#) (Toro Canyon Plan Overlay District) for parcels identified within the Toro Canyon Plan Overlay zone, which, in the case of conflict, shall take precedence over this Section. However, if a structure needs to be relocated on the lot as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, this Section takes precedence over the above-mentioned Overlay Districts.
 - e. Where damage to a nonconforming greenhouse, packing and shipping facility, shade and hoop structure, or greenhouse related structure in the Carpinteria Agricultural Overlay District, by fire, flood, earthquake, or other natural disaster, is to an extent of 75 percent or more, such structure may be reconstructed in accordance with the provisions of [Section 35-102F](#) (Carpinteria Agricultural), thereby becoming a conforming structure.
 - f. The restoration permitted above shall commence within 24 months of the time of damage and be diligently carried to completion. If the restoration of such building or structure does not commence within 24 months it shall not be restored except in conformity with the applicable zone district regulations and other provisions of this Article.

- g. Except as provided in Subsection 2.g.1., below, the restoration of a nonconforming building or structure that is damaged by fire, flood, earthquake or other natural disaster shall be exempt from the permit requirements of this Article only if the building or structure complies with the provisions of this Section and if the building or structure conforms to the specifications documented to exist prior to the damage as determined by the Planning and Development Department.
- 1) The relocation of a structure and/or a change to its finished floor elevation following a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features may be eligible for a De Minimis Coastal Development Permit Waiver pursuant to Section 35.51C.
- ~~h.~~ If Except as provided in Subsection 2.h.1., below, if the Planning and Development Department determines that the exterior design or specifications are proposed to be changed or the footprint of the building or structure is relocated, the restored structure shall be subject to the provisions of Section 35-184, Board of Architectural Review, if otherwise subject to such review (e.g., the site is within the D-Design Control Overlay District).
- (1) If a structure has been damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features located on or affecting the lot on which the replaced or restored structure would be located, the restored or replaced structure, even if relocated on the lot or increased in height, shall not require Design Review unless the exterior design or specifications of the replaced or restored structure are substantially different from the prior structure(s), as determined by the Director.
- ~~i.~~ If Except as allowed herein, if the building or structure is proposed to be altered from the original specifications, then the restoration shall be subject to all applicable permit requirements of this Article.

SECTION 5:

DIVISION 12, Administration, of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the Santa Barbara County Code is hereby amended to change Section 35-184.3(1), Exceptions, General, of Section 35.184, Board of Architectural Review, to read as follows:

1. **General.** Board of Architectural Review approval is not required for the following:
 - a. Interior alterations.
 - b. Decks.
 - c. Swimming pools, hot tubs, and spas.
 - d. Fences, gates, gateposts and walls as follows; however, fences, gates, gateposts and walls that are integral to the structure (e.g., are connected to the structure or form a courtyard adjacent to the structure) shall be included as part of the architectural review of a new residence, a remodeling, or an addition to a structure requiring

architectural review:

- 1) Fences, gates, and walls six feet or less in height and gateposts of eight feet or less in height, when located in the front setback area.
 - 2) Fences, gates, and walls of eight feet or less in height and gateposts of 10 feet or less in height when located outside of front setback areas and not closer than 20 feet from the right-of-way line of any street.
- e. Solar panels.
- f. Any other exterior alteration determined to be minor by the Director.
- g. Residential second units; however approval from the Board of Architectural Review Chair, or designee, is required.
- h. The replacement or restoration of structures that were damaged or destroyed as a result of a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features (e.g., creeks, streams, waterways, etc.) located on or affecting the same lot on which the damaged or destroyed structures were located; unless the exterior design or specifications of the replaced or restored structure are substantially different from the prior structure(s), as determined by the Director.

SECTION 6:

All existing section references contained in Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, are hereby revised and renumbered as appropriate to reflect the revisions enumerated above.

SECTION 7:

Except as amended by this Ordinance, Division 1, 2, 10, and 12 of Article II, the Santa Barbara County Coastal Zoning Ordinance, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 8:

This ordinance and any portion of it approved by the Coastal Commission shall take effect and be in force 30 days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code Section 30514, whichever occurs later; and before the expiration of 15 days after its passage, it, or a summary of it, shall be published once, together with the names of the members of the Board of Supervisors voting for and against the same in the *Santa Barbara News-Press*, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this _____ day of _____, 2018, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

DAS WILLIAMS, 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

