

ATTACHMENT C: COUNTY LUDC RESOLUTION AND ORDINANCE AMENDMENT

RESOLUTION OF THE SANTA BARBARA COUNTY 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 35-1, THE SANTA BARBARA COUNTY)
LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35,)
ZONING, OF THE COUNTY CODE, AMENDING ARTICLE) RESOLUTION NO.: 18 - 14
35.2, ZONES AND ALLOWABLE LAND USES, ARTICLE)
35.8, PLANNING PERMIT PROCEDURES, ARTICLE 35.10,) CASE NO.: 18ORD-00000-00007
LAND USE AND DEVELOPMENT CODE)
ADMINISTRATION, AND ARTICLE 35.11, GLOSSARY, TO)
IMPLEMENT NEW REGULATIONS AND DEVELOPMENT)
STANDARDS REGARDING EXEMPTIONS FROM)
PERMITTING 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.)

WITH REFERENCE TO THE FOLLOWING:

- A. On November 27, 2007, by Ordinance 4660, the Board of Supervisors adopted the Santa Barbara County Land Use and Development Code, Section 35-1 of Chapter 35 of the Santa Barbara County Code.
- B. The County 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. 18ORD-00000-00007) amending Section 35-1 of Chapter 35 of the Santa Barbara County Code, the Santa Barbara County Land Use and Development Code, to implement new regulations regarding the permitting of structures that have been damaged or destroyed during a debris flow or other event resulting in a significant change in topography or alteration of drainage features.

Said Ordinance is attached hereto as Exhibit 1 and is incorporated herein by reference.

- C. The proposed Ordinance is consistent with the Santa Barbara County Comprehensive Plan including the Community and Area Plans, and the requirements of the State Planning, Zoning, and Development Laws, as discussed in Section 6.2 of the staff report, dated April 5, 2018 and incorporated herein by reference.
- D. The proposed Ordinance is in the interest of the general community welfare since it will serve to expedite the permitting process for the re-building of structures that were damaged or destroyed during a debris flow or other event resulting in a significant change in topography or alteration of drainage features in unincorporated Santa Barbara County, and allow structures to be rebuilt in safer and more resilient locations.
- E. This County Planning Commission has held a duly noticed public hearing, as required by Section 65854 of the Government Code, on the proposed Ordinance at which hearing the proposed

Ordinance was explained and comments invited from the persons in attendance.

- F. Whereas Section 65855 of the Government Code requires inclusion of the reason for the recommendation which is to expedite the permitting process for the re-building of structures that were damaged or destroyed during a debris flow and the relationship of the proposed amendment to applicable general and specific plans, which is hereby identified as consistent, as stated in Section 6.2 of the staff report, dated April 5, 2018, 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, this County 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 recommendation of this Commission, based on the findings included as Attachment A of the County Planning Commission Staff Report dated April 5, 2018.
3. This County Planning Commission also recommends that the Board of Supervisors direct Planning and Development Staff explore an expedited Board of Architectural Review process and an expedited appeals process for properties impacted by a debris flow event that are changing the exterior of a structure and/or are relocating a structure on the lot.
4. A certified copy of this resolution shall be transmitted to the Board of Supervisors.
5. The Chair of this County Planning Commission is hereby authorized and directed to sign and certify all maps, documents, and other materials in accordance with this resolution to show the above mentioned action by the County Planning Commission.

PASSED, APPROVED AND ADOPTED this April 25, 2018, by the following vote:

AYES: Cooney, Brown, Parke, Blough

NOES:

ABSTAIN:

ABSENT: Ferini



DANIEL BLOUGH, CHAIR
SANTA BARBARA COUNTY PLANNING COMMISSION

ATTEST:

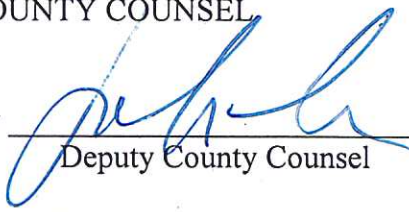


JEFFREY WILSON
SECRETARY TO THE COUNTY PLANNING COMMISSION

APPROVED AS TO FORM:

MICHAEL C. GHIZZONI
COUNTY COUNSEL

By


Deputy County Counsel

EXHIBITS:

1. 18ORD-00000-00007

EXHIBIT 1: COUNTY LUDC ORDINANCE AMENDMENT

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 35-1, THE SANTA BARBARA COUNTY LAND USE AND DEVELOPMENT CODE, OF CHAPTER 35, ZONING, OF THE COUNTY CODE BY AMENDING ARTICLE 35.2, ZONES AND ALLOWABLE LAND USES, ARTICLE 35.8, PLANNING PERMIT PROCEDURES, ARTICLE 35.10, LAND USE AND DEVELOPMENT CODE ADMINISTRATION, AND ARTICLE 35.11, GLOSSARY, TO IMPLEMENT NEW REGULATIONS AND DEVELOPMENT STANDARDS REGARDING EXEMPTIONS FROM PERMITTING 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-00000-00007

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

SECTION 1:

ARTICLE 35.2, Zones and Allowable Land Uses, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to change Subsection B.5, Exempt activities and structures, Damaged or destroyed structure, of Section 35.20.040, Exemptions from Planning Permit Requirements, of Chapter 35.20, Development and Land Use Approval Requirements, to read as follows:

5. **Damaged or destroyed structure.** The replacement or restoration of a conforming structure damaged or destroyed by a disaster, as determined by the Director in consultation with the Flood Control District as applicable.
 - a. The replaced or restored structure shall comply with all requirements of the applicable zone (including permitted uses), shall be for the same use, shall be in the same general footprint location, and shall not exceed the floor area, height, or bulk of the destroyed structure by more than 10 percent, or 250 square feet, whichever is less. For the purposes of this Subsection B.5, bulk is defined as total interior cubic volume as measured from the exterior surfaces of the structure.
 - b. If the 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, the replaced or restored structure may be relocated on the lot to meet applicable setbacks from top-of-bank and reduce flood hazards, as long as the structure otherwise complies with Subsection 5.a above and with applicable policies of the Comprehensive Plan.
 - c. If the 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 located on or affecting the lot on which the replaced or restored structure would be located, the replaced or restored structure may exceed the height of the destroyed or damaged structure (as measured from the post-event grade to peak roof height) by more than 10 percent if necessary to comply with the base flood elevation that exists for the lot after the debris flow or other event. 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 of the applicable zone.

1. For the purposes of this Subsection 5.c, post-event grade is defined as the existing grade on the lot at the time of application submittal.

b.d. Except as provided in Subsection B.5.d.(1) below, if the Director determines that the exterior design or specifications are proposed to be changed, then the restored or replaced structure shall require Design Review in compliance with Section 35.82.070 (Design Review), if the structure is otherwise required to have Design Review (e.g. the site is within the Design Control overlay).

(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 shall require Design Review if the Director determines that the exterior design or specifications of the replaced or restored structure are proposed to be changed or the replaced or restored structure is relocated on the lot. Design Review shall not be required for structures that are required to increase in height to comply with the base flood elevation that exists after the debris flow event, in accordance with Section 35.20.040.B.5.c above, if its exterior design or specifications are otherwise not proposed to be changed.

SECTION 2:

ARTICLE 35.8, Planning Permit Procedures, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to change Subsection C.1, Exceptions to Design Review requirements, General, of Section 35.82.070, Design Review, of Chapter 35.82, Permit Review and Decisions, to read as follows:

C. Exceptions to Design Review requirements. Design review approval shall not be required for the following:

1. General.

- a. Decks.
- b. 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 Design Review of a new structure or a remodeling or an addition to a structure

requiring Design 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.
- c. Hot tubs, spas, and swimming pools.
 - d. Interior alterations.
 - e. Solar panels.
 - f. Other exterior alterations determined to be minor by the Director.
 - g. Residential second units; however, approval from the Board of Architectural Review Chairperson, or designee, is required, if the residential second unit would otherwise be subject to Design Review in compliance with Subsection B (Applicability) above.
 - 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 lot on which the damaged or destroyed structures were located; unless the Director determines that the exterior design or specifications of the replaced or restored structure are proposed to be changed or the restored or replaced structure is relocated on the lot.

SECTION 3:

ARTICLE 35.10, Land Use and Development Code Administration, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to change Subsection E, Damage, of Section 35.101.020, Nonconforming Uses of Land and Structures, of Chapter 35.101, Nonconforming Uses, Structures, and Lots, to read as follows:

E. Damage. This Section identifies the standards for allowing the continuation of a nonconforming use in a structure or other development that is damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs.

1. Non-residential uses.

- a. **Damage 75 percent or more.** If structure or other development dedicated to a non-residential nonconforming use is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs to an extent of 75 percent or more of the replacement cost of the total structure before the damage, as determined by the Director, then the nonconforming use shall be discontinued and the damaged structure or other development thereafter used only in compliance with

regulations of the zone in which it is located, unless allowed to continue by the Zoning Administrator, in compliance with Section 35.82.100 (Hardship Determination).

b. Damage less than 75 percent.

- (1) Except as provided below in Subsection E.1.b.(2), if the damage caused by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property 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, the structure or other developments may be restored to the same or lesser size and in the same general footprint location.
- (2) **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:
 - (a) The restored or replaced structure may be relocated on the lot as necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as long as the structure complies with the setback requirements of the applicable zone and with the applicable policies of the Comprehensive Plan.
 - (b) The height of the structure may exceed the height of the destroyed or damaged structure if necessary to comply with the base flood elevation that exists for the lot following a debris flow or other catastrophic event, as long as the structure complies with the height requirements of the applicable zone. However, 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, shall not exceed the equivalent height of the damaged or destroyed structure.
- (3) The nonconforming use may be resumed and continued as before, or on a lesser scale, but shall not be enlarged or intensified.

2. Residential uses.

- a. Except in industrial zones and as provided in Subsection E.2.b, below, structures dedicated to nonconforming residential dwelling uses (e.g., one-family, two-family, and multi-family units, and second residential units), that are damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs, may be reconstructed to the same or lesser size and in the same general footprint location.
- b. **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:

- (1) The restored or replaced structure may be relocated on the lot if necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as long as the structure complies with the setback requirements of the applicable zone and with the applicable policies of the Comprehensive Plan.
 - (2) The height of the structure may exceed the height of the destroyed or damaged structure if necessary to comply with the base flood elevation that exists for the lot following a debris flow or other catastrophic event, as long as the structure complies with the height requirements of the applicable zone. However, 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, shall not exceed the equivalent height of the damaged or destroyed structure.
 - c. 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 structure dedicated to a nonconforming residential dwelling use is located in an industrial zone, the damage standards of Subsection E. 1 (Non-residential uses) above, shall apply.
3. **Reconstruction shall commence within 24 months.** The restoration of a nonconforming use allowed in compliance with Subsection E.1 (Non-residential uses) and Subsection E.2 (Residential uses) above, shall commence within 24 months of the time of damage and be diligently carried out to completion.
 - a. The 24-month time limit may be extended by the Director for a maximum of 12 months for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Department before the expiration of the 24-month period.
 - b. If the restoration of the nonconforming use does not commence within 24 months or the extended time period that may be granted by the Director, it shall not be restored except in full compliance with the applicable zone regulations and other provisions of this Development Code.
4. **Applicability of permit requirements.**
 - a. **Exempt from the Development Code permit requirements.**
 - (1) Except as provided in Subsection E.4.a(2), below, the ~~The~~ restoration or reconstruction of a structure or other development dedicated to a nonconforming use that is damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of property on which the nonconforming use occurs shall be exempt from the permit requirements of this Development Code only if the structure or other development complies with the provisions of this Chapter and if the structure or other development conforms to the specifications documented

to exist before the damage or destruction, as determined by the Director.

- (2) 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 allowed if the Director, in consultation with the Flood Control District, determines the relocation or change in the finished floor elevation to be necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, and the structure complies with the provisions of this Chapter and applicable policies of the Comprehensive Plan.
 - (3) Full compliance with applicable Building Code provisions is still required.
- b. **Design Review required.** If Except as provided in Subsection E.4.b(1), below, if the Director determines that the exterior design or specifications are proposed to be changed or the footprint of the structure is relocated, then the replaced or restored structure shall be subject to the provisions of Section 35.82.070 (Design Review), if otherwise subject to review (e.g., the site is subject to Section 35.28.080 (Design Review (D) Overlay Zone, the project is subject to Section 35.62.040 (Ridgeline and Hillside Development Standards)) in compliance with this Development Code.
- (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 shall require Design Review if the Director determines that the exterior design or specifications of the replaced or restored structure are proposed to be changed or the restored or replaced structure is relocated on the lot. Design Review shall not be required for structures that are required to increase in height to comply with the base flood elevation that exists after the debris flow event, in accordance with Section 35.101.20.E.1.b.(2)(b) or Section 35.101.20.E.2.b.(2) above, if its exterior design or specifications are otherwise not proposed to be changed.
- c. **Subject to Development Code permit requirements.** If Except as allowed herein, if the structure or other development is proposed to be altered from the original specifications, as determined by the Director, then the reconstruction or restoration shall be subject to all applicable permit requirements of this Development Code.
- d. **Sites within the Toro Canyon Plan Area.** The following shall apply to nonconforming uses located within the Toro Canyon Plan Area.
- (1) The replacement or re-establishment of nonconforming uses are subject to the regulations of the Toro Canyon Plan and this Development Code only to the extent that some type of permit may be required by this Development Code. Any permit may be approved only in compliance with the regulations of the Toro Canyon Plan and this Development Code.

- (2) Nonconforming uses located within nonconforming structures located on a bluff top or on the beach may not be increased or expanded into additional locations or structures.

SECTION 4:

ARTICLE 35.10, Land Use and Development Code Administration, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to change Subsection B, Damage, of Section 35.101.030, Nonconforming Structures, of Chapter 35.101, Nonconforming Uses, Structures, and Lots, to read as follows:

B. Damage. This Section identifies the standards for allowing the reconstruction or restoration of a nonconforming structure that is damaged by earthquake, fire, flood, vandalism or other calamity beyond the control of the owner of the structure.

1. **One-family dwellings.** Nonconforming one-family dwellings that are damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure may be reconstructed to the same or lesser size in the same general footprint location except that if a nonconforming structure is 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.), then:

- a. The restored or replaced structure may be relocated on the lot if necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as long as the structure complies with the setback requirements of the applicable zone and with the applicable policies of the Comprehensive Plan.
- b. The height of the structure may exceed the height of the destroyed or damaged structure if necessary to comply with the base flood elevation that exists for the lot following a debris flow or other catastrophic event, as long as the structure complies with the height requirements of the applicable zone. However, 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, shall not exceed the equivalent height of the damaged or destroyed structure.

2. **Structures other than one-family dwellings—Inland area.**

- a. **Damage 75 percent or more.**

- (1) Except as provided below in Subsection B.2.a.(3), if a nonconforming structure, other than a one-family dwelling, is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure to an extent of 75 percent or more of the replacement cost of the total structure before the damage, as determined by the Director, then the structure may not be reconstructed unless allowed by the Zoning Administrator, in compliance with Section 35.82.100 (Hardship Determinations).
- (2) If the damaged nonconforming structure is accessory to a primary

structure and there is substantial question regarding the extent of damage, as determined by the Director, the Zoning Administrator shall first find, in compliance with Section 35.82.140 (Nonconforming Status and Extent of Damage Determination) that the structure is nonconforming and shall determine the extent of damage.

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

If a nonconforming structure is damaged by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, then:

- (a) The restored or replaced structure may be relocated on the lot if necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as long as the structure complies with the setback requirements of the applicable zone and with the applicable policies of the Comprehensive Plan.
- (b) The height of the structure may exceed the height of the destroyed or damaged structure if necessary to comply with the base flood elevation that exists for the lot following a debris flow or other catastrophic event, as long as the structure complies with the height requirements of the applicable zone. However, 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, shall not exceed the equivalent height of the damaged or destroyed structure.

b. Damage less than 75 percent.

- (1) Except as provided below in Subsection B.2.b.(2), Where a nonconforming structure, other than a one-family dwelling, is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure to an extent of less than 75 percent of the replacement cost of the total structure before the damage, as determined by the Director, the structure may be reconstructed to the same or lesser size in the same general footprint location.

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

If a nonconforming structure is damaged by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, then:

- (a) The restored or replaced structure may be relocated on the lot if necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as long as the structure complies with the setback requirements of the applicable zone and with the applicable policies of the Comprehensive Plan.
- (b) The height of the structure may exceed the height of the destroyed or

damaged structure if necessary to comply with the base flood elevation that exists for the lot following a debris flow or other catastrophic event, as long as the structure complies with the height requirements of the applicable zone. However, 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, shall not exceed the equivalent height of the damaged or destroyed structure.

- (23) If the damaged nonconforming structure is accessory to a primary structure, notice of the potential reconstruction shall be given in compliance with Section 35.106.020 (Notice of Public Hearing and Review Authority Action). If a request for public hearing is received by the Department within the applicable period of time, then the reconstruction of the accessory structure shall not commence unless the Zoning Administrator first finds, in compliance with Section 35.82.140 (Nonconforming Status and Extent of Damage Determination) that the structure is nonconforming and that the extent of damage is less than 75 percent.

~~3. Structures other than one-family dwellings – Coastal Zone.~~

- ~~a. Damage 75 percent or more. Except for greenhouse related development (e.g., greenhouses, packing and shipping facilities, shade and hoop structures) in the Carpinteria Agricultural overlay, a nonconforming structure that is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure to an extent of 75 percent or more of the replacement cost of the total structure before the damage, as determined by the Director, may not be reconstructed unless allowed by the Zoning Administrator, in compliance with Section 35.82.100 (Hardship Determinations).~~
- ~~b. Damage less than 75 percent. Where a nonconforming structure, other than a one-family dwelling, is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure to an extent of less than 75 percent of the replacement cost of the total structure before the damage, as determined by the Director, the structure may be reconstructed to the same or lesser size in the same general footprint location.~~

- 34. Sites within the Carpinteria Agricultural overlay zone.** Notwithstanding the above, a nonconforming greenhouse, packing and shipping facility, shade and hoop structure, or greenhouse-related structure in the Carpinteria Agricultural overlay zone that is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure to an extent of 75 percent or more of the replacement cost of the total structure before the damage, as determined by the Director, shall only be reconstructed in compliance with Section 35.28.070 (Carpinteria Agricultural (CA) Overlay Zone) thereby becoming a conforming structure.

- 45. Sites within the Mission Canyon Community Plan area or the Toro Canyon Plan Area.** Notwithstanding the above, the following standards apply to nonconforming

structures on lots located within the Mission Canyon Community Plan area or the Toro Canyon Area Plan area. In case of a conflict, the standards of this Subsection B.5 shall take precedence.

a. ~~Inland area.~~ The following shall apply to the repair or reconstruction of nonconforming structures located outside of the Coastal Zone.

(1) Residential structures.

- (a) A residential structure that is damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure may be reconstructed to the same or lesser size on the same site and in the same general footprint location except that if a nonconforming structure is damaged 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 relocated on the lot if the Director, in consultation with the Flood Control District, determines the relocation and/or change in the finished floor elevation to be necessary in order to comply with applicable setbacks from top-of-bank and to reduce flood hazards, and the structure complies with the provisions of this Chapter and applicable policies of the Comprehensive Plan.
- (b) A residential structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the applicable Plan that requires partial or complete reconstruction or structural repair due to normal wear-and-tear (e.g., structural pest damage or dry rot) may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location.
- (c) A residential structure that is nonconforming solely due to its location within an Environmentally Sensitive Habitat area or Environmentally Sensitive Habitat buffer area may be expanded upward, or outward and away from the Environmentally Sensitive Habitat area, consistent with Development Standards BIO-MC-3.8 of the Mission Canyon Community Plan or BIO-TC-7.5 and BIO-TC-7.8 of the Toro Canyon Plan, and in a manner that otherwise complies with the regulations of the applicable Plan and this Development Code.
- (d) For the purpose of this Subsection, “residential structure” shall mean primary dwellings, secondary dwellings including Residential Second Units, farm employee dwellings, guesthouses, and all attached appurtenances (e.g., garages and storage rooms) that share at least one common wall with the residential structure. One detached private garage structure may be included within the meaning of “residential structure” in compliance with Section 35.82.140 (Nonconforming Status and Extent of Damage

Determination).

(2) Non-residential agricultural support structures.

- (a) A nonconforming agricultural support structure that is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure may be reconstructed to the same or lesser size on the same site and in the same general footprint location except that if a nonconforming agricultural support structure is damaged by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, then:
 - a. The restored or replaced structure may be relocated on the lot if necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as long as the structure complies with the setback requirements of the applicable zone and with the applicable policies of the Comprehensive Plan.
 - b. The height of the structure may exceed the height of the destroyed or damaged structure if necessary to comply with the base flood elevation that exists for the lot following a debris flow or other catastrophic event, as long as the structure complies with the height requirements of the applicable zone. However, 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, shall not exceed the equivalent height of the damaged or destroyed structure.
- (b) An agricultural support structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the applicable Plan which require partial or complete reconstruction or structural repair due to normal wear-and-tear (e.g., structural pest damage or dry rot) may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location.
- (c) Expansion of nonconforming agricultural support structures located within Environmentally Sensitive Habitat areas or Environmentally Sensitive Habitat buffer areas: Any agricultural support structure that is nonconforming solely due to its location within an Environmentally Sensitive Habitat area or Environmentally Sensitive Habitat buffer area may be expanded upward, or outward and away from the Environmentally Sensitive Habitat area, consistent with Development Standards BIO-MC-3.8 of the Mission Canyon Community Plan or BIO-TC-7.5 and BIO-TC-7.8 of the Toro Canyon Plan and in a manner that otherwise conforms with the regulations of the applicable Plan and this Development Code.
- (d) For the purpose of this Subsection, “agricultural support structure”

shall mean any structure that is essential to the support of agricultural production on agriculturally-zoned property.

(3) Non-residential structures, not including agricultural support structures.

- (a) A nonconforming non-residential structure that is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure to an extent of 75 percent or more of the replacement cost of the total structure before the damage, as determined by the Director, may be reconstructed to the same or lesser size on the same site and in the same general footprint location, provided that the reconstruction complies with the regulations of the applicable Plan and this Development Code to the maximum extent feasible, and if allowed by the review authority in compliance with Section 35.82.100 (Hardship Determinations). If a nonconforming non-residential structure is damaged by a debris flow or other catastrophic event resulting in a significant change in topography or alteration of drainage features, then:
 - 1. The restored or replaced structure may be relocated on the lot if necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, as long as the structure complies with the setback requirements of the applicable zone and with the applicable policies of the Comprehensive Plan.
 - 2. The height of the structure may exceed the height of the destroyed or damaged structure if necessary to comply with the base flood elevation that exists for the lot following a debris flow or other catastrophic event, as long as the structure complies with the height requirements of the applicable zone. However, 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, shall not exceed the equivalent height of the damaged or destroyed structure.
- (b) A nonconforming non-residential structure that requires partial or complete reconstruction or structural repair due to normal wear-and-tear (e.g., structural pest damage or dry rot) may be reconstructed or structurally repaired to the same or lesser size on the same site and in the same general footprint location, provided that the repair or reconstruction conforms with the regulations of the applicable Plan and this Development Code to the maximum extent feasible and if allowed by the review authority in compliance with Section 35.82.100 (Hardship Determinations).
- (c) A structure that is nonconforming solely due to its location within a front, rear, or side setback area, due to any increase in the setback area that resulted from a change of zone adopted with the applicable

Plan may be enlarged or expanded in a manner that does not further encroach into any setback area and otherwise complies with the regulations of the applicable Plan and this Development Code.

~~b. Coastal Zone. The following shall apply to the repair or reconstruction of nonconforming structures located within the Coastal Zone.~~

~~(1) Residential structures.~~

~~(a) A nonconforming residential structure that is damaged or destroyed by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure may be reconstructed to the same or lesser size on the same site and in the same general footprint location.~~

~~(b) A nonconforming residential structure, located within an Existing Developed Rural Neighborhood as designated on the Comprehensive Plan maps and either located within an Environmentally Sensitive Habitat area or within an Environmentally Sensitive Habitat buffer area, which requires partial or complete reconstruction or structural repair due to normal wear and tear (e.g., structural pest damage or dry rot) may be reconstructed or repaired to the same or lesser size on the same site and in the same footprint location. If the reconstructed residence is proposed to be larger than the existing structure, it may only be allowed where findings are first made that the development does not adversely impact the adjacent riparian species, complies with all other provisions of the Toro Canyon Plan, and the Local Coastal Program including development standards for native and non-native protected tree species, and complies with Development Standards BIO-TC 5.1 through 5.4 of the Toro Canyon Plan. Reconstruction includes any project that results in the demolition of more than 50 percent of the exterior walls.~~

~~(c) A primary dwelling, located within an Existing Development Rural Neighborhood, that is nonconforming solely due to its location within an Environmentally Sensitive Habitat buffer area may be expanded upward, or outward and away from the Environmentally Sensitive Habitat area, consistent with Development Standards BIO-TC 5.1 and BIO-TC 5.4 of the Toro Canyon Plan and in a manner that otherwise complies with the regulations of the Toro Canyon Plan and this Development Code.~~

~~(d) For the purpose of this Subsection, "residential structure" shall mean primary dwellings, secondary dwellings including Residential Second Units, farm employee dwellings, and all attached appurtenances (e.g., garages and storage rooms) that share at least one common wall with the residential structure. One detached private garage structure may be included within the meaning of "residential structure" in compliance with Section 35.82.140 (Nonconforming Status and Extent of Damage Determination).~~

~~(2) Non-residential agricultural support structures.~~

- ~~(a) A nonconforming agricultural support structure, other than greenhouses or greenhouse related development located within the Carpinteria Agricultural overlay, that is damaged by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure, may be reconstructed to the same or lesser size on the same site and in the same general footprint location. Nonconforming greenhouses and greenhouse related development located within the Carpinteria Agricultural overlay zone may only be reconstructed in compliance with that overlay.~~
- ~~(b) Except for structures located in an Environmental Sensitive Habitat area, an agricultural support structure that is nonconforming solely due to any policy, development standard, or zoning regulation first applied and adopted under the Toro Canyon Plan, which requires partial or complete reconstruction or structural repair due to normal wear and tear (e.g., structural pest damage or dry rot) may be reconstructed or repaired to the same or lesser size on the same site and in the same general footprint location.~~
- ~~(c) For the purpose of this Subsection, "agricultural support structure" shall mean any structure, other than "greenhouse development" as defined in the Carpinteria Agricultural overlay zone, which is essential to the support of agricultural production on agriculturally-zoned property.~~

~~(3) Non-residential structures, not including agricultural support structures.~~

- ~~(a) A nonconforming structure that is damaged by earthquake, fire, flood, vandalism or other calamity beyond the control of the owner of the structure to an extent of 75 percent or more of the replacement cost of the total structure before the damage, as determined by the Department, may be reconstructed or structurally repaired to the same or lesser size on the same site and in the same general footprint location, provided that the reconstruction complies with the regulations of the Toro Canyon Plan and this Development Code to the maximum extent feasible, and if allowed by the Zoning Administrator in compliance with Section 35.82.100 (Hardship Determinations).~~
- ~~(4) Expansion of certain nonconforming structures located within setbacks. A structure that is nonconforming solely due to its location within a front, rear, or side setback area, due to any increase in the setback area that resulted from a change of zone adopted with the Toro Canyon Plan, may be enlarged or expanded in a manner that does not further encroach into any setback area and complies with the regulations of the Toro Canyon Plan and this Development Code.~~

~~(5) Expansion of nonconforming structures located on a bluff top or beach. Additions to nonconforming structures located on a bluff top or on the beach that increase the size of the structure by 50 percent or more are not allowed unless the entire structure is brought into compliance with the policies and standards of the Local Coastal Program. Demolition and reconstruction that results in the demolition of more than 50 percent of the exterior walls of a nonconforming structure is not allowed unless the entire structure is brought into compliance with the policies and standards of the Local Coastal Program.~~

56. Reconstruction shall commence within 24 months.

- a. The reconstruction or restoration of a nonconforming structure that is required due to damage by earthquake, fire, flood, vandalism, or other calamity beyond the control of the owner of the structure shall commence within 24 months of the time of damage and be diligently carried out to completion.
- b. Within the applicable Plan area, reconstruction or structural repair required due to normal wear and tear (e.g., structural pest damage or dry rot) as allowed above shall commence within 24 months of the time of the owner's first documented discovery of the need for reconstruction or repair, and shall be diligently carried out to completion.
- c. The 24-month time limit may be extended by the Director one time for good cause, provided a written request, including a statement of reasons for the time extension request, is filed with the Department before the expiration of the 24-month time period.
- d. If the reconstruction or restoration of the structure does not commence within 24 months or the extended time period that may be granted by the Director, it shall not be restored except in full compliance with the applicable zone regulations and other provisions of this Development Code.
 - (1) Within the Mission Canyon Community Plan area, where the reconstruction or structural repair of a non-historic structure allowed above does not commence within the specified 24 months or the extended time period that may be granted by the Director, the structure shall not be reconstructed or repaired except in full compliance with the regulations of the Mission Canyon Community Plan.
 - (2) Within the Toro Canyon Plan Area, where the reconstruction or structural repair allowed above does not commence within the specified 24 months or the extended time period that may be granted by the Director, the structure shall not be reconstructed or repaired except in full compliance with the regulations of the Toro Canyon Plan.

67. Applicability of permit requirements.

a. Exempt from Development Code permit requirements.

- (1) The Except as provided in Subsection B.5.a.(1), below, the restoration of a nonconforming structure that is damaged by earthquake, fire, flood,

vandalism or other calamity beyond the control of the owner of the structure shall be exempt from the permit requirements of this Development Code only if the structure complies with the provisions of this Section and if the structure conforms to the specifications documented to exist before the damage or destruction, as determined by the Director.

- (2) 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 allowed if the Director, in consultation with the Flood Control District, determines the relocation or change in the finished floor elevation to be necessary to comply with applicable setbacks from top-of-bank and to reduce flood hazards, and the structure complies with the provisions of this Chapter and applicable policies of the Comprehensive Plan.
 - (3) Full compliance with applicable Building Code provisions is still required.
- b. **Design Review required.** If Except as provided in Subsection B.5.b.1, below, if the Director determines that the exterior design or specifications are proposed to be changed or the footprint of the structure is relocated, the restored structure shall be subject to the provisions of Section 35.82.070 (Design Review) if otherwise subject to review (e.g., the site is subject to Section 35.28.080 (Design Review (D) Overlay Zone, the project is subject to Section 35.62.040 (Ridgeline and Hillside Development Standards)) in compliance with this Development Code.
- (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 shall require Design Review if the Director determines that the exterior design or specifications of the replaced or restored structure are proposed to be changed or the restored or replaced structure is relocated on the lot. Design Review shall not be required for structures that are required to increase in height to comply with the base flood elevation that exists after the debris flow event, in accordance with Section 35.101.030.B.1.b, Section 35.101.030.B.2.a(3)(b), or Section 35.101.030.B.2.b(2)(b) above, if its exterior design or specifications are otherwise not proposed to be changed.
- c. **Subject to Development Code permit requirements.** Except as allowed herein, if the structure is proposed to be altered from the original specifications, as determined by the ~~Department~~Director, then the restoration shall be subject to all applicable permit requirements of this Development Code.

SECTION 5:

ARTICLE 35.11, Glossary, of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the Santa Barbara County Code, is hereby amended to change Section 35.110.020, Definitions of Specialized Terms and Phrases, of

Chapter 35.110, 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 6:

All existing section references contained in Section 35-1, the Santa Barbara County Land Use and Development Code, 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, Articles 35.2, 35.8, 35.10 and 35.11 of Section 35-1, the Santa Barbara County Land Use and Development Code, of Chapter 35, Zoning, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 8:

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

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