ATTACHMENT 1

City of Santa Barbara

New Zoning Ordinance Module 3: Administration, Parking, and Temporary Uses

August 16, 2016

Draft for NZO Committee Review

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Introduction

This module proposes a revised set of definitions, rules of measurement, and administrative provisions for the administration of Santa Barbara's New Zoning Ordinance (NZO), based on an analysis of existing provisions, the Issues and Options paper, General Plan, and comments from City staff, Planning Commission, NZO Joint Committee, and stakeholders. It also includes draft regulations for parking and loading and temporary uses.

The purpose of the administrative provisions is to convey who is responsible for making decisions on zoning applications and what criteria will be used to approve permits, and to explain the process for securing approvals.

The administrative provisions are organized so that the relevant responsibilities of those involved in review and decision-making are presented in the first chapter, followed by a chapter that sets forth procedures that are common to different types of approval. Procedures for specific approval processes then are listed in the following chapters. These include, but are not limited to, chapters for Zoning Information Reports; Zoning Clearance; Performance Standard Permits; Conditional Use Permits; Variances; Coastal Development Permits; Modifications, amendments to the General Plan and zoning map and text and amendments to the Local Coastal Program; and enforcement.

The proposed chapters incorporate many provisions included in Santa Barbara's existing ordinance, but simplify the regulations by consolidating a number of the administrative provisions in a new and separate chapter that establishes procedures common to all or most approvals. Technical edits also are made to reflect "best practices."

Following are highlights of specific proposals and changes from existing regulations.

Planning Authorities

This chapter lays out the basic roles and functions of the bodies that make up the planning authorities and who have a role in implementing the ordinance, including the City Council, Planning Commission, Staff Hearing Officer, and Community Development Director (the "Director"). The chapter incorporates existing provisions regarding authority and duties of the existing title and changes the existing lists of powers and duties as needed to reflect the range of responsibilities that each of the authorities have under the updated ordinance.

Common Procedures

The purpose of this chapter is to establish uniform procedures that are common to the application and processing of a variety of different permits, including zoning clearance, use permits and variances. Because this chapter will likely be the administrative chapter that users most frequently consult, it appears immediately following the chapter on Planning Authorities.

Coastal Permits

This chapter describes the processes and requirements for appealable, non-appealable, and emergency Coastal Development Permits issued by the Staff Hearing Officer and Planning Commission, as described in Chapter 28.44 of the existing Zoning Ordinance.

Conditional Use Permits

This chapter includes the process and standards applicable to the applications for Conditional Use Permits. To help streamline the ordinance, the proposed chapter includes cross-references to common procedures, instead of reiterating requirements and procedures applicable to several types of actions.

Design Review

This chapter refers to the applicable sections of Title 22 for design review.

Development Agreements

This chapter establishes procedures to enable the City to implement Government Code Sections 65864-65869.5 authorizing government entities to enter into legally binding agreements with private parties.

Development Plan

This chapter includes the process applicable to applications for Development Plans required pursuant to the City's Nonresidential Growth Management Program, consistent with the provisions located in Chapter 28.85 of the current ordinance. To help streamline the ordinance, the proposed chapter includes cross-references to common procedures, instead of reiterating requirements and procedures applicable to several types of actions.

Enforcement and Penalty

This chapter specifies provisions governing enforcement of the zoning ordinance. It includes the provisions of Chapter 28.98 of the current ordinance and refers to Chapter 1.25 of the Santa Barbara Municipal Code.

General Plan, Zoning, and Local Coastal Program Amendments

These chapters include provisions for zoning map, zoning text, and general plan amendments and amendments to the Local Coastal Program that incorporate the State Government Code's specific procedures governing these legislative decisions.

Modifications

This chapter proposes provisions that are intended to provide an alternate means of granting relief from the Ordinance's requirements. The proposed provisions also establish procedures

to make it easier to ensure compliance with State and Federal law, including the Americans with Disabilities Act, the Federal Fair Housing Act, which requires that the Ordinance provide a process for approving reasonable accommodations of certain protected groups and uses. The proposed provisions establish a process for modifications to parking, setback, lot area, floor area, street frontage, open yard, fences, screens, walls, and hedges, and solar access regulations.

Performance Standard Permit

This chapter includes the process and standards applicable to the applications for Performance Standard Permits. To help streamline the ordinance, the proposed chapter includes cross-references to common procedures, instead of reiterating requirements and procedures applicable to several types of actions.

Precise Plans

This chapter establishes a process for consideration and review of Precise Plans which are required as part of an application for a classification as certain overlay zones.

Recorded Agreements

This chapter establishes procedures for the creation of Recorded Agreements to assure compliance with any development standard, performance standard, condition of approval, or any other requirement of law.

Specific Plans

This chapter establishes a procedure for the preparation, adoption, and administration of Specific Plans consistent with the Government Code.

Variances

This chapter includes the specific provisions applicable to variances that are in Chapter 28.92 of the current code. The proposed provisions retain the specific findings applicable to variances in the current code and replace some of the existing procedural provisions with cross-references to common procedures. Economic hardship is not a grounds for granting a variance. Also, use variances are prohibited.

Zoning Clearance

This chapter establishes procedures for ensuring that all permits or licenses issued by the City conform to the provisions of the zoning ordinance, as required by Section 28.87.230, Zoning Plan Check – Fee, of the current code. This ministerial process is distinguished from design review, use permit, and variance procedures, which are discretionary. The zoning clearance process would require Staff review of applications for business licenses, building permits, and

other entitlements to ensure that the proposed use or structure is permitted by right or conforms to the requirements and conditions of any discretionary approval granted under the Ordinance.

Zoning Information Report

This chapter contains information related to the requirements for a Zoning Information Report (ZIR) for purchasers of residential property, including the required contents of the ZIR, as well as exemptions and other regulations provided in Chapter 28.87.220 of the existing Zoning Ordinance. Items from the Zoning Information Report Process Improvement efforts are also incorporated.

Zoning Upon Annexation

This chapter describes the process and criteria applicable to the applications for zoning and annexation of adjoining unincorporated territory.

Rules of Measurement

This section proposes specific rules governing standards of measurement. The rules of measurement explain how to perform calculations and measurements that are required to implement zoning regulations. Included are rules of measurement for fractions, distances, height, lot width and depth, lot coverage, slope, floor area, lot frontage, and setbacks. In Santa Barbara's existing ordinance, rules of measurement, are distributed throughout the ordinance. As a result, determining how a measurement is made is often difficult. The goal of the proposed revisions is to create a streamlined, user-friendly set of rules of measurement used in the Zoning Ordinance to improve the functionality of the ordinance. Graphics will be incorporated into the Public Review Draft NZO to provide illustrative examples and clearly demonstrate these provisions.

Definitions

Clearly defined terms are instrumental in consistent application of zoning ordinance standards. This section includes a set of definitions to be included in the updated ordinance. The chapter would begin with a list of all terms and definitions included in the chapter. Existing definitions are updated with more user-friendly terminology that do not include specific standards and are consistent with other applicable regulations.

Temporary Uses

Draft regulations for temporary uses are included near the end of this Module 3. The temporary use regulations consolidate and augment existing provisions applicable to temporary uses and establish when various levels of permit are required. This chapter includes standards for Mobile Food Vendors.

Administrative Procedures

Chapter 28.54 Planning Authorities

28.54.010 Purpose

The purpose of this Chapter is to identify the bodies, officials, and administrators with designated responsibilities under various chapters of this Title. Subsequent chapters of Division IV provide detailed information on procedures, applications, permits and approvals, and enforcement. When carrying out their assigned duties and responsibilities, all bodies, administrators, and officials shall apply the provisions of this Title as minimum requirements adopted to implement the policies and achieve the objectives of the General Plan.

28.54.020 City Council

The City Council is established and organized pursuant to Article V of the City Charter. The powers and duties of the City Council under this Title include, but are not limited to the following:

A. Initiate and act on amendments to the text and maps of the General Plan, Local Coastal Program, and Zoning Ordinance pursuant to the provisions of Chapter TBD, General Plan and Zoning Amendments, and Chapter TBD, Local Coastal Program Amendments.

B. Act on Specific Plans and amendments to Specific Plans pursuant to Chapter TBD, Specific Plans.

C. Initiate and consent to Annexations.

D. Act on Development Agreements pursuant to Chapter TBD, Development Agreements.

E. Act on proposals to revoke permits pursuant to Section TBD, Revocation of Permits.

F. Act on variance requests from Street Widening Setback Lines pursuant to Chapter TBD, Variances for Street Widening Setback Lines.

G. Act on appeals from decisions of the Planning Commission, Architectural Board of Review, Historic Landmarks Commission, and Single Family Design Board pursuant to Section TBD, Appeals.

H. Act on requests to designate a nonresidential construction project as a Community Benefit Project pursuant to the provisions of Chapter TBD, Nonresidential Growth Management Program.

28.54.030 Planning Commission

The Planning Commission is established and organized pursuant to Section 806 of Article VIII of the City Charter and the requirements of the Government Code. The powers and duties of the Planning Commission under this Title include, but are not limited to the following:

A. All actions provided by this Title to be performed by the Planning Commission in connection with applications for, or revisions to, the following: Coastal Development Permits, as assigned; Conditional Use Permits; Development Plans, as assigned; Modifications, as assigned; Variances; Condominium and Hotel Conversion Permits; Mobile Home Park Conversions; applications in the PR Zone, as assigned; Precise Plans; and Planned Residence Developments.

B. Initiate and make recommendations to the City Council for amendments to the text and maps of the General Plan, Local Coastal Program, and Zoning Ordinance pursuant to Chapter TBD, General Plan and Zoning Amendments, and Chapter TBD, Local Coastal Program Amendments.

C. Initiate and make recommendations to the City Council on proposed, or amendments to, Specific Plans pursuant to Chapter TBD, Specific Plans.

D. Make recommendations to City Council on proposed, or amendments to Development Agreements pursuant to Chapter TBD, Development Agreements.

E. Initiate and make recommendations to the City Council on Annexations.

F. Act on proposals to revoke permits pursuant to Section TBD, Revocation of Permits.

G. Review Community Benefit Projects or Community Benefit Housing Projects exceeding the maximum building height pursuant to Section TBD, Community Benefit Project or Community Benefit Housing Project.

H. Suspend any decision of the Staff Hearing Officer and hold a public hearing before the Planning Commission to review the Staff Hearing Officer decision pursuant to Section TBD, Planning Commission Suspensions.

I. Act on appeals from decisions of the Community Development Director and Staff Hearing Officer pursuant to Section TBD, Appeals.

J. Such other functions as may be delegated to it by the City Council.

28.54.040 Staff Hearing Officer

The Staff Hearing Officer is a City staff member appointed by the Community Development Director with the following powers and duties. However, if a project includes any application that requires review by the Planning Commission, the project shall be reviewed by the Planning Commission.

A. All actions provided by this Title to be performed by the Staff Hearing Officer in connection with applications for, or revisions to, the following: Modifications, as assigned; Performance Standard Permits; Storefront Collective Dispensary Permits; Development Plans, as assigned; and Coastal Development Permits, as assigned.

B. Act on time extensions of approved permits pursuant to Section TBD, Expiration and Extension.

C. Act on proposals to revoke permits pursuant to Section TBD, Revocation of Permits.

D. Act on proposals for Minor Zoning Exceptions pursuant to Chapter TBD, Zoning Information Reports.

E. Such other functions as may be delegated by the Director.

28.54.050 Community Development Director

The following powers and duties of the Community Development Director (the "Director") under this Title include, but are not limited to the following.

A. Maintain and administer this Title.

B. Request interpretations of the Zoning Ordinance from the City Attorney and disseminate to members of the public and to other City Departments.

C. Prepare and effect rules and procedures necessary or convenient for the conduct of the Director's business. As determined by the City Attorney, these rules and procedures shall be approved by a resolution of the City Council following review and recommendation of the Planning Commission.

D. Issue administrative regulations for the submission and review of applications subject to the requirements of this Title and Government Code Section 65950.

E. Review permit applications for conformance with this Title, and issue a Zoning Clearance when the proposed use, activity or building conforms to all applicable development and use standards.

F. Review applications for discretionary permits and approvals under this Title for conformance with the California Environmental Quality Act and the City's environmental review requirements, and all other applicable submission requirements and time limits.

G. Prepare Zoning Information Reports pursuant to Chapter TBD, Zoning Information Report.

H. Determine level of coastal review pursuant to Chapter TBD, Coastal (CZ) Overlay Zone, and document Coastal Exclusions and Coastal Exemptions, as appropriate.

I. Consider and determine the location of "Top of Bank" pursuant to Section TBD, Development Along Creeks.

J. Process and make recommendations to the City Council, Planning Commission, Design Review boards, and Staff Hearing Officer, as appropriate, on all applications,

amendments, appeals and other matters upon which they have the authority and the duty to act under this Title.

K. Act on applications for time extensions of approved permits pursuant to Section TBD, Expiration and Extension.

L. Initiate revocation procedures on violations of permit terms and conditions pursuant to Section TBD, Revocation of Permits and Approvals.

M. Make Substantial Conformance Determinations pursuant to Section TBD, Changes to Approved Plans.

N. Delegate administrative functions as deemed appropriate, to members of the Planning Division.

O. Appoint a Staff Hearing Officer pursuant to Section TBD, Staff Hearing Officer.

P. Other duties and powers as may be assigned by the City Council or established by legislation.

Chapter 28.55 Common Procedures

28.55.010 Purpose

This Chapter establishes procedures that are common to the application and processing of all permits and approvals provided for in this Title, unless superseded by specific requirement of this Title or State law.

28.55.020 Application Forms and Fees

A. **Who May Apply.** The owner of property or the owner's authorized agent. If the application is made by someone other than the owner or the owner's agent, proof, satisfactory to the Community Development Director, of the right to use and possess the property as applied for, shall accompany the application.

B. **Application Forms and Materials.**

1. ***Application Forms.*** The Community Development Director shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this Title.

2. ***Supporting Materials.*** The Community Development Director may require the submission of supporting materials as part of the application, including but not limited to statements, photographs, plans, drawings, renderings, models, material samples, reports and other items necessary to describe existing conditions and the proposed project, and to determine the level of environmental review pursuant to the California Environmental Quality Act.

3. ***Availability of Materials.*** All material submitted becomes the property of the City, may be distributed to the public, and shall be made available for public inspection. At any time upon reasonable request, and during normal business hours, any person may examine an application and materials submitted in support of or in opposition to an application in the Planning Division offices. Unless prohibited by law, copies of such materials shall be made available at a reasonable cost.

C. **Application Fees.** No application shall be accepted as complete and processed without payment of the applicable fee established by resolution of the City Council.

28.55.030 Pre-Application Review

Pre-application review is intended to provide preliminary information on relevant policies, regulations, and procedures, and to identify significant issues relevant to a proposed project.

A. **Applicability.**

1. ***Mandatory Pre-Application Review.*** Pre-application review is required for the following projects:

a. Annexations.

b. Tentative maps and vesting tentative maps where the Planning Commission is the designated Advisory Agency.

c. Conversions of more than one dwelling units to condominiums, hotels, or similar uses.

d. Nonresidential construction projects requiring a Development Plan Approval by the Planning Commission.

e. Transfers of existing development rights.

f. Projects proposed in accordance with the Average Unit-Size Density Incentive Program, pursuant to Section TBD, Planning Commission Review of Rental Housing Projects.

2. ***Optional Pre-Application Review.*** Pre-application review is optional for all other projects.

B. **Review Procedure.** The Pre-Application Review Team shall review the project and associated materials and advise the applicants of relevant policies, regulations and procedures, identify significant issues relevant to a proposed project, and document any conclusions and recommendations in a letter to the applicant. Applicants and their representatives shall be entitled to meet with the Pre-Application Review Team in order to discuss the recommendations and any identified issues. The Pre-Application Review Team is authorized to prepare and effect rules and procedure as necessary or convenient to carry on the Team's business.

C. **Pre-Application Review Team Members.** The following City officials, or their designee, shall be members of the Pre-Application Review Team:

1. Chief Building Official;
2. Water Resources Manager;
3. City Engineer;
4. City Planner;
5. Transportation Engineer;
6. Fire Chief; and
7. Any other City official or their designee, when deemed appropriate by other Team members.

D. **Recommendations are Advisory.** Neither the pre-application review nor the provision of information and pertinent policies shall be construed as a recommendation for approval or denial of the application by City representatives. Any recommendations that result from pre-application review are considered advisory only and shall not be binding on either the applicant or the City.

E. **Expiration.** Comments and recommendations from any pre-application review are valid for a period of 12 months after the date of the Pre-Application Review Team

letter provided applicable rules and regulations do not change. If a project is substantially revised, or if applicable policies, regulations, or procedures change that could affect the recommendations or conclusions of the pre-application review, the Team may require a subsequent pre-application review prior to formal application submittal. If, however, there are no substantial changes to either the project or any relevant policies, regulations, and procedures, the Team may allow the submittal of an application for a development project up to a maximum of 24 months after the date of the Pre-Application Review Team letter.

28.55.040 Review of Applications

A. **Review Process.** The Community Development Director shall determine whether an application is complete within 30 days of the date the application is filed with the required fee. The Director and applicant may mutually agree in writing to extend this time period.

B. **Concurrent Processing.** If an application requires more than one discretionary approval under this Title, all applications shall be submitted, heard and acted upon concurrently by the highest applicable review authority.

C. **Incomplete Application.** If an application is incomplete, the Community Development Director shall provide written notification to the applicant listing the applications for permit(s), forms, information and any additional fees that are necessary to complete the application.

1. ***Zoning Ordinance Violations.*** An application shall not be found complete if conditions exist on the site in violation of this Title or any permit or other approval granted in compliance with this Title, unless the proposed project includes the correction of the violations.

2. ***Appeal of Determination.*** Determinations of incompleteness are subject to the provisions of Section TBD, Appeals, except there shall be a final written determination on the appeal not later than 60 days after receipt of the appeal.

3. ***Submittal of Additional Information.*** The applicant shall provide the additional information within the time limit specified by the Community Development Director, which must be no less than 30 days. The Community Development Director may, upon written request and for good cause, grant extensions of any time limit for review of applications imposed by this Title.

4. ***Expiration of Application.*** If an applicant fails to correct the specified deficiencies within the specified time limit, the application shall expire and be deemed withdrawn. After the expiration of an application, project review shall require the submittal of a new, complete application, along with all required fees.

D. **Complete Application.** When an application is determined to be complete, the Community Development Director shall make a record of that date. The Director may require submittal of additional information for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA).

1. If an application is exempt from CEQA but requires a public hearing, the Community Development Director shall schedule it and notify the applicant of the date and time.
2. If an application is subject to CEQA, the public hearing shall be scheduled after environmental review is conducted.

28.55.050 Environmental Review

All projects must be reviewed for compliance with or exemption from the California Environmental Quality Act (CEQA). Environmental review will be conducted pursuant to Title 14 of the California Code of Regulations (CEQA Guidelines), and the City's adopted CEQA Guidelines. If Title 14 of the California Code is amended, such amendments will govern City procedures.

28.55.060 Public Notice

Unless otherwise specified, whenever the provisions of this Title require public notice, the City shall provide notice in compliance with State law and the following.

A. **Mailed Notice.** At least 10 days before the date of the public hearing or the date of action when no public hearing is required, the Community Development Director, or the City Clerk for hearings before the City Council, shall provide notice by First Class mail delivery to:

1. The applicant and the owner of the subject property;
2. All property owners of record within a minimum 300-foot radius of the subject property as shown on the latest available records of the County Assessor; and
3. Any person or group who has filed a written request for notice regarding the specific application.
4. ***Alternative Method for Large Mailings.*** If the number of owners to whom notice would be mailed or delivered is greater than 1,000, instead of mailed notice, the Community Development Director or City Clerk may provide notice by placing a display advertisement of at least one-eighth page in at least one newspaper of general circulation in the City at least 10 days prior to the hearing.

B. **Newspaper Notice.** At least 10 days before the date of the public hearing or the date of action when no public hearing is required, the Community Development Director or the City Clerk for hearings before the City Council, shall publish a notice in at least one newspaper of general circulation in the City.

C. **Additional Noticing Methods.** The City may also require public notice in any other manner it deems necessary or desirable, including, but not limited to, posted notice on the project site.

D. **Contents of Notice.** The required Mailed Notice and Newspaper Notice shall include the following information:

1. ***Process Information***.

   a. The date, time, and place of the hearing and the name of the review authority, or the date of action when no public hearing is required; and

   b. A brief description of the City's general procedure concerning the submission of public comments and conduct of hearings and decisions (e.g., the public's right to appear and be heard).

2. ***Project Information.***

   a. The name of the applicant and owner of the subject property;

   b. The City's file number(s) assigned to the application;

   c. A general explanation of the matter to be considered;

   d. A general description, in text and/or by diagram, of the location of the property that is the subject of the hearing; and

   e. A statement, if applicable, that the project is located within the City's Coastal Zone, the date of filing of the application, and whether the project is appealable to the Coastal Commission under Public Resources Code 30603(a).

E. **Failure to Receive Notification.** The validity of the proceedings shall not be affected by the failure of any property owner, resident, or neighborhood or community organization to receive a mailed notice or receive notice by any additional noticing methods.

28.55.070 Conduct of Public Hearings

Whenever the provisions of this Title require a public hearing, the hearing shall be conducted in compliance with the requirements of State law as follows.

A. **Generally.** Hearings shall be conducted pursuant to procedures adopted by the hearing body. They do not have to be conducted according to technical rules relating to evidence and witnesses.

B. **Scheduling.** Hearings before the City Council shall be scheduled by the City Clerk. All other hearings shall be scheduled by the Community Development Director.

C. **Staff Presentation.** The Director may prepare a presentation and staff report regarding the proposed project.

D. **Presentation.** An applicant or an applicant's representative may make a presentation of a proposed project.

E. **Public Hearing Testimony.** Any person may appear at a public hearing and submit oral or written evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing representing an organization shall identify the organization being represented.

F. **Time Limits.** The presiding officer may establish time limits for individual testimony and require that individuals with shared concerns select one or more spokespersons to present testimony on behalf of those individuals.

G. **Continuance of Public Hearing.** The Review Authority conducting the public hearing may, by motion, continue the public hearing to a fixed date, time and place without additional notice; or the body conducting the public hearing may continue the item to an undetermined date and provide notice of the continued hearing in the same manner and within the same time limits as required for the original hearing.

H. **Additional Information.** The Review Authority conducting the hearing may require additional information and/or cause such investigations to be made as it deems necessary and in the public interest in any matter to be heard by it.

I. **Decision.** The public hearing must be closed before a vote is taken.

28.55.080 Action and Decision

When making a decision to approve, approve with conditions, revise, revoke or deny any discretionary permit or approval under this Title, the review authority shall issue a resolution of decision and make findings of fact as required by this Title.

A. **Record of Decision.** After the review authority takes any action to approve, modify, or deny any discretionary application provided for under this Title, a Record shall be issued. The Record may take the form of a resolution, letter, notice, memo or similar document, and shall describe the action taken, including any applicable conditions, and shall list the findings that were the basis for the decision. The Community Development Director or the City Clerk shall retain the original Record and mail a copy of the Record to the applicant

1. ***Notice of Final Action, Coastal Development Permits.*** Within five working days of a final City decision on an application for a coastal development permit, the Community Development Department shall provide notice of the action in writing by first class mail to the Coastal Commission and to any persons who specifically requested such notice and provided a self-addressed, stamped envelope. Such notice shall include conditions of approval, written findings and the procedures for appeal of the City decision to the Coastal Commission.

B. **Findings.** Findings, when required by State law or this Title, shall be based upon consideration of the application, plans, testimony, reports, and other materials that constitute the administrative record and shall be stated in writing in the record of decision.

28.55.090 Scope of Approvals

A. **Multiple Approvals.** If there are multiple conflicting approvals granted under this Title for the same site or location, only one shall be exercised and any conflicting approvals shall be deemed null and void.

B. **Conditions of Approval.** Any permit or approval provided for in this Title shall be subject to the conditions of approval imposed by the Review Authority. The site plan, floor plans, building elevations and any additional information or representations indicating the proposed structure or manner of operation submitted with an application or submitted during the approval process shall be deemed conditions of approval.

C. **Actions Voiding Approval.** If the construction of a building or structure, or the use established, is contrary to either the conditions of approval or approved project description and plans, so as to either violate any provision of this Title, or require additional permits or approvals, then the permit or approval shall be deemed null and void and addressed pursuant to Chapter TBD Enforcement and Penalty.

D. **Periodic Review.** All approvals may be subject to periodic review to determine compliance with the permit and applicable conditions. If a condition specifies that activities or uses allowed under the permit or approval are subject to periodic reporting, monitoring or assessments, it shall be the responsibility of the approval holder, the property owner or successor property owners to comply with such conditions.

28.55.100 Effective Dates

A final decision on an application for any discretionary permit or approval subject to appeal shall become effective after the expiration of any applicable appeal period following the date of action, unless an appeal is filed. No building permit or business license shall be issued until the permit or approval becomes effective.

28.55.110 Expiration and Extension

Discretionary approvals granted under this Title shall automatically expire and become null and void, if the approval is not exercised or extended and the approved use, structure, and/or site development is continued as provided below.

A. **Time Period to Exercise a Permit or Approval.** A permit or approval granted under this Title shall be exercised within its initial time period approval unless a time extension is granted pursuant to Subsection C, Extensions, or as provided below.

1. ***Initial Time Period Approval.***

   a. *Development Plans.* Four years of its effective date.

   b. *Other Permits or Approvals.* Three years of its effective date unless a different time is specified in the record of decision.

2. ***Multiple Land Use Approvals.*** If a project requires multiple discretionary permits or approvals pursuant to Titles 22, 27, or 28 of the Santa Barbara Municipal Code, the expiration date shall be measured from date of the final action of the City on the longest discretionary permit or approval related to the application, unless otherwise specified by State or federal law, with the following exceptions:

a. Design review approval shall not operate to extend any other discretionary permit or approval; and

b. The recordation of a Final Map does not extend any other discretionary permit or approval or design review approval.

Approval periods run concurrently with, not consecutively to, each discretionary approval term.

3. ***Exclusions of Time.***

a. *Moratorium or Litigation.* The periods of time specified in this Section shall not include any period of time during which either a development moratorium imposed by the City after the project received project design approval, is or was in effect; or a lawsuit involving the project design approval or the land use approvals for the project is or was pending in a court of competent jurisdiction. The maximum length of any exclusion of time under this subsection shall be five years. For the purposes of this Subsection, a development moratorium shall include:

i. A water or sewer moratorium,

ii. A water and sewer moratorium, and

iii. A building or grading permit moratorium.

b. *Tentative Maps.* If the project requires the approval of a tentative subdivision or parcel map pursuant to Title 27 of the Santa Barbara Municipal Code, the periods of time specified in this Section shall not include a period of time during which a lawsuit involving the approval of the tentative map is or was pending in a court of competent jurisdiction for which a stay was approved.

4. ***Approvals Contingent Upon Action of Other Governmental Bodies.*** When a discretionary approval by the City made pursuant to this Title is contingent upon an action by another governmental body, including but not limited to, the approval of an annexation by the Local Agency Formation Commission or any action by the California Coastal Commission, the timeline for all discretionary approvals related to the project shall not commence until all such outside agency contingencies are satisfied.

a. The suspension of project timelines allowed in this subsection shall not exceed three years from the date of the final City action on the discretionary approval that is contingent upon the action of another governmental body.

b. This suspension shall not run consecutively to a moratorium or litigation exclusion unless the moratorium or litigation legally prevented the applicant from processing the application before the other governmental body.

B. **Actions Exercising a Permit or Approval.** A permit or approval is exercised when a valid City building permit is issued for work related to the approval, and the permit does not expire; or if no City building permit is required to establish the use on the property, when a valid City business license has been issued, if required, and when the permitted use has commenced on the site.

C. **Extensions.** The Community Development Director may approve up to two one-year extensions of any permit or approval granted under this Title, except for Development Plans, which may receive only one one-year extension, upon receipt of a written application with the required fee prior to the date of expiration of the approval. Under no circumstances shall the time for exercise of the permit or approval of development be more than five years after the effective date of the approval, unless otherwise allowed by State Law or if approvals are contingent upon other governmental bodies, per section TBD.

1. ***Required Findings.*** Extensions of time may be granted by the Community Development Director upon finding that the applicant demonstrated due diligence to implement and complete the proposed development as substantiated by competent evidence in the record, and that the project continues to be consistent with this Title, the certified Local Coastal Program, the Coastal Act, or applicable City ordinances, resolutions and other laws.

D. **Continuation of Use, Structure, and/or Site Development.** A use, structure, and/or site development authorized by the approval are considered continued unless the structure or site development are demolished pursuant to Section TBD, Demolition, or the uses authorized by the approval are discontinued pursuant to Section TBD, Discontinuation of Use.

28.55.120 Changes to Approved Plans

No change to any structure, site development, or use for which a permit or approval has been issued or granted under this Title is permitted unless the permit or approval is revised as provided for in this Title.

A. **Substantial Conformance.** The Community Development Director may approve minor changes to approved projects that are found to be in substantial conformance with the original findings and conditions approved by the Review Authority and that would not intensify any potentially detrimental effects of the project. The changes may be the result of refinements to the project including those resulting from design review or plan check review. Substantial Conformance Determinations shall be documented by the Director with a Record of Decision and the Director may request input from applicable City Departments and the original Review Authority for help in determining whether the request is consistent with the original approval pursuant to administrative procedures adopted by a resolution of the City Council.

B. **Amendments.** A request for changes to a condition of approval or a change in an approved structure, site development, or use that would affect the original findings or a condition of approval or would intensify any potentially detrimental effects of the

project or significantly change an aspect of the project beyond what the Director finds to be in Substantial Conformance pursuant to Section 28.49.160.A above, shall require approval by the original Review Authority and shall be processed in the same manner as the original approval.

28.55.130 Revocation of Permits and Approvals

Any permit or approval granted under this Title may be revoked or revised for cause if any of the conditions or terms of the permit or approval are violated or if any applicable law or ordinance is violated.

A. **Initiation of Proceeding.** Revocation proceedings may be initiated by the Community Development Director.

B. **Public Notice, Hearings, and Action.** A decision to revoke or revise a permit or approval shall be made following a duly noticed public hearing, using the same noticing requirements and review authority that were applicable to the original permit or approval application.

C. **Required Findings.** The review authority may revoke or revise a permit or approval if it makes any of the following findings:

1. The approval was obtained by means of fraud or misrepresentation of a material fact;
2. The use, building, or structure has been substantially expanded beyond what is set forth in the permit or approval application or substantially changed in character in a manner that violates the terms of their permit or approval;
3. There is or has been a violation of or failure to observe the terms or conditions of the permit or approval, or the use has been conducted in violation of the provisions of this Title, or any applicable law or regulation; or
4. The use to which the permit or approval applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance.

28.55.140 Appeals

A. **Applicability.**

1. ***Appeals of Community Development Director Decisions.***

a. Any Application Completeness Determination made by the Community Development Director may be appealed to the appropriate decision making body for the permit or approval requested.

b. Any other decision of the Community Development Director, that is subject to appeal under the terms of this Title, may be appealed to the Planning Commission.

2. ***Appeals of Staff Hearing Officer Decisions.*** Decisions of the Staff Hearing Officer may be appealed to the Planning Commission or the Community Development Director in accordance with this Section.

   a. *Appeals of Staff Hearing Officer Decisions on Minor Zoning Exceptions.* Appeals of the Staff Hearing Officer regarding Minor Zoning Exceptions shall be heard by the Community Development Director, and the decision of the Community Development Director shall be final, without any right of further appeal.

   b. *Appeals of all Other Staff Hearing Officer Decisions.* Appeals of all other Staff Hearing Officer decisions shall be heard by the Planning Commission.

   c. *Planning Commission Suspensions.* The Chairperson, Vice Chairperson or other designated member of the Planning Commission may suspend any decision of the Staff Hearing Officer within the 10-day appeal period. The suspension shall be processed in the same manner as an appeal by any other person. Such action shall not require any statement of reasons and shall not represent opposition to or support of an application or appeal.

3. ***Appeals of Planning Commission and Design Review Decisions.*** Decisions of the Planning Commission and Design Review may be appealed to the City Council in accordance with Chapter 1.30 and Title 22 of the Santa Barbara Municipal Code. In addition to the procedures specified in Chapter 1.30 of the Santa Barbara Municipal Code, public notice shall be provided in the same manner required for the action that was the subject of the appeal.

4. ***Coastal Development Permits.*** Actions on some Coastal Development Permits may also be appealed to the California Coastal Commission pursuant to Subsection C, Appeals to the Coastal Commission, below.

B. **Appeal Process.**

1. ***Rights of Appeal.*** Appeals may be filed by any person aggrieved by a decision that is subject to appeal under the provisions of this Title.

2. ***Time Limits.*** Unless otherwise specified in State or federal law, all appeals shall be filed in writing within ten calendar days of the date of the action, decision, motion, or resolution from which the action is taken. In the event an appeal period ends on a day the City is closed, the appeal period shall end at the close of business on the next consecutive business day.

3. ***Procedures.***

   a. *Proceedings Stayed by Appeal.* The timely filing of an appeal stays all proceedings in the matter appealed including, the issuance of demolition permits and City building permits, with the following exception:

      i. <u>Appeals of Planning Commission Decisions.</u> Where a project is subject to both Planning Commission and Project Design

approval and the Planning Commission's decision on the project is appealed to the City Council, the Director may, at the request of the applicant, allow the project to continue through the Design Review process and receive Project Design Approval so that the City Council may consider the appeal of the Planning Commission decision and the appeal of the design review board decision simultaneously.

b. *Filing of Appeals.* A written appeal must be filed to the appropriate location no later than 4:30 p.m. on the appeal due date. The appeal must be accompanied by payment of the required fee established by City Council resolution and must state specifically how the decision is not in accord with the provisions of this Title or how there was an error or abuse of discretion.

c. *Public Notice.* Notice of the appeal hearing must be provided in the same manner required for the action that was the subject of the appeal.

d. *Action.* The Appeal Body shall conduct a public hearing, if a public hearing was required for the action that was the subject of the appeal, after which it may affirm, reverse, or modify the previous decision.

C. **Appeal to the Coastal Commission.** A final action taken by the City on a Coastal Development Permit application for appealable development may be appealed to the Coastal Commission pursuant to Coastal Act Section 30603 and California Code of Regulations Sections 13110 through 13120.

1. ***Exhaustion of City Appeals Required.*** Except in circumstances identified in Code of Regulations Section 13573, an applicant or other aggrieved person may appeal a City decision on a Coastal Development Permit application to the Coastal Commission only after exhausting all local appeals to the Planning Commission and Council in compliance with this Section.

Chapter 28.56 Coastal Permits

28.56.010 Purpose

This Chapter establishes a process for consideration and review of Coastal Development Permits and Emergency Permits, which is intended to implement the California Coastal Act of 1976 (Division 20 of the Public Resources Code), as amended, in accordance with the City's Local Coastal Program.

28.56.020 Applicability

A. **Coastal Development Permit.** Approval of a Coastal Development Permit is required for development in the Coastal (CZ) Overlay Zone unless specifically excluded or exempted pursuant to Section TBD, Exclusions and Exemptions.

B. **Emergency Permit.** In cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Administrative Code, the Community Development Director may issue an Emergency Permit without compliance with the procedures for the issuance of a Coastal Development Permit.

28.56.030 Appealable Determination

A. **Initial Determination.** At the time a Coastal Development Permit application is submitted, the Community Development Director shall determine which of the following types of development is proposed and shall inform the applicant of the notice and hearing requirements for that particular development.

1. Within an area where the Coastal Commission exercises original permit jurisdiction;
2. Categorically excluded or otherwise exempt from this provisions of this Chapter;
3. Appealable to the Coastal Commission; or
4. Non-appealable to the Coastal Commission.

B. **Appealable Development Designation.** Pursuant to Public Resources Code Section 30603(a), Appealable Development consists of the following types of development.

1. Developments between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance.
2. Developments that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff.
3. Developments located in a sensitive coastal resource area.

4. Any development which constitutes a major public works project or a major energy facility.

The Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara, has been prepared to show where the California Coastal Commission retains permit and appeal jurisdiction pursuant to Public Resources Code Sections 30519(b), 30603(a)(1) and (a)(2) and 30600.5(d). In addition, development may also be appealable pursuant to Public Resources Code Sections 30603(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any appealable area, the matter should be referred to the City of Santa Barbara and/or the Executive Director of the California Coastal Commission for clarification and information. The Post-LCP Certification Permit and Appeal Jurisdiction Map may be updated as appropriate and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Commission.

C. **Challenge of Determination.**

1. If the determination of the Community Development Director is challenged by the applicant or an interested person, or if the City wishes to have a Commission determination as to the appropriate designation, the City shall notify the Coastal Commission by telephone of the dispute/question and shall request an opinion from the Executive Director of the Coastal Commission.

2. The Executive Director shall transmit the determination as to whether the development is categorically excluded, non-appealable, or appealable.

3. Where there is a dispute between the Executive Director's determination and the City's determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation.

28.56.040 Coastal Development Permit

A. **Review Authority.** The following bodies shall approve, conditionally approve, revise or deny applications for Coastal Development Permits based on consideration of the requirements of this Chapter.

1. ***Staff Hearing Officer.***

a. *Secondary Dwelling Units.* The Staff Hearing Officer shall review applications for Coastal Development Permits for Secondary Dwelling Units.

b. *Single Family Residential Development.* The Staff Hearing Officer shall review applications for Coastal Development Permits for single family residential development, provided the development:

i. is located 50 feet or further from the edge of any coastal bluff or the inland extent of any beach;

ii. is located landward of the seacliff retreat line as defined in the City of Santa Barbara Coastal Plan; and

iii. does not require a discretionary action by the Planning Commission under another provision of this Title.

c. *Non-Appealable Development.* The Staff Hearing Officer shall review applications for Coastal Development Permits for non-appealable development when the proposed development does not require another discretionary action by the Planning Commission under another provision of this Title.

2. ***Planning Commission.*** The Planning Commission shall review applications for Coastal Development Permits for all projects that do not meet one or more of the criteria listed in subsection A for a decision by the Staff Hearing Officer.

B. **Application Requirements**

1. ***Timing.*** The application for the Coastal Development Permit shall be filed with the Community Development Director prior to or concurrent with other necessary City permits or approvals for the subject development.

2. ***Requirements.*** Application requirements are as established in Chapter TBD, Common Procedures, as supplemented by the provisions in this Chapter.

C. **Public Hearing.** At least one public hearing shall be held on each application requiring a Coastal Development Permit except as provided below. The public hearing shall be held concurrently with any other required public hearing or hearings before the review authority for any other applications regarding the proposed development.

1. ***Exception-Secondary Dwelling Units.*** When a proposed development only involves the addition of a secondary dwelling unit to an existing single family residence, the application shall be reviewed by the Staff Hearing Officer without a public hearing in accordance with subdivision (j) of Government Code Section 65852.2.

a. *Timing of Decision.* The Staff Hearing Officer shall not issue a decision on the application until at least 10 calendar days after notice having been given pursuant to Section TBD, Public Notice.

b. *Comments.* The Staff Hearing Officer may receive written comments regarding the application and consider such written comments during the review of the application, but the Staff Hearing Officer shall not conduct a public hearing on the application.

c. *Final Action.* The decision of the Staff Hearing Officer concerning an application for a Coastal Development Permits pursuant to this subsection shall constitute the final action of the City.

d. *Appeals.* Approvals of the Staff Hearing Officer for appealable development may be appealed to the Coastal Commission in accordance with Section TBD, Appeals.

e. *Other Provisions.* Review of a Coastal Development Permit application for a secondary dwelling unit as an addition to an existing single family

residence shall comply with all other procedures and development standards of this Title.

D. **Public Notice.** Public notice shall be given as specified in Chapter TBD, Common Procedures. In addition to the recipients listed in Section TBD, Mailed Notice, notice by First Class mail delivery shall be provided to:

1. Occupants on or within 100 feet of the affected parcel;
2. All persons who have requested to be on the mailing list for decisions by the City within the Coastal Zone; and
3. The Coastal Commission.

E. **Findings.** In order to approve a Coastal Development Permit, the following findings shall be made:

1. The project is consistent with the policies of the City's certified Local Coastal Program; and
2. The project, if located within the appeal jurisdiction, is consistent with the public access and recreation policies of Chapter 3 of the Coastal Act of 1976 (commencing with Sections 30200 of the Public Resources Code).

F. **Failure to Act Notice.**

1. ***Notification by Applicant:*** If the City has failed to act on an application within the time limits set forth in Article 5 ("Approval of Development Permits") of Title 7, Division I, Chapter 4.5 of the Government Code, commencing with 65950, thereby approving the development by operation of law, the person claiming a right to proceed pursuant to Government Code Section 65950 et seq. shall notify, in writing, the City and the Coastal Commission of the claim that the development has been approved by operation of law. Such notice shall specify the application which is claimed to be approved.
2. ***Notification by City.*** Upon determination that the time limits established pursuant to Government Code Section 65950 et seq. have expired, the Community Development Department shall, within five working days of such determination, notify those persons entitled to receive notice that it has taken final action by operation of law pursuant to Government Code Section 65956. The appeal period for projects approved by operation of law shall begin only upon receipt of the City's notice in the office of the Coastal Commission.

28.56.050 Emergency Permits

The Community Development Director may issue an Emergency Permit without compliance with the procedures for the issuance of a Coastal Development Permit in cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Administrative Code.

A. **Applicability.** The procedures of this Subsection apply where persons or public agencies seek a permit for emergency work pursuant to Section 30624 of the California Public Resources Code.

B. **Application.** Applications for permits for emergency work shall be made to the Community Development Director by letter or facsimile during business hours if time allows, or by telephone or in person if time does not allow. The information to be reported during the emergency, if it is possible to do so, or to be reported fully in any case after the emergency, shall include the following:

1. The nature of the emergency;
2. The cause of the emergency, insofar as this can be established;
3. The location of the emergency;
4. The remedial, protective, or preventive work required to deal with the emergency;
5. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action;
6. The identity of other public agencies alerted to the emergency;
7. Access routes to the emergency; and
8. Any other information deemed necessary by the Community Development Director.

C. **Verification of Emergency.** The Community Development Director shall verify the facts, including the existence and nature of the emergency, insofar as time allows.

D. **Coordination and Public Notice.** Prior to issuance of an Emergency Permit, when feasible, the Community Development Director shall notify, and coordinate with, the South Central Coast District Office of the California Coastal Commission as to the nature of the emergency and the scope of the work to be performed. This notification shall be in person or by telephone. The Community Development Director shall provide public notice of the proposed emergency action required by Section 13329.3 of Title 14 of the California Administrative Code, with the extent and type of notice determined on the basis of the nature of the emergency itself.

E. **Issuance.** The Community Development Director may grant a permit for emergency work upon reasonable terms and conditions, including an expiration date and the requirement for a regular permit application later, if the Community Development Director finds that:

1. An emergency exists and requires action more quickly than permitted by the procedures for ordinary permits, and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
2. Public comment on the proposed emergency action has been reviewed if time allows;

3. The work proposed would be consistent with the requirements of the City's Local Coastal Program and the California Coastal Act of 1976;

4. The work proposed is the minimum action necessary to address the emergency and, to the maximum extent feasible, is the least environmentally damaging temporary alternative for addressing the emergency. This finding shall be made with the maximum information and analysis possible given the expedited review demanded by the emergency situation; and

5. The Community Development Director shall not issue an Emergency Permit for any work that falls within the provisions of Public Resources Code Section 30519(b) since a Coastal Development Permit application for this type of work must be reviewed by the California Coastal Commission pursuant to the provisions of Public Resources Code Sections 30519(b) and 30600(d).

F. **Format of Permit.** The Emergency Permit shall be a written document that includes the following information:

1. The date of issuance;

2. An expiration date;

3. The scope of work to be performed;

4. Terms and conditions of the permit. The Emergency Permit may contain conditions for removal of existing development or structures if they are not authorized in a Coastal Development Permit, or the Emergency Permit may require that a subsequent Coastal Development Permit must be obtained to authorize the removal of such existing unpermitted development or structures;

5. A provision stating that within 90 days of issuance of the Emergency Permit, a Coastal Development Permit application shall be submitted and properly filed consistent with the requirements of this Chapter seeking authorization to retain structures erected pursuant to the Emergency Permit, to remove such structures, or some other alternative;

6. A provision stating that any development or structures constructed pursuant to an Emergency Permit shall be considered temporary until authorized by a subsequent Coastal Development Permit and that issuance of an Emergency Permit shall not constitute an entitlement to the erection of permanent development or structures; and

7. A provision that states that the development authorized in the Emergency Permit must be removed unless a complete application for a Coastal Development Permit is filed within 90 days of approval of the Emergency Permit. If all or any portion of the application for the Coastal Development Permit seeking authorization for permanent retention of the development authorized pursuant to the Emergency Permit is denied, the portion of the development that is denied must be removed.

G. **Notice to the Planning Commission.**

1. The Community Development Director shall report in writing to the Planning Commission at each meeting of the Commission the Emergency Permits applied for or issued since the last report. The report shall contain a description of the nature of the emergency and the work involved. Copies of this report shall be available at the meeting and shall have been mailed at the time the application summaries and staff recommendations are normally distributed to all persons who have requested such notification in writing. Copies of this report shall also be sent to the South Central Coast District Office of the California Coastal Commission.

2. All Emergency Permits issued after completion of the agenda for the Planning Commission meeting shall be briefly described by the Community Development Director at the meeting and the written report required by Paragraph 1 above shall be distributed prior to the next meeting of the Planning Commission.

3. The report of the Community Development Director shall be informational only. The decision to issue an Emergency Permit is solely at the discretion of the Community Development Director.

Chapter 28.57 Conditional Use Permits

28.57.010 Purpose

This Chapter established a process for consideration and review of uses that are generally consistent with the purposes of the zone district in which they are proposed but require special consideration to ensure that they can be designed, located, and operated in a manner that will not interfere with the use and enjoyment of surrounding properties, and meaningful minimum standards can only be established in relation to the particular features of each individual development.

28.57.020 Applicability

Approval of a Conditional Use Permit is required for uses or developments specifically identified in any section of this Title that refers to a requirement for a Conditional Use Permit.

28.57.030 Review Authority

The Planning Commission shall approve, conditionally approve, revise or deny applications for Conditional Use Permits based on consideration of the requirements of this Chapter.

28.57.040 Application Requirements

Applications for Conditional Use Permits shall be filed with the Community Development Director in accordance with the provisions set forth in Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a Conditional Use Permit shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings, below.

28.57.050 Public Notice and Hearing

All applications for Conditional Use Permits shall require public notice and hearing before the Planning Commission pursuant to Chapter TBD, Common Procedures.

28.57.060 Required Findings

The Planning Commission must make all of the following findings in order to approve or conditionally approve a Conditional Use Permit application. The inability to make one or more of the findings is grounds for denial of an application.

A. The proposed use is allowed with a Conditional Use Permit within the applicable zone district and complies with all specific requirements for the Conditional Use Permit, as well as all other applicable provisions of this Title and all other titles of the Municipal Code;

B. The proposed use is deemed essential or desirable to the public convenience or welfare and is consistent with the General Plan and any applicable specific plan;

C. The proposed use will not be adverse to the public health, safety, or general welfare of the community, nor materially detrimental to surrounding properties or improvements;

D. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided;

E. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time; and

F. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping, open space and other features is compatible with the character of the area.

28.57.070 Conditions of Approval

In approving a Conditional Use Permit, the Planning Commission may impose reasonable conditions or restrictions deemed necessary to:

A. Ensure that the proposal conforms in all significant respects with the General Plan and with any other applicable plans or policies adopted by the City Council;

B. Achieve the general purposes of this Title or the specific purpose of the zone district in which the project is located;

C. Achieve the findings for a Conditional Use Permit listed in Section TBD, Required Findings, above; or

D. Mitigate impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

The Planning Commission may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

Chapter 28.58 Design Review

Design review is as required by Chapter 22.22, Historic Structures, Chapter 22.68, Architectural Board of Review, Chapter 22.69, Single Family Design Review Board, and Chapter 22.70, Sign Regulations, of Santa Barbara Municipal Code.

Chapter 28.59 Development Agreements

28.59.010 Purpose

This chapter establishes a process for consideration and review of Development Agreements consistent with Section 65864 et seq., of the Government Code. Development Agreements are legally binding agreements that grant assurance that an applicant may proceed with development in accord with policies, rules, and regulations in effect at the time of approval subject to conditions to promote the orderly planning of public improvements and services, allocate costs to achieve maximum utilization of public and private resources in the development process, and ensure that appropriate measures to enhance and protect the environment are achieved.

28.59.020 Applicability

A. The City incorporates by reference the provisions of Government Code Sections 65864-65869.5. In the event of any conflict between these statutory provisions and this Chapter, this Chapter shall control.

B. A Development Agreement may be considered for a proposed development that will require a developer to make a substantial investment at the early stages of the project for planning and engineering for the entire project and for public facilities and services.

28.59.030 Review Authority

A. The Director shall negotiate the specific components and provisions of the Development Agreement on behalf of the City for review by the Planning Commission and recommendation to the City Council.

B. The Planning Commission shall review the Development Agreement and provide recommendation to the City Council.

C. The City Council shall have the exclusive authority to approve a Development Agreement.

28.59.040 Application Requirements

Applications for Development Agreements shall be filed with the Community Development Department in accordance with the provisions set forth in Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a Development Agreement shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings, below.

28.59.050 Contents of Development Agreements

A. **Required Contents.** A Development Agreement shall specify its duration; the permitted uses of the subject property; the general location and density or intensity of

uses; the general location, maximum height and size of proposed buildings; and provisions for reservation or dedication of land for public purposes. It shall contain provisions concerning its transferability.

B. **Additional Contents.** Development Agreements may also include the following:

1. ***Improvements and Fees.*** A Development Agreement may include requirements for construction and maintenance of onsite and offsite improvements or payment of fees in lieu of such dedications or improvements.

2. ***Conditions.*** A Development Agreement may also include conditions, terms, restrictions, and requirements for subsequent discretionary actions but does not eliminate the applicant's responsibility to obtain all required land use approvals.

3. ***Phasing.*** A Development Agreement may provide that the project be constructed in specified phases, that construction shall commence within a specified time, and that the project or any phase thereof be completed within a specified time.

4. ***Financing.*** If the Development Agreement requires applicant financing of necessary public facilities, it may include terms relating to subsequent reimbursement over time for such financing.

5. ***Indemnity.*** A Development Agreement may contain an indemnity clause requiring the applicant to indemnify and hold the City harmless against claims arising out of or in any way related to the actions of applicant in connection with the application or the development process, including all legal fees and costs.

6. ***Performance Obligation Fees.*** A Development Agreement may include provisions to guarantee performance of obligations stated in the agreement.

7. ***Other Items.*** Other components and provisions as negotiated by City.

28.59.060 Public Notice

A proposed Development Agreement shall be executed by the Applicant before it is placed before the Planning Commission and the City Council for consideration at a public hearing. Public notice of hearings by the Planning Commission and City Council for a Development Agreement shall be given as specified in Chapter TBD, Common Procedures. Notice of the hearing shall also be mailed or delivered at least 10 days before the hearing to any other local agency expected to provide essential facilities or services to the property that is the subject of the Development Agreement.

28.59.070 Planning Commission Action

A. **Hearing.** The Planning Commission shall conduct a public hearing for the purpose of making recommendations to the City Council in conformance with the provisions of Chapter TBD, Common Procedures.

B. **Recommendation to Council.** Following the public hearing, the Planning Commission shall make a written recommendation on the proposed Development Agreement. The Community Development Director shall transmit the Planning Commission's written recommendation and complete record of the application to the City Council.

C. **Denial.** If the Planning Commission has recommended against the Development Agreement, the City Council is not required to take any further action unless an appeal is filed in accordance with Section TBD, Appeals.

28.59.080 City Council Action

A. **Hearing.** After receiving the report from the Planning Commission but no later than the time specified by Section 65943 of the Government Code, the City Council shall hold a public hearing in conformance with the provisions of Chapter TBD, Common Procedures.

B. **Decision.** After the conclusion of the hearing, the City Council shall approve, modify, or disapprove the Development Agreement. Approval of a Development Agreement shall be by ordinance. Matters not previously considered by the Planning Commission during its hearing may, but need not, be referred back to the Planning Commission for report and recommendation. The Planning Commission is not required to hold a public hearing. Failure of the Planning Commission to provide a report to the City Council within 45 days after the referral, shall be deemed a recommendation for approval.

28.59.090 Required Findings

The City Council shall find that the project is deemed essential or desirable to the public convenience or welfare and is consistent with the General Plan and any applicable specific plan in order to approve or conditionally approve a Development Agreement.

28.59.100 Recordation of Development Agreement

Within 10 days of City Council approval of the Development Agreement, the Director shall execute the Development Agreement on behalf of the City, and the City Clerk shall record the Development Agreement with the County Recorder.

28.59.110 Annual Review

The applicant shall be required to demonstrate compliance with the provisions of the Development Agreement at least once a year at which time the Director shall review each approved Development Agreement.

A. **Finding of Compliance.** If the Director, on the basis of substantial evidence, finds compliance by the applicant with the provisions of the Development Agreement, the Director shall issue a finding of compliance, which shall be in recordable form and may be recorded with the County Recorder after conclusion of the review.

B. **Finding of Noncompliance.** If the Director finds the applicant has not complied with the provisions of the Development Agreement, the Director may issue a finding of noncompliance which may be recorded by the City with the County Recorder after it becomes final. The Director shall specify in writing to the applicant the respects in which applicant has failed to comply, and shall set forth terms of compliance and specify a reasonable time for the applicant to meet the terms of compliance. If applicant does not comply with any terms of compliance within the prescribed time limits, the Development Agreement shall be subject to termination or modification pursuant to this Chapter.

C. **Appeal of Determination.** Within seven days after issuance of a finding of compliance or a finding of noncompliance, any interested person may file a written appeal of the finding with the City Council. The appellant shall pay fees and charges for the filing and processing of the appeal in amounts established by resolution of the City Council. The appellant shall specify the reasons for the appeal. The issuance of a finding of compliance or finding of noncompliance by the Director and the expiration of the appeal period without appeal, or the confirmation by the City Council of the issuance of the finding on such appeal, shall conclude the review for the applicable period and such determination shall be final.

28.59.120 Amendment or Cancellation

A. **After Finding of Noncompliance.** If a finding of noncompliance does not include terms of compliance, or if applicant does not comply with the terms of compliance within the prescribed time limits, the Director may refer the Development Agreement to the City Council for termination or modification. The City Council shall conduct a public hearing. After the public hearing, the City Council may terminate the Development Agreement modify the finding of noncompliance, or rescind the finding of noncompliance, and issue a finding of compliance.

B. **Mutual Agreement**. Any development may be canceled or amended by mutual consent of the parties following compliance with the procedures specified in this section. A Development Agreement may also specify procedures for administrative approval of minor amendments by mutual consent of the applicant and Director.

C. **Recordation.** If the parties to the agreement or their successors in interest amend or cancel the Development Agreement, or if the City terminates or modifies the Development Agreement for failure of the applicant to fully comply with the provisions of the Development Agreement, the City Clerk shall record notice of such action with the County Recorder.

D. **Rights of the Parties After Cancellation or Termination**. In the event that a Development Agreement is cancelled or terminated, all rights of the applicant, property owner or successors in interest under the Development Agreement shall terminated. If a Development Agreement is terminated following a finding of noncompliance, the City may, in its sole discretion, determine to return any and all benefits, including reservations or dedications of land, and payments of fees, received by the City.

28.59.130 Effect of Approved Agreement

A. **Existing Rules and Regulations**. Unless otherwise specified in the Development Agreement, the City's rules, regulations and official policies governing permitted uses of the property, density and design, and improvement standards and specifications applicable to development of the property shall be those City rules, regulations and official policies in force on the effective date of the Development Agreement.

B. **Future Rules and Regulations**. A Development Agreement shall not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations and policies that do not conflict with those rules, regulations and policies applicable to the property as set forth in the Development Agreement. A Development Agreement shall not prevent the City from denying or conditionally approving any subsequent land use permit or authorization for the project on the basis of such existing or new rules, regulations, and policies.

C. **State and Federal Rules and Regulations**. In the event that state or federal laws or regulations, enacted after a Development Agreement has been entered into, prevent or preclude compliance with one or more provisions of the Development Agreement, such provisions of the agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

28.59.140 Enforcement

The procedures for enforcement, amendment, modification, cancellation or termination of a Development Agreement specified in this section and in Government Code Section 65865.4 or any successor statute, are nonexclusive. A Development Agreement may be enforced, amended, modified, cancelled or terminated by any manner otherwise provided by law or by the provisions of the Development Agreement.

Chapter 28.60 Development Plan

28.60.010 Purpose

This Chapter establishes a process for consideration and review of Development Plans required pursuant to Chapter TBD, Nonresidential Growth Management Program.

28.60.020 Applicability

Approval of a Development Plan is required for uses or developments specifically identified in any section of this Title that refers to a requirement for a Development Plan.

28.60.030 Review Authority

The following bodies shall approve, conditionally approve, or deny applications for Development Plans based on consideration of the requirements of this Chapter.

A. **Planning Commission Approval.** The following projects shall require approval of a Development Plan from the Planning Commission:

1. Any project which requires Development Plan approval which also requires approval of another land use permit from the Planning Commission.
2. Any nonresidential construction project (including a public utility facility) that involves the construction, addition, or conversion of more than 3,000 square feet of new nonresidential floor area.
3. Any Transfer of Existing Development Rights that involves the construction, addition, or conversion of more than 1,000 square feet of nonresidential floor area (as an aggregate total of all development categories) on the receiving site.
4. Any project which requires Development Plan approval which also requires the preparation of an Environmental Impact Report.

B. **Staff Hearing Officer Approval.** Any nonresidential construction project that involves the construction, addition, or conversion of more than 1,000 but not more than 3,000 square feet of new nonresidential floor area, and which also requires approval of a City discretionary land use permit from the Staff Hearing Officer, shall require approval of a Development Plan from the Staff Hearing Officer.

C. **Design Review Approval.** Any nonresidential construction project that involves the construction, addition, or conversion of more than 1,000 but not more than 3,000 square feet of new nonresidential floor area, and does not require approval of a City discretionary land use permit by the Planning Commission or Staff Hearing Officer shall require approval of the design of a Development Plan from the Architectural Board of Review, or from the Historic Landmarks Commission if the property is located within El Pueblo Viejo Landmark District or another landmark district, or if the structure is a designated City Landmark.

28.60.040 Application

Applications for Development Plans shall be filed with the Community Development Director in accordance with the provisions set forth in Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a Development Plan shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings, below.

28.60.050 Public Notice and Hearing

All applications for Development Plans shall require public notice and hearing pursuant to Chapter TBD, Common Procedures.

28.60.060 Required Findings

The review authority must make all of the following findings in order to approve or conditionally approve a Development Plan application. The inability to make one or more of the findings is grounds for denial of the application.

A. The proposed development complies with all applicable provisions of this Title;

B. The proposed development is consistent with the principles of sound community planning;

C. The proposed development will not have a significant adverse impact upon the community's aesthetics or character in that the size, bulk or scale of the development will be compatible with the neighborhood based on the Project Compatibility Analysis criteria found in Sections 22.22.145 or 22.68.045 the Santa Barbara Municipal Code; and

D. The proposed development is consistent with the policies of the City of Santa Barbara Traffic Management Strategy (as approved by City Resolution No. 13010 dated as of March 12, 2013) as expressed in the allocation allowances specified in Section TBD, Traffic Management Strategy.

28.60.070 Conditions of Approval

In approving a Development Plan, the review authority may impose reasonable conditions or restrictions deemed necessary to:

A. Achieve the general purposes of this Title or the specific purpose of the zoning district in which the project is located;

B. Achieve the findings for a Development Plan listed in Section TBD, Required Findings, above; or

C. Mitigate impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

The review authority may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

Violation of any such condition shall be grounds for suspension or revocation of any building or grading permit or certificate of occupancy issued with respect to the Development Plan.

28.60.080 Expiration, Extensions, and Changes to Approved Plans

Development Plans are effective, and may only be extended or revised as provided in Chapter TBD, Common Procedures, except as provided below.

A. **Beginning Date – Development Plans Already Approved.** The adoption of this ordinance shall not alter the date of approval of a Development Plan approved prior to the adoption of this ordinance.

B. **Specific Plan Development Plan Approvals.** For the purposes of calculating the expiration date of a Specific Plan project Development Plan approved in accordance with Santa Barbara Municipal Code Chapter 29.30, Development Plan approvals shall be deemed to expire eight years after the date of the final City action approving the project Development Plan and shall include any related project approvals or modifications granted by the City in connection therewith.

Chapter 28.61 Enforcement and Penalty

28.61.010 Purpose

This Chapter establishes the responsibilities of various departments, officials and public employees of the City to enforce the requirements of this Title and establishes uniform procedures the City will use to identify, abate, remove, and enjoin uses, buildings, or structures that are deemed to be in violation of this Title.

28.61.020 Duties

All departments, officials, and public employees of the City vested with the duty or authority to issue permits or licenses shall conform to the provisions of this Title, and shall issue no permit or license, except licenses issued for revenue purposes only, for uses, buildings or purposes in conflict with the provisions of this Title, and any such permit or license issued in conflict with the provisions of this Title shall be null and void.

A. **Community Development Director.**

1. It shall be the duty of the Community Development Director, with respect to new construction, additions, alterations, changes of use, or moving of existing buildings, to enforce this Title by withholding or revoking permits, approvals, Final Inspections, or Certificates of Occupancy where plan checks and field inspections reveal that completion of the project will result in a violation of this Title.
2. A Certificate of Occupancy or Final Inspection on any City building permit shall not be approved until all work required by the building permit and all other conditions imposed by any officer, board, commission or other authority have been completed or satisfactorily met by bonding or other appropriate method.
3. With respect to existing construction, and all other sources of violations, it shall be the duty of the Community Development Director to enforce this Title.

B. **City Attorney**. The provisions of this Title shall be interpreted by the City Attorney.

28.61.030 Enforcement

A. Any building or structure erected or maintained or any use of property contrary to the provisions of this Title shall be, and the same is hereby declared to be, unlawful and a public nuisance and the City Attorney shall immediately commence actions and proceedings for the abatement, removal and enjoinment thereof in the manner provided by law and by Santa Barbara Municipal Code Chapter 1.25, Administrative Code Enforcement Procedures; and shall take such other steps and shall apply to any court as may have jurisdiction to grant such reliefs as will abate or remove such building, structure or use and restrain and enjoin any person, firm or corporations from erecting or

maintaining such building or structure or using any property contrary to the provisions of this Title.

B. This Title may also be enforced by injunction issued out of the Superior Court upon the suit of the City or the owner or occupant of any real property affected by such violation or prospective violation. This method of enforcement shall be cumulative and in no way affect the penal provisions hereof.

28.61.040 Penalty

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating any provision of this Title shall be deemed guilty of a misdemeanor but may be cited or charged, at the election of the enforcing officer or City Attorney, as an infraction. Upon conviction, such person shall be punished as set forth in Chapter 1.28, Penalty, of the Santa Barbara Municipal Code. Each day that violation of this Title continues shall be considered a separate offense.

Chapter 28.62 General Plan and Zoning Amendments

28.62.010 Purpose

The purpose of this Chapter is to:

A. Establish procedures for making changes to the General Plan to address changes in applicable law and problems and opportunities that were unanticipated at the time of General Plan adoption or the last amendment.

B. Establish procedures for making changes to the text of this Title or to the Zoning Map whenever the public necessity, convenience, general welfare, or good zoning practice justify such amendment, consistent with the General Plan.

28.62.020 Applicability

The procedures in this Chapter shall apply to:

A. All proposals to change the text of the General Plan and the maps that illustrate the application of its provisions, and

B. All proposals to change the text of this Title or to revise a zoning district classification or zoning district boundary line shown on the Zoning Map.

28.62.030 Initiation

An application for an amendment to the General Plan, Zoning Ordinance, or Zoning Map may be made by the either the Planning Commission or City Council upon its own motion, or the Planning Commission upon the verified application of any property owner or authorized agent and following a public hearing.

28.62.040 Application Requirements

Applications for a General Plan or Zoning Amendment shall be filed with the Community Development Director in accordance with the provisions set forth in Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a General Plan or Zoning Amendment shall include such additional information and supporting data as considered necessary to process the application.

A. **Rezoning.** At the time of any zoning or rezoning, the new zone boundary shall follow existing lot lines as shown on the County of Santa Barbara Assessor Parcel Maps, unless otherwise recommended by the Planning Commission.

28.62.050 Maximum Number of General Plan Amendments

Except as otherwise provided by applicable law, no mandatory element of the General Plan can be amended more frequently than four times during any calendar year. Subject to that

limitation, an amendment may be made at any time, as determined by the City Council. Each amendment may include more than one change to the General Plan.

28.62.060 Public Notice

Public notice of hearings by the Planning Commission and the City Council for a General Plan or Zoning Amendment shall be given as specified in Chapter TBD, Common Procedures. Notice of the hearing shall also be mailed or delivered at least 10 days before the hearing to any other local agency expected to provide essential facilities or services to the property that is the subject of the proposed amendment.

28.62.070 Planning Commission Action

A. **Hearing.** The Planning Commission shall conduct a public hearing for the purpose of making recommendations to the City Council in conformance with the provisions of Chapter TBD, Common Procedures.

B. **Recommendation to Council**. Following the public hearing, the Planning Commission shall make a written recommendation on the proposed amendment. The Community Development Director shall transmit the Planning Commission's written recommendation and complete record of the application to the City Council.

C. **Denial**. If the Planning Commission has recommended against the adoption of such amendment, the City Council is not required to take any further action unless an appeal is filed in accordance with Section TBD, Appeals.

28.62.080 City Council Action

A. **Hearing.** After receiving the report from the Planning Commission, the City Council shall hold a public hearing in conformance with the provisions of Chapter TBD, Common Procedures.

B. **Decision.** After the conclusion of the hearing, the City Council may approve, revise or deny the proposed amendment. If the Council proposes any substantial revisions not previously considered by the Planning Commission during its hearings, the proposed revision shall first be referred back to the Planning Commission for report and recommendation. The Planning Commission is not required to hold a public hearing. Failure of the Planning Commission to provide a report to the City Council within 45 days after the referral, shall be deemed a recommendation for approval.

28.62.090 General Plan Consistency Required for Zoning Amendments

The Planning Commission shall not recommend and the City Council shall not approve a Zoning Amendment unless the proposed amendment is found to be consistent with the General Plan.

28.62.100 Post Approval Procedures

Following the Council action, the City Clerk shall make the documents amending the General Plan or Zoning Ordinance, including the maps and text, available for public inspection.

A. Upon the effective date of amendment, boundaries of all areas to be zoned or rezoned, whether by application or initiated by the City, including zoning in areas to be annexed to the City shall be described and documented in one or more of the following ways:

   1. Metes and bounds (bearings and distances in feet) covering all courses and distances around the boundaries of each area to be zoned or rezoned; or
   2. Where the proposed boundary lines are coincident with existing parcel lines, the legal description of the property to be zoned or rezoned may be done by referencing the current assessor's block and parcel numbers; or
   3. Combination of the above as determined by the Community Development Director; or
   4. When the preferred methods indicated above are determined to be impractical by the Community Development Director, a map which is drawn to scale may be used.

B. The description of subject boundary shall also include, but not be limited to, references to contiguous lines of public alleys, public streets, highways, freeways, and railroad property existing at the time of said zoning or rezoning, as determined by the Director.

Chapter 28.63 Local Coastal Program Amendments

28.63.010 Purpose and Applicability

The purpose of this Chapter is to establish procedures, consistent with the Coastal Act, for amending the City's certified Local Coastal Program, including changes in the land use and/or zoning designation on properties where such change is warranted by consideration of location, surrounding development and timing of development; text or policy amendments to the City's Local Coastal Plan as the City may deem necessary or desirable; and amendments to any ordinances or other implementation measures carrying out the provisions of the City's Local Coastal Plan.

28.63.020 Initiation of Amendments

An application for an amendment to the Local Coastal Program may be made by either the Planning Commission or City Council upon its own motion, or the Planning Commission upon the verified application of any property owner or authorized agent and following a public hearing.

28.63.030 Review and Processing

Amendments to the certified Local Coastal Program shall be reviewed and processed as pursuant to Chapter TBD, General Plan and Zoning Amendments.

28.63.040 California Coastal Commission Certification

An amendment to Local Coastal Program shall not take effect until it has been certified by the Coastal Commission pursuant to Chapter 6, Article 2 or the California Coastal Act.

A. Approval by the City Council of such a proposed amendment to the Local Coastal Program shall be submitted to the Coastal Commission by the City Council in accordance with Sections 30512, 30513, and 30514 of the Coastal Act.

B. Denial of an amendment request by the City Council shall be final and no appeal to the Coastal Commission shall be allowed except as provided pursuant to Section 30515 of the Coastal Act, for public works projects or major energy facility developments.

Chapter 28.64 Modifications

28.64.010 Purpose

The purpose of this Chapter is to establish a means of granting relief from the requirements of this Title when so doing would be consistent with the purposes of the Title and it is not possible or practical to approve a Variance. Furthermore, it is the policy of the City to comply with the Federal Fair Housing Act, the Americans with Disabilities Act, and the California Fair Employment and Housing Act to provide reasonable accommodation to persons with disabilities seeking fair access to housing through relief from the application of the City's zoning regulations.

28.64.020 Applicability

Modifications may be granted to any of the following standards:

A. Parking.

B. Setbacks, Lot Area, Floor Area, Street Frontage, Open Yard, Front Yard, Accessory Buildings, Required Distances, and Nonresidential Lot Coverage.

C. Fences and Hedges.

D. Solar Access.

E. Maximum Floor Area (Floor to Lot Area Ratio).

F. Accommodation of Disabilities.

28.64.030 Review Authority

The following bodies shall approve, conditionally approve, or deny applications for modifications based on consideration of the requirements of this Chapter.

A. **Planning Commission.** The Planning Commission shall have review authority for all modifications when other discretionary applications require Planning Commission approval, and for modifications to Maximum Floor Area.

B. **Staff Hearing Officer.** The Staff Hearing Officer shall have review authority for all other modifications.

28.64.040 Application Requirements

An application for a modification shall be filed with the Community Development Director in accordance with Section TBD, Application Forms and Fees. The application shall state in writing the nature of the modification requested and explain why the findings necessary to grant the modification are satisfied. The applicant shall also submit plans delineating the requested modification.

28.64.050 Public Notice and Hearing

All applications for Modifications shall require public notice and hearing pursuant to Chapter TBD, Common Procedures.

28.64.060 Required Findings

A. **Parking Modifications for Projects Heard by the Staff Hearing Officer.** A modification for reduced parking may only be approved if the Staff Hearing Officer finds that:

1. Reduced parking is justified by reasonably anticipated parking demand generated by the project site; or
2. A physical hardship exists that would otherwise prevent reasonable use of the property for an existing single-unit residence, including but not limited to extreme slope or narrow lot width; or
3. Conformance with parking regulations is anticipated to result in a significant or less than significant impact to a designated historic resource.

B. **Parking Modifications for Projects Heard by the Planning Commission.** A modification for reduced parking may only be approved if the Planning Commission finds that:

1. All of the same findings as Staff Hearing Officer above, for any project requiring Planning Commission approval; or
2. Other criteria consistent with the purposes of the parking regulations and based on unusual or unique circumstances of a particular case, as deemed appropriate by the Planning Commission.

C. **Maximum Floor Area (Floor to Lot Area Ratio).** A modification to the maximum floor area in RS Zones to allow a development that would otherwise be precluded by operation of Subsection 28.04.030.A, Floor Area, Precluded Development-RS Zones, may only be approved if the Planning Commission makes all of the following findings:

1. Not less than five members of the Single Family Design Board or six members of the Historic Landmarks Commission (on projects referred to the Commission pursuant to Section 22.69.030) have voted in support of the modification following a concept review of the project;
2. The subject lot has a physical condition (such as the location, surroundings, topography, or the size of the lot relative to other lots in the neighborhood) that does not generally exist on other lots in the neighborhood; and
3. The physical condition of the lot allows the project to be compatible with existing development within the neighborhood that complies with the net floor area standard.

D. **Accommodation of Disabilities**. A modification of any zoning regulation where the modification is necessary to allow improvements to an existing building in order to

provide reasonable accommodations to individuals with disabilities may only be approved where the review authority makes all of the following findings:

1. The project does not include new buildings, demolitions and rebuilds, or additions where the proposed construction precludes a reasonable accommodation that would not require a modification;
2. That the housing or other property which is the subject of the request for reasonable accommodation will be used by an individual or organization entitled to protection;
3. If the request for accommodation is to provide fair access to housing, that the request for accommodation is necessary to make specific housing available to an individual protected under State or federal law;
4. That the conditions imposed, if any, are necessary to further a compelling public interest and represent the least restrictive means of furthering that interest; and
5. That denial of the requested modification would conflict with any State or federal statute requiring reasonable accommodation to provide access to housing.

E. **All Other Modifications.** A decision to grant a modification for any other standard as provided for in this Chapter shall be based on the following findings:

1. The modification is consistent with the general purposes of this Title or the specific purposes of the zoning district in which the project is located; and
2. The modification is necessary to accomplish any one of the following:
   a. Secure an appropriate improvement on a lot; or
   b. Prevent unreasonable hardship due to the physical characteristics of the site or development, or other circumstances, including, but not limited to, topography, noise exposure, irregular property boundaries, or other unusual circumstance; or
   c. Result in development that is generally consistent with existing patterns of development for the neighborhood, or will promote uniformity of improvement to existing structures on the site; or
   d. Construct a housing development containing affordable dwelling units rented or owned and occupied in the manner provided for in the City's Affordable Housing Policies and Procedures.

28.64.070 Conditions of Approval

A. In approving a Modification, the review authority may impose any conditions deemed necessary to:

1. Achieve the general purposes of this Title or the specific purposes of the zoning district in which the project is located;
2. Achieve the findings for the modification granted; or

3. Mitigate impacts identified as a result of review conducted in compliance with the California Environmental Quality Act.

B. Modifications approved based on State or federal requirements for reasonable accommodation may be conditioned to provide for rescission or automatic expiration based on a change of occupancy or other relevant change in circumstance.

Chapter 28.65 Performance Standard Permit

28.65.010 Purpose

This Chapter establishes a process for individual consideration and review of uses that are generally consistent with the purposes of the zoning district in which they are proposed, but which have unique features that make it impractical to establish their suitability in a given location prior to their proposal.

28.65.020 Applicability

Approval of a Performance Standard Permit is required for uses or developments specifically identified in any section of this Title that refers to a requirement for a Performance Standard Permit.

28.65.030 Review Authority

The Staff Hearing Officer shall approve, conditionally approve, revise or deny applications for Performance Standard Permits based on consideration of the requirements of this Chapter.

28.65.040 Application Requirements

Applications for Performance Standard Permits shall be filed with the Community Development Director in accordance with the provisions set forth in Section TBD, Application Forms and Fees. In addition to any other application requirements, the application for a Performance Standard Permit shall include data or other evidence in support of the applicable findings required by Section TBD, Required Findings, below.

28.65.050 Public Notice and Hearing

All applications for Performance Standard Permits shall require public notice and hearing before the Staff Hearing Officer pursuant to Chapter TBD, Common Procedures.

28.65.060 Required Findings

The Staff Hearing Officer must make all of the following findings in order to approve or conditionally approve a Performance Standard Permit application. The inability to make one or more of the findings is grounds for denial of an application.

A. The proposed use is allowed with a Performance Standard Permit within the applicable zone district and complies with all specific requirements and findings for the Performance Standard Permit, as well as other applicable provisions of this Title and all other titles of the Municipal Code; and

B. The site is physically suitable for the type, density, and intensity of use being proposed, including access and utilities.

28.65.070 Conditions of Approval

In approving a Performance Standard Permit, the Staff Hearing Officer may impose reasonable conditions or restrictions deemed necessary to:

A. Achieve the general purposes of this Title or the specific purpose of the zoning district in which the project is located;

B. Achieve the findings for a Performance Standard Permit listed in Section TBD, Required Findings, above; or

C. Mitigate impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

The Staff Hearing Officer may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

Chapter 28.66 Precise Plans

28.66.010 Purpose

This Chapter establishes a process for consideration and review of Precise Plans.

28.66.020 Applicability

A Precise Plan is required as part of an application for a classification as an Auto, Commercial, and Services (AC) Overlay Zone, Planned Unit Development (PUD) Overlay Zone, Research and Development (RD) Overlay Zone, or Resort Hotel (RH) Overlay Zone.

28.66.030 Procedures

A Precise Plan shall be accepted and processed in the same manner as a Conditional Use Permit application, pursuant to Chapter TBD, Common Procedures, and Chapter TBD, Use Permits. The Precise Plan shall be processed concurrently with the application for the amendment to the Zoning Map to apply a classification as an overlay zone.

Chapter 28.67 Recorded Agreements

28.67.010 Purpose

This Chapter establishes procedures for the creation of Recorded Agreements to assure compliance with any development standard, performance standard, condition of approval, or any other requirement of law.

28.67.020 Applicability

A Recorded Agreement may be required by the Community Development Director on any application for a permit or approval, or may be requested by any person having a legal or equitable interest in real property, whenever there is a special situation which requires a written agreement between one or more landowners and the City.

28.67.030 Review Authority

The Director, in consultation with the City Attorney, shall determine if a Recorded Agreement is necessary in order to establish limitations associated with a code requirement, development standard, performance standard, or to guarantee access to, or use of, a structure, site development, or use. Examples include but are not limited to the following, or any combination thereof:

A. **Parking.** A recorded agreement may be requested to guarantee access to any required parking facility, loading area, driveway, or vehicle maneuvering area that overlaps multiple property lines or is provided offsite, or to establish limitations associated with valet parking, tandem parking, or shared parking arrangements such as multiple uses with different times of occupancy.

B. **Access.** A recorded agreement may be requested as a condition for approving permits when necessary to establish ingress or egress, emergency access, or light and air access.

C. **Landscaping and Open Space.** A recorded agreement may be requested to establish limitations or guarantee access to any required landscaping or open space.

D. **Garbage and Refuse.** A recorded agreement may be requested to guarantee access to any garbage and refuse area that overlaps multiple property lines or is provided offsite, or to establish any limitations for any garbage or refuse collection or disposal area.

E. **Floor Plan Configurations.** A recorded agreement may be requested to establish limitations or to allow for additional residential amenities than are otherwise allowed by this Title for residential units, guestrooms, or other similar allowed uses. The recorded agreement shall provide for the immediate removal of the additional residential amenity if there is a change in circumstances including any code violations, change in density, or change in residential occupancy.

F. **Operational Limitations.** A recorded agreement may be requested to establish limitations associated with a performance standard such as required equipment necessary for the reduction of noise, odors, or similar.

G. **Lot Tie Agreement.** A "Lot Tie Agreement" may be requested in order to hold more than one contiguous parcel under common ownership as a single building site for the purposes of complying with development standards or building code requirements. The intent of allowing a "Lot Tie Agreement", rather than a Merger of Parcels pursuant to Chapter 27.30, is to allow flexibility for minor improvements to existing nonconforming development. A Lot Tie Agreement shall not be utilized for major improvements to existing structures, such as additions to, or new or reconstructed buildings or structures.

28.67.040 Application Requirements

An agreement, in a form satisfactory to the City Attorney, shall be executed by representatives of the City, and each owner of the lot on which the agreement is necessary to establish the development limitations, access, or use. The agreement may be in the form of an easement, covenant running with the land, or other satisfactory agreement. At minimum, the agreement shall include the following information: a legal description of the real property; exhibits showing the property subject to the agreement; the existing and proposed uses on the lot or lots; a description of the specific standard or requirement subject to the agreement for those uses under the code; a description of any relevant nonconformities; a description of how the standards or requirements are satisfied by the agreement; and a description of the consequences of a violation.

28.67.050 Runs with Real Property

A Recorded Agreement executed pursuant to this Chapter shall be enforceable by the successors in interest to the real property benefited by the Agreement, the City and any person authorized to enforce it by the City.

28.67.060 Effective Date, Amendments, and Penalties

A. The Recorded Agreement shall be effective when recorded.

B. The agreement shall not be amended, modified or rescinded without the prior written consent of the City. An agreement authorized by this Chapter may not be terminated except as authorized by Section TBD, Procedure for Release of Recorded Agreement.

C. If at any time the terms and conditions of the agreement are not maintained, the certificate of occupancy shall automatically be suspended, and the building or use served by the agreement shall not thereafter be occupied or used, until either the terms and conditions are reestablished, or the agreement is terminated pursuant to Section TBD, Procedure for Release of Recorded Agreement.

28.67.070 Recordation

The Agreement shall be recorded in the official records of the County of Santa Barbara. From and after the time of its recordation, the covenant shall impart notice thereof to all persons to the extent afforded by the recording laws of this state. Upon recordation, the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the real property.

28.67.080 Procedure for Release of Recorded Agreement

Any owner of property which is burdened or benefited by the agreement may file an application for the release of the agreement. The application shall be filed with the Community Development Director on forms approved by the Director, shall contain the information required by the Director, and be accompanied by all applicable processing fees. The Community Development Director shall review said application and shall upon a determination that the restriction of the property is no longer necessary to achieve the land use goals of the City, shall record a release of the agreement.

Chapter 28.68 Specific Plans

28.68.010 Purpose

The purpose of this Chapter is to establish a procedure for the preparation, adoption, and administration of Specific Plans.

28.68.020 Procedures

The procedure for the preparation, adoption and administration of Specific Plans shall be as provided by Articles 8, 9, and 10 of Chapter 3 of Division 1 of Title 7 of the California Government Code (commencing with Section 65450 et seq.), as most recently amended, except that a Specific Plan may only be approved or amended in the same manner that the General Plan may be approved or amended pursuant to Chapter TBD, General Plan Map and Zoning Amendments, and Section 1507 of the City Charter.

28.68.030 Issuance of Building Permits

A permit or approval provided for in this Title shall not be issued or granted for any structure, alteration or use that is inconsistent with an adopted Specific Plan unless an exception is granted by the Community Development Director upon finding that the project allowed by the permit or approval would not impair the City's ability to complete or implement the Specific Plan.

Chapter 28.69 Variances

28.69.010 Purpose

This Chapter is intended to provide a mechanism for relief from the strict application of this Title where it will deprive the property owner of privileges enjoyed by similar properties because of the subject property's unique and special conditions.

28.69.020 Applicability

When practical difficulties, unnecessary hardships or results inconsistent with the general purposes of this Title occur by reason of a strict interpretation of any of the provisions of this Title, either the Planning Commission or City Council may upon its own motion, or the Planning Commission upon the verified application of any property owner or authorized agent may, in specific cases, initiate proceedings for the granting of a Variance from the provisions of this Title under such conditions as may be deemed necessary to assure that the spirit and purposes of this Title will be observed, public safety and welfare secured, and substantial justice done.

A. All acts of the Planning Commission and City Council under the provisions of this Chapter shall be construed as administrative acts performed for the purpose of assuring that the intent and purpose of this Title shall apply in special cases, as provided in this Chapter, and shall not be construed as amendments to the provisions of this Title or map.

B. Variances may be granted to vary or modify dimensional and performance standards, but Variances may not be granted to allow uses or activities that this Title does not authorize for a specific lot or site.

28.69.030 Review Authority

The Planning Commission shall approve, conditionally approve, or deny applications for Variances based on consideration of the requirements of this Chapter.

28.69.040 Application Requirements

Applications for a Variance shall be filed with the Community Development Director on the prescribed application forms in accordance with the procedures in Chapter TBD, Common Procedures. In addition to any other application requirements, the application for a Variance shall include data or other evidence showing that the requested Variance conforms to the required findings set forth in Section TBD, Required Findings.

28.69.050 Public Notice and Hearing

An application for a Variance shall require public notice and hearing before the Planning Commission pursuant to Chapter TBD, Common Procedures.

28.69.060 Required Findings

The Planning Commission must make all of the following findings in order to approve or conditionally approve a Variance application. The Commission shall deny an application for a Variance if it is unable to make any of the required findings, in which case it shall state the reasons for that determination. Individual economic circumstances are not a proper consideration for the granting of a Variance.

A. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved, or to the intended use of the property, that do not apply generally to the property or class of use in the same zone or vicinity;

B. That the granting of such Variance will not be materially detrimental to the public welfare, or injurious to the property or improvements in such zone or vicinity in which the property is located;

C. That such Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by other property in the same zone and vicinity;

D. The granting of the Variance is necessary to prevent a physical hardship which is not of the applicant's own actions or the actions of a predecessor in interest; and

E. The granting of the Variance will be consistent with the general purposes and objectives of this Title, any applicable specific plans, and of the General Plan and Local Coastal Program.

28.69.070 Conditions of Approval

In approving a Variance, the Planning Commission may impose reasonable conditions deemed necessary to ensure compliance with the findings required in Section TBD, Required Findings, above and may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

Chapter 28.70 Zoning Clearance

28.70.010 Purpose

This Chapter establishes procedures for conducting a Zoning Clearance to verify that each new or altered structure site development, or use complies with all of the applicable requirements of this Title.

28.70.020 Applicability

A Zoning Clearance is required for all buildings or structures erected, constructed, altered, repaired or moved; the use of vacant land; or any new use or change in use, that are allowed as a matter of right, or that require any permit or approval provided for in this Title.

28.70.030 Review and Decision

Before the City may issue any permit or approval, the Community Development Director shall review the application to determine whether the structures, site development, or use complies with all provisions of this Title and substantially conforms to any discretionary approvals, and that all conditions of such permits and approvals have been satisfied.

A. **Application.** Applications and fees for a Zoning Clearance shall be submitted in accordance with the provisions set forth in Section TBD, Application Forms and Fees. The Director may request that the Zoning Clearance application be accompanied by a written narrative, plans or other related materials necessary to show that the proposed structure, site development, or use of the site complies with all provisions of this Title and the requirements and conditions of any applicable discretionary approval.

B. **Determination**. If the Director determines that the proposed structure, site development or use Title conforms to all the applicable development and use standards of this Title, the Director shall issue a Zoning Clearance in the form of a physical stamp on submitted plans, an electronic signature or approval, a written memo or other approved method. Attachments of other written or graphic information, including but not limited to, statements, numeric data, site plans, floor plans and building elevations and sections may be required, as a record of the proposal's conformity with the applicable regulations of this Title.

C. **Exceptions.** A Zoning Clearance shall not be required for the continuation of previously approved or permitted uses and structures, or uses and structures that are not subject to any building or zoning regulations.

D. **Violation of Law Not Permitted.** A Zoning Clearance issued pursuant to this Chapter shall not constitute authorization to violate any provision of this Title or law, regardless of whether the Zoning Clearance purports to authorize such violation or not. A Zoning Clearance presuming to give authority to violate or cancel the provisions of this Title shall not be valid. The issuance of a Zoning Clearance based on construction documents and other data shall not prevent the Director from requiring the correction

of errors in the construction documents and other data. The Director is also authorized to prevent occupancy or use of a structure where in violation of this Title.

Chapter 28.71 Zoning Information Report

28.71.010 Purpose

The purpose of this Chapter is to require a Zoning Information Report for purchasers of residential property, setting forth matters of City record pertaining to the authorized use, occupancy, zoning and the results of a physical inspection of the property. The primary purpose of the Report is to provide information to the potential buyer of residential property concerning the zoning and permitted use of the property.

28.71.020 Applicability

The provisions of this Chapter shall apply to the transfer of title of any residential property except for the following sales:

A. The first sale of each separate residential building located in a subdivision where the final subdivision or parcel map has been approved and recorded in accordance with the Subdivision Map Act not more than two years prior to the first sale.

B. The sale of any residential property on which a new home is under construction pursuant to a valid building permit.

C. The sale of any residential property where the final building permit inspection on a new home was issued within three months of the date on which the owner entered into the agreement for the sale of a home to the buyer.

D. The sale of a condominium unit.

28.71.030 Zoning Information Report Required

It shall be unlawful for any owner to consummate the transfer of title of residential property without providing the transferee with a Zoning Information Report.

A. **Application.** No later than five days after entering into an "agreement of sale" of any residential property, the owner or owner's authorized representative shall make application to the City for a Zoning Information Report on a form provided, and pay a fee as established by resolution of the City Council.

B. **Copy to Buyer.** The owner or owner's authorized representative shall provide a copy of the Zoning Information Report to the buyer or buyer's authorized representative no later than three days prior to consummation of the transfer of title. The buyer or buyer's authorized representative may waive in writing the requirement for delivery three days prior to consummation of the transfer of title, however, the Report shall be provided to the buyer or buyer's authorized representative prior to the consummation of the transfer of title.

C. **Proof of Receipt.** Proof of receipt of a copy of the Zoning Information Report shall be obtained by the owner or owner's authorized representative prior to consummation

of the transfer of title. Said proof shall consist of a statement signed by the buyer or buyer's authorized representative stating that the Report has been received, the date of the Report and the date it was received. The original of the signed proof of receipt shall submitted to the Community Development Director no later than the consummation of the transfer of title.

28.71.040 Contents of Zoning Information Report

The Community Development Director shall review the applicable City records and provide the applicant the following information on the Zoning Information Report:

A. Street address and parcel number of the property.

B. The zone classification and permitted uses as set forth in the Zoning Ordinance.

C. Occupancy and use permitted as indicated and established by records.

D. Variance, performance standards permits, conditional use permits, modifications and other administrative acts of record.

E. Any special restrictions in use or development which are recorded in City records and may apply to the property.

F. Any known nonconformities or violations of any ordinances or law.

G. The results of a physical inspection for compliance with the Zoning Ordinance and for compliance with Chapter 14.46, Building Sewer Inspections, of the Santa Barbara Municipal Code.

H. A statement of whether the real property has had a Building Sewer Lateral Report prepared for the real property pursuant to the requirements of Chapter 14.46, Building Sewer Inspections, of the Santa Barbara Municipal Code, within the five-year period prior to the preparation of the Zoning Information Report and, if so, that a copy of the Building Sewer Lateral Report is available from the City for the buyer's inspection.

I. An advisory statement prepared by the Public Works Director which advises a purchaser of residential real property regarding the potential problems and concerns caused by an inadequate, failing, or poorly-maintained Building Sewer Lateral and advisers a purchaser to obtain a recently-prepared Building Sewer Lateral Inspection Report.

28.71.050 Violation of Law Not Permitted

Any Zoning Information Report issued pursuant to this Chapter shall not constitute authorization to violate any ordinance or law, regardless of whether the Report purports to authorize such violation or not.

28.71.060 Expiration of Report

Each Zoning Information Report shall be valid for a period of 12 months after date of issue or until a transfer of title occurs, whichever is sooner.

28.71.070 Effect of Noncompliance

The failure to comply with the provisions of this Chapter shall not invalidate the transfer or conveyance of real property to a bona fide purchaser or encumbrancer for value.

28.71.080 Minor Zoning Exceptions for Errors in Zoning Information Reports

If a discrepancy or error in a Zoning Information Report involves one or more of the zoning violations specified in Subsection A, the property owner may request a Minor Zoning Exception to obtain relief from the zoning standard up to the maximum amount of relief specified for the particular zoning standard, subject to the findings specified in Subsection C. The actions of the Staff Hearing Officer pursuant to this Section TBD are not subject to the provisions of Chapter TBD, Modifications.

A. **Applicability.** In addition to the alterations, additions, and other development permitted pursuant to Chapter TBD, Nonconforming, Structures, Site Development and Uses, if a discrepancy or error in a Zoning Information Report involves one of the unpermitted improvements listed below, the property owner may request a Minor Zoning Exception:

1. ***Development Less than Five Feet to an Interior Property Line.***

   a. *Conversion of Covered Parking to Another Use.* The conversion of a garage or carport that encroaches into an interior setback to a use other than covered parking (such as storage, workshop, bedroom, or similar) may be granted a Minor Zoning Exception, provided that the number and configuration of parking space(s) required at the time of the conversion is provided on site.

   b. *First Story Windows.* If a building encroaches into an interior or rear setback, the addition of new windows to, or the enlargement or relocation of existing windows on, the first story of the encroaching wall may be granted a Minor Zoning Exception.

2. ***Decks.*** Decks with a total area of not more than 200 square feet, attached to a main building, not extending above the finished floor level of the ground floor, and no closer than two feet to an interior lot line may be granted a Minor Zoning Exception.

3. ***Additions Exceeding the Maximum FAR.*** Additions of floor area to a residence that exceeded the maximum allowed Floor to Lot Area Ratio (FAR) in effect at the time the errant Report was prepared may be granted a Minor Zoning Exception, if the additional floor area is contained within the volume of the legally permitted building (i.e., a loft, cellar, etc.).

B. **Procedures**

1. ***Application Requirements.*** An application for a Minor Zoning Exception shall be filed with the Community Development Director in accordance with Section TBD, Application Forms and Fees. The application shall include substantial evidence indicating the time period of the existence of the proposed development.

2. ***Review Authority.*** The Staff Hearing Officer shall approve, conditionally approve, revise or deny applications for Minor Zoning Exceptions based on consideration of the requirements of this Chapter.

3. ***Record of Decision.*** The Staff Hearing Officer shall issue a written record of decision on the Minor Zoning Exception request in accordance with Chapter TBD, Common Procedures. The decision of the Staff Hearing Officer is final and effective when the decision is made, subject to appeal to the Community Development Director.

C. **Required Findings.** In order to grant a Minor Zoning Exception, the Staff Hearing Officer must make all of the following findings:

1. A material discrepancy or error has occurred in the preparation of a Zoning Information Report regarding the subject property, and the discrepancy or error directly involves the zoning standard from which relief is sought;

2. Substantial evidence has been provided that indicates the improvement for which relief is sought existed in its current form on the site prior to January 1, 1980, or, in the case of accessory structures, August 1, 1975;

3. The Minor Zoning Exception does not involve the permanent removal of a significant component or a character defining element from a historic resource, potential historic resource, or an un-surveyed building located in a Demolition Review Study Area which is more than 50 years old; and

4. The improvement is located in general compliance with the Single Family Design Board's Good Neighbor Guidelines.

D. **Conditions of Approval.** In granting a Minor Zoning Exception, the Staff Hearing Officer may impose reasonable conditions or restrictions deemed necessary to:

1. Achieve the general purposes of this Title or the specific purpose of the zoning district in which the project is located;

2. Minimize potential adverse impacts on neighboring properties that relate to the requested Minor Zoning Exception and are proportionate to the potential impacts on neighboring properties; or

3. Mitigate any impacts identified as a result of environmental review conducted in compliance with the California Environmental Quality Act.

The Staff Hearing Officer may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

Chapter 28.72 Zoning Upon Annexation

28.72.010 Purpose

The purpose of this Chapter is to establish a procedure for zoning property upon annexation.

28.72.020 Applicability

Unincorporated territory adjoining the City may be pre-zoned for the purpose of determining the zoning that will apply to such property upon annexation.

28.72.030 Procedure

Zoning of property to be annexed shall be either:

A. Established through initiation and processing according to the procedures established under Chapter TBD, Amendments to Zoning Map and Text; or

B. RS-1A pursuant to Santa Barbara Municipal Code Section 28.10.010.12.

28.72.040 Effective Date of Zoning and Time Limit

The zoning of the property to be annexed shall become effective at the time that annexation to the City becomes effective pursuant to Government Code Section 56000 et. seq. If the subject area has not been annexed to the City within five years of the date of City Council approval, the zoning approval is subject to reconsideration by the Planning Commission and the Council.

Rules of Measurement

Chapter 28.03 Rules of Measurement

28.03.010 Purpose

The purpose of this Chapter is to explain how various measurements referred to in this Title are to be calculated.

28.03.020 General Provisions

For all calculations, the applicant is responsible for supplying drawings illustrating the measurements that apply to a project. These drawings must be drawn to scale and of sufficient detail to allow easy verification upon inspection by the Community Development Director.

28.03.030 Determining Average Slope

The average slope is calculated using the following formula: S = 100(I)(L)/A, where:

A. S = Average slope (in percent)

B. I = Contour interval (in feet)

C. L = Total length of all contour lines on the parcel (in feet), excluding the length of contours in drainage channels and in natural water courses below the 25year flood level

D. A = Area of subject area for which the slope is to be determined (in square feet)

28.03.040 Determining Lot Coverage

Lot coverage is the ratio of the total footprint area of all structures on a lot to the net lot area, typically expressed as a percentage. The footprints of all main and accessory structures, including garages, carports, covered patios, and roofed porches, is summed in order to calculate lot coverage. The following structures are excluded from the calculation:

A. Unenclosed and unroofed decks less than 36 inches in height, uncovered patios, porches, landings, and balconies;

B. Eaves and roof overhangs projecting up to three feet from a wall;

C. Trellises;

D. Swimming pools and hot tubs that are not enclosed in roofed structures or decks; and

E. Non-liveable, residential, accessory structures that do not require a building permit for construction or installation.

28.03.050 Determining a Watercourse

A watercourse includes all land within the top of either bank of any watercourse within the City of Santa Barbara.

28.03.060 Fractions

Whenever this Title requires consideration of the following: 1) required number of parking spaces or 2) maximum number of dwelling units, expressed in numerical quantities, all calculations shall use fractions no smaller than hundredths, and the end result of a calculation contains a fraction of a whole number, the results shall be rounded as follows:

A. **General Rounding.** Fractions are to be rounded down to the nearest whole number, except as otherwise provided.

B. **Exception for State Affordable Housing Density Bonus.** For projects eligible for bonus density pursuant to Government Code Section 65915 or any successor statute, and Chapter TBD, Density Bonus and Development Incentives, any fractional number of units shall be rounded up to the next whole number.

28.03.070 Measuring Distances

A. **Measurements are Shortest Distance.** When measuring a required distance, such as the minimum distance between a structure and a lot line, the measurement is made at the closest or shortest distance between the two objects.

B. **Distances are Measured Horizontally.** When determining distances for setbacks and structure dimensions, all distances are measured along a horizontal plane from the appropriate line, edge of building, structure, storage area, parking area, or other object. These distances are not measured by following the topography or slope of the land.

C. **Measurements Involving a Structure.** When measuring a required distance involving a structure, the measurements are made to the closest support element of the structure. Structures or portions of structures that are entirely underground are not included in measuring required distances.

D. **Measurement of Vehicle Stacking or Travel Areas.** Measurement of a minimum travel distance for vehicles, such as vehicle backup distance, are measured down the center of the vehicle travel area. For example, curving driveways and travel lanes are measured along the center arc of the driveway or traffic lane.

E. **Measuring Radius.** When a specified land use is required to be located a minimum distance from another land use, the minimum distance is measured in a straight line from all points along the lot line of the subject project, in all directions.

28.03.080 Measuring Floor Area

The net floor area of a building is the sum, in square feet, of the horizontal areas of all floors of a building or other enclosed structure, or portions thereof, measured from either the interior perimeter of the exterior walls, or below the roofline, or the centerline of interior walls.

A. **Included in Floor Area**

1. ***Enclosed Buildings.*** Net floor area includes all space within a building that is below the roof and within the interior perimeter of the exterior walls of any main or accessory building.
2. ***Interior Spaces.*** Net floor area of interior spaces, such as rooms or separate tenant spaces, includes all space within the centerlines of demising walls separating such spaces or portions thereof.
3. ***Stairways, Stairwells, and Elevator Shafts.*** In the case of a multistory building that has covered or enclosed stairways, stairwells, or elevator shafts, the horizontal area of such features is counted only once at the floor level of their greatest area of horizontal extent.
4. ***Unenclosed Buildings.*** The net floor area of a building with no walls, or partial walls, such as a carport, includes all space below the roof line.

B. **Excluded from Floor Area.** The following areas are excluded from floor area:

1. Vent shafts, courts, or areas with a ceiling height of less than five feet above finished floor.
2. Attics, crawlspaces, or similar inaccessible areas, where entry is made only for service of utilities, not used for storage or any other use whatsoever.
3. Unenclosed, roofed areas such as patio covers, porches, trellises, gazebos, shade structures, or other similar unenclosed structures not used for the shelter, housing, or enclosure of persons, animals, or property.
4. Enclosed spaces in nonresidential buildings that contain building "infrastructure" (e.g., mechanical equipment enclosures, trash and recycling enclosures, air conditioners, forced air units, electric vaults, water heaters and softeners, cellular telephone equipment, and other similar uses) shall not count toward the calculation of floor area if such areas are designed in the minimum size necessary to screen or enclose such equipment, and the space cannot be converted to storage or another non-infrastructure use.
5. Non-liveable, residential, accessory structures that do not require a building permit for construction or installation.
6. Temporary structures permitted with a Temporary Use Permit.

28.03.090 Measuring Front Yards

Front yards shall be measured by extending perpendicular lines from each point of the front lot line to the nearest wall of the first main building on the lot. Where there is no wall of a

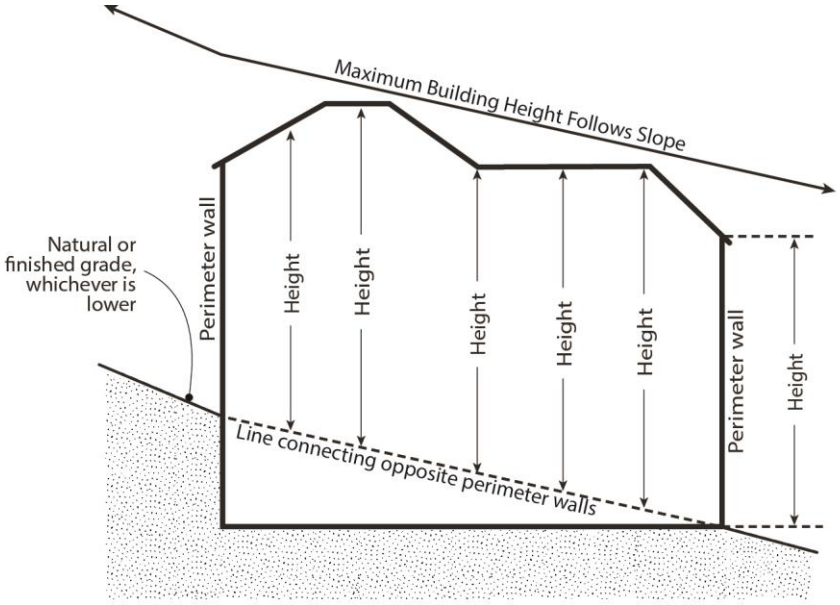
main building on the lot which intercepts said perpendicular lines, said yard will terminate at a point determined by extending a line parallel to the front lot line from the corner of the front elevation of the main building to the nearest lot line. The front elevation of a building is any elevation that faces a street. If the corner of the front elevation is rounded (i.e., a tower), the corner of the elevation shall be established by drawing the smallest square or rectangle that will enclose the round element and extend the line from the corner of the superimposed square or rectangle that is closest to the front lot line.

28.03.100 Measuring Height

Height is the vertical distance measured from existing or finished grade, whichever is lower, to the top of the structure directly above. Special measurement provisions are also provided below.

A. **Measuring Building Height.** Building height is measured from every point on top of the building roof or roof parapet to a line directly below that connects to opposite perimeter walls, or the perimeter support systems, at the lower of existing or finished grade.

1. ***Exception:*** One section of any floor that is partly below and partly above grade, per exterior elevation, not exceeding five feet in length, may be excluded from the height calculation to allow for an exterior door or light well.



B. **Measuring the Height of Fences and Hedges.** The height of a fence or hedge is measured in a vertical line from the lowest point of contact with the ground directly adjacent to either side of the fence or hedge to the highest point of the fence or hedge along said vertical line.

1. ***Multiple Fences and Hedges.*** All fences and hedges located within five feet of each other, including fences and hedges on adjoining lots, and subject to the same height limitation shall be considered a single fence or hedge. Height shall be measured from the lowest point of contact with the ground of fence or hedge to the highest point of any other fence or hedge located within five feet and subject to the same height limitation.

C. **Measuring Prescribed Landscaping Height.** The prescribed heights of landscaping are the heights to be attained within five years after planting.

D. **Measuring the Height of Decks and Patios.** Deck and patio height is determined by measuring from the ground below to the top of the surface of the deck or patio directly above. Guardrails, the minimum height required by the Building Code, are exempt from the height measurement.

E. **Determining the Number of Stories in a Building.** In determining the number of stories in a building, the following rules apply:

1. The number of stories in a building shall be construed to be the maximum number of stories through which any one of an unlimited number of possible vertical lines can pass, without passing through a wall.

2. An interior balcony or mezzanine is counted as a story if its floor area exceeds one-third of the total area of the nearest full floor directly below it or if it is enclosed on more than two sides.

3. Any floor which is partly below and partly above grade, such as a basement, cellar, or understory, shall be counted as a story if the vertical distance from finished grade to ceiling is more than four feet on any one side.

28.03.110 Measuring Lot Width and Depth

A. **Lot Width.** Lot width is the horizontal distance between the interior lot lines, measured at right angles to the lot depth line at a point midway between the front lot line and the lot line opposite the front lot line.

B. **Lot Depth.** Lot depth is measured along a straight line drawn from the midpoint of the front property line of the lot to the most distant point on any other lot line.

28.03.120 Measuring Setbacks

Setbacks are measured as the distance between any lot line or street and a line parallel to the lot line or street, the depth of such area being the distance required by this Title.

28.03.130 Measuring Street Frontage

Street frontage is measured along the front lot line.

Definitions

Chapter 28.55 Definitions

Abutting. Having a common boundary, except that parcels having no common boundary other than a common corner shall not be considered abutting.

Adjoining. *See Abutting.*

Accessory Building. *See Building, Accessory.*

Accessory Structure. *See Structure, Accessory.*

Accessory Use. *See Use, Accessory.*

Addition. New construction that results in an increase in the net floor area of a building or structure.

Adjacent. *See Abutting.*

Agent. Any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities who represent or act for or on behalf of an applicant.

Agreement of Sale. Any agreement or written instrument which provides that title to any property shall thereafter be transferred for consideration from one owner to another owner.

Alley. A public or private way that is primarily used for vehicular access to the back or side of properties. Alleys typically do not meet standard requirements for City streets, which include curbs, gutters, sidewalks, or similar improvements. Typically, alleys are separated from adjacent parcels by a lot line. An alley may have an official name and may be shown on the official street map of the City of Santa Barbara.

Alteration or Remodel. Except with regard to a historic resource where "alteration" is defined in Chapter 22.22, Historic Structures, of the Santa Barbara Municipal Code, an alteration includes both interior and exterior changes and rearrangement of the physical parts of a building, structure or site development that does not result in an increase of floor area. Also called a remodel.

Antenna. *[placeholder]*

Applicant. The person, partnership, corporation or state or local government agency applying for a permit.

Arbor. An open structure typically constructed of latticework or metal that often provides partial shade or support for climbing plants, sometimes referred to as a trellis or pergola. An arbor is not considered an accessory building.

Association, Homeowner's. The organization of persons who own a lot, parcel, area, condominium or right of exclusive occupancy in a project.

Awning. An architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is typically constructed of non-rigid materials on a supporting framework that projects from and is supported by the exterior wall of a building.

Balcony. An unenclosed, unroofed cantilevered platform that projects from the wall of a building, is accessible from the building's interior, is not accessible from the ground, and is not enclosed by walls on more than two sides. If any portion of a balcony is supported from the ground below with walls, posts, columns, or the floor below, it is considered a deck.

Base District. *See Zoning District*

Bay Window. A protruding window projection, cantilevered from the wall of a building, accessible from the building's interior and completely enclosed.

Basement. Any floor of a building that is partially below and partially above grade. See also Section TBD, Determining the Number of Stories in a Building.

Bedroom. Any liveable room in a dwelling other than a bathroom, a kitchen or a living room (except in studios, where a living room is considered a liveable room). A loft or other intermediate floor open to the floor below within a residential unit with five feet or more in height from the finished floor to the finished ceiling that exceeds dimensions of seven feet by 10 feet is considered a bedroom.

Bicycle Parking, Long Term. Long-term bicycle parking is intended for use by residents, employees or students over several hours or overnight. Long-term bicycle parking should be provided either with bicycle racks within covered and secured areas with controlled access, or with secure, covered enclosures for individual bicycles, such as bicycle lockers. Long-term bicycle parking better protects bicycles from vandalism and theft attempts.

Bicycle Parking, Short-term. Short-term bicycle parking is intended for use by business patrons, visitors, and guests for a few minutes up to a couple of hours. Short-term bicycle parking should be conveniently located, highly visible, easily accessed, and may be covered or uncovered.

Block. Property bounded on all sides by streets.

Blockface. All properties between two intersections that front upon or abuts a street.

Building. Any enclosed or unenclosed structure having a roof supported by columns or walls for the shelter, housing or enclosure of persons, animals, or property of any kind.

Building, Accessory. A subordinate building, or portion of the main building, the use of which is incidental to that of the main building on the same lot. Building, or portions of buildings, used for covered parking are accessory buildings.

Building, Main. A building in which the principal use of the lot is conducted.

Building Code. Any ordinance of the City governing the type and method of construction of buildings, signs, and sign structures and any amendments thereto and any substitute therefore including, but not limited to, the California Building Code, other state-adopted uniform codes and the Minimum Building Security Standards Ordinance.

Building Face. *See Façade.*

Building Footprint. *See Footprint.*

Building Frontage. *See Front Elevation.*

Building Height. *See Height.*

Building Site. A lot or lots occupied or to be occupied, by main buildings and accessory buildings together with such parking and open spaces as are required by the terms of this Title.

Canopy. A roofed shelter, usually composed of fabric, projecting over a sidewalk, driveway, entry, window, or similar area that may be wholly supported by a building or may be wholly or partially supported by columns, poles, or braces extending from the ground.

Carport. A building, or portion of a building, accessible to vehicles, with a solid weatherproof roof that is permanently open on at least two sides, used as parking or storage of one or more motor vehicles. See also, TBD, Covered Parking.

City. City of Santa Barbara.

City Council. The City Council of the City of Santa Barbara.

Cellar. *See Basement.*

Change in Use. A change from one Use Classification to another, as described in this Title.

Coastal Zone Related Definitions. The following terms are related to the rules and regulations applicable within the Coastal Zone.

Access.

Lateral. An area of land providing public access along the water's edge.

Vertical. An area of land providing a connection between the first public road or use area nearest the sea and the publicly-owned tidelands or established lateral access way.

Aggrieved Person. Any person who, in person or through a representative, appeared at a public hearing of the City in connection with the decision or action appealed, or who, by other appropriate means prior to the hearing, informed the City of the nature of his concerns or who for good cause was unable to do either.

Coastal Commission. California Coastal Commission.

Coastal Development Permit. A permit for any development within the coastal zone that is required pursuant to subdivision (a) of Section 30600 of the California Public Resources Code and issued by the City in accordance with this Title.

Coastal-Dependent Development or Use. Any development or use which requires a site on, or adjacent to, the sea to be able to function at all.

Coastal-Related Development or Use. Any development or use which is dependent on a coastal-dependent development or use.

Coastal Zone. That land and water area of the City of Santa Barbara extending seaward to the State's outer limit of jurisdiction and extending inland to the boundary shown on the official Zoning Maps for the CZ Coastal Overlay Zone, as amended from time to time and adopted by the Coastal Commission.

Development. On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition or alteration of the size of any structure, including any facility of any private, public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

Energy Facility. Any public or private processing, producing, generating, storing, transmitting or recovering facility for electricity, natural gas, petroleum, coal or other source of energy.

Environmentally Sensitive Area. Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Fill. Earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area.

Land Use Plan. Maps and a text which indicate the kinds, location and intensity of land uses allowed in the Coastal Zone and includes resources protection and development policies related to those uses.

Local Coastal Program. The City's land use plan, zoning ordinances, zoning maps and other implementing actions certified by the Coastal Commission as meeting the requirements of the California Coastal Act of 1976.

Major Public Works Project or Major Energy Facility. "Major public works" and "Major energy facilities" mean facilities that cost more than one hundred thousand dollars ($100,000) with an automatic annual increase every year following the baseline of one hundred thousand dollars set in 1983 in accordance with the Engineering News Record Construction Cost Index, except for those facilities governed by the provisions of Public Resources Code Sections 30610, 30610.5, 30611 or 30624. Major public works also means publicly-financed recreational facilities that serve, affect, or otherwise impact regional or statewide use of the coast by increasing or decreasing public recreational opportunities or facilities.

Natural Disaster. Any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of the owner.

Other Permits and Approvals. Permits and approvals, other than a coastal development permit, required to be issued by the approving authority before a development may proceed.

Public Works Project. Any of the following development shall constitute a public works project:

- All production, storage, transmission and recovery facilities for water, sewage, telephone and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.
- All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.
- All publicly-financed recreational facilities, all projects of the State Coastal Conservancy and any development by a special district.

- All community college facilities.

Sea. The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs and other areas subject to tidal action through any connection with the Pacific Ocean, excluding non-estuarine rivers, streams, tributaries, creeks and flood control and drainage channels.

Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. "Structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

Visitor-Serving Development or Use. Stores, shops, businesses, temporary lodging and recreational facilities (both public and private) which provide accommodations, food and services for the traveling public, including, but not limited to, hotels, motels, campgrounds, parks, nature preserves, restaurants, specialty shops, art galleries and commercial recreational development such as shopping, eating and amusement areas.

Wetland. Lands within the Coastal Zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fens.

Working Day. Any day on which all City offices are open for business.

Commercial. Managed on a business basis for profit derived from the promise or delivery of compensation, money, rent, or other bargained-for consideration in exchange for goods; services; rights or interests in property; or any other valuable consideration.

Common Area. The entire common interest development except the separate interests therein.

Community Apartment. As defined in Section 11004 of the Business and Professions Code.

Community Development Director. Community Development Director of the City of Santa Barbara or designee.

Community Development Department. The Community Development Department of the City of Santa Barbara.

Compaction. The act of increasing the density of a fill by mechanical means.

Compatible. That which is harmonious with and will not adversely affect surrounding buildings and/or uses as determined by the Community Development Director.

Condominium. As defined in Sections 783 and 1350 of the Civil Code.

Condominium, Community Apartment. The development of land and attached structures as a condominium or community apartment project, regardless of the present or prior use of such land and structures, and regardless of whether substantial improvements have been made to such structures.

Condominium or Community Apartment Project. A plan by a developer to sell residential condominium or community apartment units in a building through conversion to condominium or community apartment status.

Condominium Unit. The elements of a condominium which are not owned in common with the owners of other condominiums in the project.

Construction. Erection, enlargement, alteration, conversion, demolition, or movement of any building, structure, or land.

Continuation. The state of continuing in the same condition, capacity, or place without change, expansion, or interruption.

Corral. Enclosure designed for the care and keeping of livestock.

County. The County of Santa Barbara.

Court. An area open to the sky that is enclosed on at least three sides by walls, sometimes referred to as a courtyard.

Deck. An outdoor platform, greater than 10 inches above grade, wholly or partially supported from the ground below, which may be surrounded by a railing, balustrade, or parapet. A deck can be freestanding or attached to a building.

Deck, Roof. A deck constructed above any top plate of a structure that is designed to function as useable outdoor area. A roof deck is not a balcony.

Demolition. Removal or destruction. See Chapter TBD, Demolition.

District. *See Zoning District.*

Driveway. An accessway that provides vehicular access between a street and the parking or loading facilities located on an adjacent property.

Dwelling Unit. *See Residential Unit.*

Earth Material. Any rock, natural soil or fill or any combination thereof.

Easement. A portion of land created by grant or agreement for specific purpose; an easement is the right, privilege or interest that one party has in the land of another.

Effective Date. The date on which a permit or other approval becomes enforceable or otherwise takes effect, rather than the date it was signed or circulated.

Electric Vehicle Charging Station. Any electric vehicle charging station, electric recharging point, charging point, or electric vehicle supply equipment station (EVSE) that is designed and built in compliance with Article 625 of the California Electrical Code, and delivers electricity from a source outside an electric vehicle into a plugin electric vehicle.

Emergency. A sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services.

Enclosed. A building or portion of a building surrounded by walls and a roof. A building that is substantially enclosed may also be considered enclosed for the purpose of this Title.

Erect. To alter, convert, move, build, construct, attach, hang, place, suspend or affix to or upon any surface. Such term shall also include the painting of wall signs.

Erosion. The wearing away of the ground surface as a result of the movement of wind, water or ice.

Excavation. The mechanical removal of earth material.

Façade. The general outer surface of the structure or walls of a building.

Family. *See Household.*

Feasible. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

Fence. An upright structure serving as a barrier, or boundary or that visually divides or conceals a parcel, usually made of masonry, plaster, posts, boards, wire, rails, or other building material. May also be referred to as Wall or Screen.

Fill. A deposit of earth material placed by artificial means.

First Floor. *See First Story.*

First Story. The first story of a building that is closest to finished grade. Also known as the First Floor. The story above is the Second Floor or Second Story.

Floor Area. The total horizontal enclosed area of all the floors below the roof and within the outer surface of the walls of a building or other enclosed structure unless otherwise stipulated. See also Section TBD Measuring Floor Area and TBD, Determining Floor Area.

> ***Livable Floor Area.*** The total enclosed and usable space available within the perimeter walls on all floors of a building, including interior corridors, stairs, elevators, passageways, and finished basements, cellars, and attics. Unfinished and unheated areas

including but not limited to: basements, cellars, attics, porches, breezeways, garages, sheds and workshops are excluded from livable floor area determinations. Basement, cellars, or attic areas are considered finished if all of the walls, ceilings, and floors are finished. Walls and ceilings shall be deemed finished only if they are covered with plaster, wallboard, or similar material; floors shall be deemed finished only if they are covered with carpeting, tile, linoleum, or similar material.

Footprint. The horizontal area, as seen in plan view, of a building or structure, measured from the outside of exterior walls and supporting columns, and excluding eaves. See also Section TBD, Determining Lot Coverage.

Front Elevation. Any building elevation that faces a street.

Garage. An enclosed building or portion of a building accessible to vehicles, used as parking or storage of one or more motor vehicles. See also TBD Covered Parking.

Gazebo. A freestanding platform, open-sided, roofed, and usually raised.

General Plan. The comprehensive General Plan of the City of Santa Barbara together with all Specific Plans adopted by the City Council.

Glare. The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, such as to cause annoyance, discomfort, or loss of visual performance and ability.

Government Code. The Government Code of the State of California.

Grade, Existing. The topographic elevations representing the surface of the ground prior to grading, filling, or other site alterations for the project. Existing grade may also be referred to as Natural Grade.

Grade, Finished. The topographic elevations representing the ground surface upon project completion. Finished grade may also be referred to as Proposed Grade.

Grading. Any excavating or filling or combination thereof.

Habitable Space. *See Liveable Space.*

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Hazardous Waste. A waste, or combination of wastes, which because of the quantity, concentration or physical and chemical characteristics may either a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible

illness, or b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed. Hazardous waste also includes those materials described in Title 22, Division 4.5, Chapter 11, California Code of Regulations.

Hazardous Waste Management Plan. A plan prepared, adopted and amended from time to time, pursuant to Section 25135 of the California Health and Safety Code by Santa Barbara County to direct the management of hazardous wastes within the boundaries of the County. It is also known as the Hazardous Waste Element of the Santa Barbara County Comprehensive Plan.

Heat. Thermal energy of a radioactive, conductive, or convective nature.

Hedge. A row of shrubs, bushes, or any other kind of plant material that forms a boundary or substantially continuous visual barrier. May also be referred to as Screen.

Height. The vertical distance from a point of the ground below a structure to a point directly above. See also Section TBD, Measuring Height.

Household. One or more persons living together in a single residential unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food; who share living expenses, including rent or mortgage payments and utilities.

Incompatible Use. Uses determined to be incompatible or detrimental to surrounding uses by the Community Development Director

Intensity of Use. The extent to which a particular use or the use in combination with other uses affects the natural and built environment in which it is located, the demand for services, and persons who live, work, and visit the area. Measures of intensity include but are not limited to requirements for water, sewer, gas, electricity, access, recreation, or other public services; number of automobile trips generated by a use; on- and off-site parking demand; number of residents and/or employees on a site; hours of operation; the amount of noise, light glare, smoke, odors, or hazardous materials generated; or the number of persons attracted to the site.

Intersection, Street. The area common to two or more intersecting streets.

Kitchen. Any room or portion of a room used or intended or designed to be used for cooking and/or preparation of food.

Landing. An unenclosed, unroofed platform, attached to a building, and serving as a required means of egress to the first floor of a building.

Lot. A parcel, tract, or area of land whose boundaries have been established by a legal instrument such as a deed or map recorded with the County of Santa Barbara, and that is recognized

as a separate legal entity for purposes of transfer of title, except public easements or rights-of-way.

Lot, Corner. A lot situated at the intersection of two or more streets.

Lot, Flag. A lot that has access to a street by means of a narrow strip of land.

Lot, Interior. A lot other than a corner lot.

Lot, Through. A lot having frontage on two parallel or approximately parallel streets.

Lot Area. The area of a lot measured horizontally between bounding lot lines.

Lot Area, Net. The area of a lot measured horizontally between bounding lot lines subtracting the existing or proposed horizontal area within public streets and alleys on the lot.

Lot Coverage. The portion of a lot that is covered by structures. See also Section TBD, Determining Lot Coverage.

Lot Depth. The average distance from the front lot line to the most distance point on any other lot line. See also Section TBD, Measuring Lot Width and Depth.

Lot Frontage. *See Street Frontage.*

Lot Line. The boundary between a lot and other property or the public street.

Lot Line, Front. The line or lines dividing a lot from a street. The line or lines that divide a lot from an alley or a driveway shall not be considered front lot lines. On lots that abut multiple streets, all lines that divide the lot from a street shall be considered front lot lines.

Lot Line, Interior. Any lot lines other than front lot lines.

Mezzanine. An intermediate floor within a building interior that is no greater than one third of the total floor area of the floor below. See also Story and TBD Determining the Number of Stories in a Building.

Microcell. TBD

Mixed Use Development. A development that contains both nonresidential and residential uses on the same lot, whether or not they are located within the same structure.

Mixed Use Building. A building that contains both nonresidential and residential uses.

Mobilehome Park Space. That portion of a mobilehome park set aside and designated for the occupancy of a mobilehome, including any contiguous area designed or used for automobile parking, carport, storage, awning, cabana or other use which is clearly incidental and accessory to the primary use of the space.

Nonconforming. Any lawfully established use, structure, parking, or site development that is in existence on the effective date of this Title or any subsequent amendment but does not comply with all of the standards and requirements of this Title shall be considered nonconforming.

Nonconforming Density. A lawfully established development on a lot with more residential units and/or number of bedrooms than are allowed by the current ordinance. Lots that are zoned to allow residential uses, but are nonconforming to density, are not a nonconforming use. A residential unit in a zone that does not allow residential uses is a nonconforming use.

Nonconforming Lot. A legal parcel of land having less area, frontage, or dimensions than required in the zoning district in which it is located.

Non-Transient Tenant. A person who has resided in a residential hotel for a period of more than 30 days as of the time a development application is submitted for that residential hotel.

On-Site. Located on the lot that is the subject of discussion.

Owner. Any person, co-partnership, association, corporation or fiduciary having legal or equitable title or any interest in any real property.

Parcel. A general term including all plots of land shown with separate identification on the latest equalized county assessment roll. Parcels may or may not be separate lots, depending upon whether or not such parcels are created as required by the Subdivision Ordinance.

Parking, Covered. An accessory building, accessible to vehicles, such as a garage or carport.

Park and Recreation Related Definitions. The following terms are related to Chapter TBD, Park and Recreation Zone.

> ***Active Recreation.*** Activities such as organized sports and drop-in sports, usually team oriented, which utilize equipment and are played on a field or court. Active Recreation includes, but is not limited to, soccer, football, swimming, baseball, softball, basketball, tennis, ultimate frisbee, volleyball and wheelchair football.
>
> ***Ball Fields and Courts.***
>
> > *Informal.* Informal Ball Fields are usually open grass areas with no field or court delineation, or only bases, players' benches and backstop. Fields are not scheduled for league or tournament play. No dugouts, bleachers or lighting are provided. May include basketball courts with pavement striping, but without lighting.
> >
> > *Formal.* Formal Ball Fields are often lighted and may include dressed infield area, baselines, pitcher's mound for baseball, large backstops, dugouts, players' benches and bleachers. Soccer fields are delineated, include players' benches

and goals and may include lighting. Formal indoor courts for volleyball, basketball and other organized sports are also included. Formal ball fields may also include related food concessions.

Community Garden. A Community Garden is a piece of urban land that is made available to residents of the community who may not have private yard area that is adequate to plant and maintain a private garden. This land is made available for the purpose of planting small personal gardens and usually consists of several small plots that are assigned to individuals or groups of people and which may be subject to an annual rental fee.

Concession. A Concession is a rental or lease of land or space in a building by the City to an operator of the following types of retail outlets: snack bar, restaurant, push cart and miscellaneous sundries and equipment rental that relate to the uses of the facility where the concession is located.

Community Meeting Rooms.

Small Community Meeting Room. A Small Community Meeting Room accommodates up to 75 people. Small Community Meeting Rooms may include food preparation areas and are used for meetings, seminars and small parties.

Large Community Meeting Room. A Large Community Meeting Room accommodates small or large groups of people. Large Community Meeting Rooms usually include food preparation facilities and may be used for large parties, banquets, dances and lectures.

Lighting.

General Lighting. General Lighting is used for security, safety or decorative purposes.

Ball Field Lighting. Ball Field Lighting is used to illuminate formal ball fields and courts in order to allow evening use of such facilities.

Minor Buildings. Buildings that are not used for recreation programming or meetings. Minor buildings include restrooms, storage buildings, equipment sheds and caretakers' residences.

Outdoor Game Area. A delineated area designed specifically, and meeting established criteria, for a game. Outdoor Game Areas include, but are not limited to, volleyball, lawn bowling, horseshoe pitching, tether ball, hopscotch and handball.

Passive Recreation. Activities that are engaged in by individuals or small groups, usually not dependent on a delineated area designed for specific activities. Passive

Recreation includes, but is not limited to, hiking, bicycling, jogging, frisbee catch, bird watching, walking, picnicking and horseback riding.

Picnic Area.

Individual Picnic Area. Picnic tables generally set a minimum of ten feet apart and intended for use by small groups requiring the use of only one picnic table.

Small Group Picnic Area. A Small Group Picnic Area consists of picnic tables intentionally arranged to accommodate use by a group of up to thirty people. Small Group Picnic Areas often include a single barbecue sized to accommodate a group meal.

Large Group Picnic Area. A Large Group Picnic Area consists of picnic tables intentionally arranged to accommodate use by more than thirty people, which may be subject to reservation. Large Group Picnic Areas often include one or more barbecues and food preparation tables sized to accommodate a group meal.

Playground. An area that includes, but is not limited to, swings, slides, climbing structures, sand play, spring riders and other play structures.

Trail. A passageway for hikers, equestrians and/or bicyclists. Uses of individual trails shall be determined by the Parks and Recreation Director.

Parkway. An area between the curb and sidewalk in a fully improved right-of-way, typically landscaped.

Patio. A hardscaped (e.g., concrete, tile, brick, stone, wood, etc.) area, constructed no more than 10 inches above grade, which may or may not be attached to a building and intended for indoor-outdoor living and recreation. A patio may be surrounded by walls or roofed, but not both.

Permit. Any Zoning Clearance, Conditional Use Permit, Performance Standard Permit, Temporary Use Permit, Building Permit, license, certificate, approval, or other entitlement for development and/or use of property as required by any public agency.

Permitted Use. Any use or structure that is allowed in a zoning district without a requirement for approval of a Conditional Use Permit, Performance Standard Permit, or Temporary Use Permit, but subject to any restrictions applicable to that zoning district.

Person. Any individual, organization, partnership, limited liability company, or other business association or corporation, including any utility, and any federal, state or local government, special district, or an agency thereof.

Persons with Disabilities. Persons who have a medical, physical, or mental condition, disorder or disability as defined in Government Code Section 12926 or the Americans With Disabilities Act, that limits one or more major life activities.

Planning Commission. The Planning Commission of the City of Santa Barbara.

Porch. A roofed, raised platform, sometimes partly enclosed with low walls that extends along an outside wall of a building. A porch is usually at the primary entrance to a dwelling. A porch may also be referred to as a veranda.

Pre-existing. In existence prior to the effective date of this Title.

Project. Any proposal for a new or changed use, or for new construction, demolition, alteration, or additions to any structure, that is subject to the provisions of this Title. This term includes, but is not limited to, any action that qualifies as a "project" as defined by the California Environmental Quality Act.

Public Resources Code. The Public Resources Code of the State of California.

Public Works Director. The Public Works Director of the City of Santa Barbara, or designee.

Qualified Applicant. The property owner, the owner's agent, or any person, corporation, partnership or other legal entity that has a legal or equitable title to land that is the subject of a development proposal or is the holder of an option or contract to purchase such land or otherwise has an enforceable proprietary interest in such land.

Quasi-Public Facility. A facility that is open to the public and has a public purpose but is not owned or operated by a governmental entity

Repair and Maintenance. The replacement of existing materials with similar materials in a similar manner. Repair and maintenance does not include additions, alterations, or demolition to any building or structure; changes in site development; a substitution of or a change of nonconforming use, or an increase in area occupied by a nonconforming use.

Residential Property. Any real property, zoned, designed or permitted to be used for any residential purpose, situated in the City, including any buildings or structures located on said improved real property.

Residential Unit. Any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation, for not more than one household. Section TBD, Residential Unit.

Review Authority. Body responsible for making decisions on zoning and related permits and approvals.

Right-of-Way. A strip of land acquired by reservation, easement, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a street, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer or other similar use.

Screen. *See Hedge.*

Second Floor. The floor above the first floor.

Second Story. The story above the first story.

Setback, Front. An area between the street and a line parallel to the front lot line bounded by the interior lot lines of the lot that are roughly perpendicular to the front lot line., See also Section TBD, Measuring Distances, and Section TBD, Measuring Setbacks, and Section TBD Encroachments into Setbacks and Open Yards.

Setback, Interior. An area between an interior lot line and a line parallel to the interior lot line bounded by the two lot lines adjacent to the interior lot line from which the setback is measured. See also Section TBD, Measuring Distances, and Section TBD, Measuring Setbacks, and Section TBD Encroachments into Setbacks and Open Yards.

Shopping Center. An integrated group of commercial establishments that are planned and managed as a unit with a minimum of five attached businesses and shared onsite parking. Shopping Centers can include a variety of uses including, but not limited to: retail, eating and drinking establishments, small offices, and banks.

Sidewalk. A paved, surfaced, or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

Site. A lot, or group of contiguous lots, that is proposed for development in accordance with the provisions of this Title and is in a single ownership or under unified control.

Solar Access Related Definitions. The following terms are related to Section TBD, Additional Height Limits for Protection and Enhancement of Solar Access.

> ***Base Elevation.*** The elevation of the highest point of contact of a structure with the adjacent ground. For the purposes of this determination, all fences, covered and uncovered walkways, driveways, patio covers and other similar elements shall be considered separate structures.
>
> ***Northerly Lot Line.*** Any lot line, of which there may be more than one per lot, that forms a generally north facing boundary of a lot and has a bearing greater than or equal to forty degrees from either true north or true south. For curved lot lines, the bearing of the lot line at any point shall be the bearing of the tangent to the curve at that point.

Plan View. A plot plan of the parcel which shows the horizontal dimensions of a parcel and each structure on the parcel.

Shadow Plan. A plot plan which shows the extent of shading caused by a proposed structure.

Solar Access. The ability of a location to receive direct sunlight.

State. The State of California.

Stock Cooperative. As defined in Section 11003.2 of the Business and Professions Code.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, except that the topmost story shall be that portion of a building included between the surface of the topmost floor and the surface of the roof above. See also Section TBD, Determining the Number of Stories in a Building.

Studio. A residential unit consisting of one combined living and sleeping room. The unit may have a separate kitchen and bathroom in addition to the main room. A studio may have a loft, but the loft may not be a bedroom, as defined in this Title.

Street. A public or private way constructed for the primary purpose of vehicular travel. An alley or a driveway is not a street. The term "street" describes the entire legal right-of-way or easement (public or private), including, but not limited to, the traffic lanes, bike lanes, curbs, gutters, sidewalk whether paved or unpaved, parkways, and any other grounds found within the legal street right-of-way. The name given to the right-of-way (avenue, court, road, etc.) is not determinative of whether the right-of-way is a street.

Street, Private. A street that is privately owned. Private streets do not appear on the official dedicated street map of the City of Santa Barbara. Private streets generally provide access to multiple lots or units and are usually named, unlike driveways. Private streets may be constructed to public street standards. Private streets are generally differentiated from driveways by larger widths, longer lengths, and may include public or private utilities. A private street may also be referred to as private road, lane, or drive.

Street, Public. Any street shown on the official dedicated street map of the City of Santa Barbara, as such map may be amended from time to time.

Street Frontage. The length of the front lot line along an adjacent street.

Structural Alterations. Any physical change to the supporting members of a building, such as bearing walls, columns, beams or girders, floor joists or roof joists, including the creation, or enlargement, of doors or windows and changes to a roofline or roof shape.

Structure. Anything constructed or erected and the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground.

Structure, Accessory. A subordinate structure, used only as incidental to the main structure on the same lot, including covered parking.

Time Share Terms.

Timeshare Project. A purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of a lot, parcel, unit, or segment of real property, annually or on some other periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided.

Timeshare Estate. A right of occupancy in a timeshare project which is coupled with an estate in the real property.

Timeshare Use. A license or contractual or membership right of use in a timeshare project which is not coupled with an estate in the real property.

Top of Bank. The line formed by the intersection of the general plane of the sloping side of the watercourse with the general plane of the upper generally level ground along the watercourse; or, if the existing sloping side of the watercourse is steeper than the angle of repose (critical slope) of the soil or geologic structure involved, "top of bank" shall mean the intersection of a plane beginning at the toe of the bank and sloping at the angle of repose with the generally level ground along the watercourse. The angle of repose is assumed to be 1.5 (horizontal) : 1 (vertical) unless otherwise specified by a geologist or soils engineer with knowledge of the soil or geologic structure involved.

Toe of Bank. The line formed by the intersection of the general plane of the sloping side of the watercourse with the general plane of the bed of the watercourse.

Trellis. A structure or frame supporting open latticework, at least 50 percent open to the sky with uniformly distributed openings. A trellis is sometimes referred to as a pergola or arbor. A trellis is not an accessory building.

Uncovered Parking. Parking spaces that are fully or partially open to the sky.

Unenclosed. An area that is either 1) unroofed or 2) substantially open on at least two sides.

Upper Floor. Any floor above the first floor.

Upper Story. Any story above the first story.

Use. The purpose for which land, buildings, structures, or site development is designed, arranged, or intended; or for which it is, or may be, occupied or maintained.

Accessory Use. A use that is customarily associated with, and is incidental and subordinate to, the primary use and located on the same lot as the primary use. See also TBD Accessory Uses.

Principal or Primary Use. A primary, principal or dominant use established, or proposed to be established, on a lot.

Vehicle. Any vehicle, as vehicle is defined by the California Vehicle Code, including any automobile, camper, camptrailer, trailer, trailer coach, motorcycle, house car, boat, or similar conveyance.

Vehicle, Commercial. Any truck, bus, truck-tractor, cargo trailer, or other motorized or towed vehicle which has a rated capacity of more than 15 passengers, a rated capacity of more than one ton by the manufacturer, or which exceeds a length of 20 feet or a height of 10 feet.

Vertical. Perpendicular to the plane of the horizon.

Vibration. A periodic motion of the particles of an elastic body or medium in alternately opposite directions from the position of equilibrium.

Visible. Capable of being seen (whether or not legible) by a person of average height and visual acuity walking or driving on a street.

Wall.

Wall, Building. Any vertical exterior surface of a building or any part thereof, including windows and doors.

Wall, Freestanding. *See Fence.*

Watercourse. Any stream, creek, arroyo, gulch, wash and the beds thereof, whether dry or containing water. It shall also mean a natural swale or depression which contains and conveys surface water during or after rain storms. See also Section TBD, Determining a Watercourse.

Yard. A required open space, on a lot or parcel of land, open, unenclosed and unobstructed from the ground upward, except as otherwise provided in this Title.

Yard, Front. An area extending across the full width of the lot between the front lot line and the nearest wall of the closest main building on the lot. See also Section TBD, Measuring Front Yards

Yard, Primary Front.

- On a lot with one front yard, the front yard is the primary front yard.
- On lots with multiple front yards, the primary front yard is designated by the property owner and approved by the Community Development Director or the Director's designee as the primary front yard.

Yard, Remaining Front. The area of the front yard not including the required front setback.

Yard, Secondary Front. Any front yard on a lot with multiple front yards that is not designated as the primary front yard.

Yard, Open. A required yard, intended to provide minimum open areas within residential development.

Zoning District. A specifically delineated area of district in the city within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings. See Section TBD, Districts Established.

Parking Regulations

Chapter 28.26 Parking Regulations

28.26.010 Purpose

The purposes of these parking regulations are to:

A. Provide for parking facilities and site design that allow for choice in transportation modes;

B. Provide sufficient off-street automobile and bicycle parking spaces to accommodate the majority of users of a site over time;

C. Provide standards for safe and well-designed parking, loading and vehicle circulation areas, promote attractive pedestrian routes, and provide minimum landscaping requirements to screen, shade, and beautify parking and circulation areas;

D. Promote community character, protect historic resources, and limit the environmental and urban design impacts that can result from off-street parking and circulation;

E. Create buffers between parking facilities and surrounding sensitive land uses;

F. Allow for reductions of the number of required spaces where warranted; and

G. Allow for flexibility in parking design where warranted.

28.26.020 Applicability

The requirements of this Chapter apply to the establishment, alteration, additions to, or change in any use of a building, structure, or site development, as provided in this Section.

A. **New Buildings and Land Uses.** Off-street automobile and bicycle parking in conformity with this Chapter shall be provided at the time any building or structure is erected, or any new land use is established.

B. **Existing Buildings and Land Uses.**

1. ***Additions and Alterations.*** Additional automobile and bicycle off-street parking spaces shall be provided pursuant to this Chapter for any addition of new floor area or other alteration to an existing use that results in an increase to the minimum number of required parking spaces for any existing building, structure, or land use.

2. ***Change of Use.***

a. *Change to Use with Higher Parking Requirement.* When an existing land use is changed to a land use in another Use Classification with a higher

parking requirement pursuant to Section 28.26.050, Required Automobile and Bicycle Parking Spaces, off-street automobile and bicycle parking in conformity with this Chapter shall be provided.

b. *Change to Use with Same or Lower Parking Requirement.* When an existing land use is changed to a land use in another Use Classification with the same or a lower parking requirement pursuant to Section 28.26.050, Required Automobile and Bicycle Parking Spaces, existing automobile parking shall be maintained; however, conforming short term bicycle parking is required on any change of use pursuant to 28.26.020.B.2.b. If the number of existing automobile or bicycle parking spaces is greater than the requirements the new use, the number of spaces in excess of the required number of spaces may be removed.

3. ***Nonconforming Parking.*** Existing buildings and land uses that are nonconforming to parking may be altered, enlarged, and the use changed, provided that additional automobile and bicycle parking spaces shall be provided for the addition, alteration, or change of use, pursuant to this Chapter. However, parking shall be provided in conformity with this Chapter whenever additions, alterations, or reconstruction meet the thresholds listed in this Section below.

a. *Nonconforming Automobile Parking.*

i. Additions to Existing Buildings. Additions of new floor area shall not exceed 50 percent of the cumulative net floor area that legally existed on the lot on July 15, 1980, excluding covered parking, or automobile parking shall be provided in conformity with this Chapter for all buildings on site, subject to the provisions below.

(1) *Single-Unit Residential.* Where the total net floor area of all buildings on site, excluding covered parking, does not exceed 1,800 square feet, additional parking spaces shall not be required.

(2) *Two-Unit Residential, Multi-Unit Residential, and Residential Units in Mixed-Use Developments.* For an existing residential unit, additions of new floor area shall not exceed 50 percent of the cumulative net floor area that legally existed on the lot on July 15, 1980, excluding covered parking, or automobile parking shall be provided in conformity with this Chapter for the residential unit, except that where the total net floor area of the residential unit, excluding covered parking, does not exceed 970 square feet, additional parking spaces shall not be required.

ii. Demolition and Replacement of Existing Buildings. Existing buildings and structures on lots that are nonconforming to the

minimum number of automobile parking spaces may be demolished and rebuilt without conforming to the minimum number of automobile parking spaces, provided that all of the following conditions are met:

(1) The use of the new or reconstructed building is the same Use Classification as the existing building;

(2) All conditions specified in Section 28.25.090(B), Replacement of Demolished Nonconforming Buildings, are met;

(3) Any new, altered, or reconstructed parking and landscaping conforms to all standards in Section TBD, Parking Area Design and Development Standards, and Section TBD Landscaping and Buffering; and

(4) Conforming bicycle parking is provided.

b. *Nonconforming Bicycle Parking.* Sites that are nonconforming to the minimum number of long term or short term bicycle parking spaces required by this Chapter shall provide conforming bicycle parking for all new buildings constructed, reconstructed, or when any addition or alteration results in a requirement for additional automobile parking spaces. Short term bicycle parking shall be required on any project that includes a change of use, substantial exterior remodel, or alteration to the existing parking areas.

c. *Non-Conforming Parking Lot Landscaping.* Sites that are nonconforming to the parking lot landscaping required by this Chapter, shall provide conforming landscaping for any new, altered, or reconstructed parking areas for the area that is altered.

28.26.030 General Provisions

A. **Permit Required.** A permit is required to establish any new driveway, parking, or vehicle maneuvering area and for any change to an existing driveway, parking, or vehicle maneuvering area.

1. ***Conversion or Demolition of Parking.*** Any permit to allow the conversion or demolition of any required off-street parking space shall not be approved unless replacement parking is included under the same permit.

B. **New and Existing Parking Areas.** All new or altered driveways, parking, or vehicle maneuvering areas shall be designed and developed consistent with the standards of this Chapter. All paved areas and structures accessible to vehicles shall be reviewed as potential parking areas. No vehicle shall be stored or parked on a lot in a manner inconsistent with the requirements of this Chapter.

C. **Timing of Construction.** Parking facilities required by this Chapter shall be constructed or installed prior to passing final inspection or the issuance of a Certificate of Occupancy for the uses that they serve.

D. **Parking and Loading to be Maintained.** Required parking and loading spaces shall be maintained in amount, design, and location, unless equivalent substitute facilities are approved and provided.

E. **Availability.** Parking required by this Chapter must be available for its intended purpose during business hours for all nonresidential uses and at all times for residential uses, and shall remain accessible and available to all occupants and patrons of uses and structures. In no event shall parking facilities that are required for a structure or use be considered as providing any of the required space for any other structure or use.

F. **Accessible Parking.** Each lot where parking is provided for the public as clients, guests, or employees shall include parking accessible to handicapped or disabled persons, in compliance with the Building Code.

1. ***New Residential Units.*** If one or fewer parking spaces are required per residential unit for any new development, and if signed, accessible parking spaces are required by the Building Code, then the signed, accessible parking spaces must be provided in addition to the minimum number of parking spaces required per residential unit by this Chapter.

2. ***Existing Buildings.*** On lots with existing nonresidential, mixed-use, or multiunit development, the conversion of existing spaces to accessible parking spaces or access aisles for an accessible parking space, in the minimum size required by the Building Code, is allowed, even if the conversion results in fewer parking spaces on the lot than required.

G. **Assigned Parking.** Lots developed with multiple uses and a shared parking area shall not assign parking spaces to individual tenant spaces or uses, with the following exceptions: required residential parking spaces in any mixed-use development shall be assigned to residential occupants; and designated offsite parking spaces, approved pursuant to Section TBD, Off-Site Parking, shall be assigned.

H. **Recorded Agreement.** A Recorded Agreement, pursuant to TBD, Recorded Agreements, shall be required by the Community Development Director whenever there is a special circumstance which requires a written agreement between one or more landowners and the City is required to guarantee access to, or use of, any parking facility, loading area, driveway, or maneuvering area. Examples include, but are not limited to, offsite parking and maneuvering areas, or parking and maneuvering areas that overlap multiple property lines.

I. **Commercial Vehicles.** Off-street parking of commercial vehicles on any lot developed with solely residential uses is limited to the time necessary to transact business or provide a service at a residence.

J. **Inoperable and Unregistered Vehicles.** All vehicles incapable of movement under their own power or vehicles not currently registered for use on the street shall be stored

in an entirely enclosed space. This provision does not apply to Automobile and Vehicle Repair, Major, Salvage and Wrecking, and Towing and Impound establishments.

K. **Covered Parking.** Covered parking shall be provided as follows. Covered parking shall also comply with the limitations in Section TBD, Accessory Buildings and Structures.

1. ***Single-Unit Residential.*** All required spaces must be covered.

   a. *Exception.* On lots less than 15,000 square feet, or on lots developed with designated historic resources, uncovered parking may be substituted for covered parking as follows, provided that the uncovered parking complies with Section TBD, Location of Required Parking, and permeable pavers are used on any new paved areas, as feasible.

      i. <u>One Covered and One Uncovered Space.</u> Any lot developed with less than 85 percent of the maximum net floor area for the lot, pursuant to Section TBD Maximum Net Floor Area, may provide one covered space and one uncovered space.

      ii. <u>Two Uncovered Spaces.</u> Any lot developed with less than 80 percent of the maximum net floor area for the lot, pursuant to Section TBD Maximum Net Floor Area, may provide two uncovered spaces, subject to approval by the appropriate Design Review Body, provided a minimum 200 cubic feet of enclosed exterior storage space is provided on site.

2. ***Two-Unit Residential, Condominium, Community Apartment, or Stock Cooperative.*** A minimum of one covered space shall be allocated to each unit.

3. ***All Other Uses.*** For all other uses, automobile parking spaces may be provided as either covered or uncovered. However, required automobile parking spaces for any nonresidential use shall not be allowed in individual garages or carports, unless the location and design are approved by the Public Works Director.

L. **Guest Parking.** Guest automobile parking is required for all multiunit residential development and for residential units in mixed-use development, other than residential development located in the Central Business District, as follows:

1. ***1-5 Units:*** None required.

2. ***6-7 Units:*** One parking space.

3. ***8 or More Units:*** One space per four units.

M. **Maintenance.** Parking lots, including all landscaped areas, parking spaces, driveways, and loading areas, shall be maintained free of refuse, debris, or other accumulated matter and shall be kept in good repair at all times.

28.26.040 Required Automobile and Bicycle Parking Spaces

A. **Required Off-Street Parking Spaces.** Each lot shall provide the minimum number of off-street automobile and bicycle parking spaces stated in Table TBD, Required Off-Street Parking Spaces, except as provided below.

1. ***Minimum Number of Spaces.*** Fractions shall be rounded pursuant to Section TBD, Fractions. If the result of rounding is less than one parking space, a minimum of one parking space shall be required for every new main building constructed.

2. ***Exceptions and Reductions.*** The required number of spaces may be reduced if an exception applies or a reduction is approved pursuant to Section TBD, Parking Exceptions and Reductions.

3. ***Central Business District.*** Lots within the Central Business District shown on Figure TBD, Central Business District, are subject to the parking requirements of Section TBD, Central Business District Parking.

TABLE 28.26.040: REQUIRED OFF-STREET PARKING SPACES		
Use Classification or Development Type	*Required Automobile Parking Spaces*	*Required Bicycle Parking Spaces (long term/short term).*
Residential Uses		
Single-Unit Residential	2; see §TBD, Covered Parking and §TBD, Parking Exceptions and Reductions	None
Two-Unit Residential	4; see §TBD, Covered Parking and §TBD, Parking Exceptions and Reductions	None
Multi-Unit Residential	Studio: 1.25 per unit One-bedroom: 1.5 per unit Two or more bedrooms: 2 per unit see §TBD, Parking Exceptions and Reductions and §TBD, Guest Parking	1 space per unit (100%/0%)
Accessory Dwelling Unit	1; see §TBD, Accessory Dwelling Unit	None
Additional Dwelling Unit	Consistent with Single-Unit Residential	None
Affordable Housing	see §TBD, Affordable and Senior Housing	1 per unit (100%/0%)
Caretaker Unit	1; see §TBD, Caretakers Unit	None
Community Care Facility	1 per 2 bedrooms	1 per 15 bedrooms; minimum 2 spaces (50%/50%)
Family Day Care Home	None beyond what is required for the Residential Housing Type	Consistent with Residential Housing Type
Garden Apartment	Consistent with Multi-Unit Residential	1 per unit (100%/0%)
Group Residential	See §TBD, Standards for Specific Uses and Activities	1 per bedroom (100%/0%)

TABLE 28.26.040: REQUIRED OFF-STREET PARKING SPACES		
Use Classification or Development Type	*Required Automobile Parking Spaces*	*Required Bicycle Parking Spaces (long term/short term).*
Home Occupation	None beyond what is required for the Residential Units	None beyond what is required for the Residential Units
Hospice	1 per 2 bedrooms	1 per 15 bedrooms; minimum 2 spaces (50%/50%)
Residential Care Facility for the Elderly	1 per 2 bedrooms	1 per 15 bedrooms; minimum 2 spaces (50%/50%)
Mobilehome	Consistent with Residential Housing Type	Consistent with Residential Housing Type
Mobilehome Park	Consistent with Multi-Unit Residential	1 space per unit (100%/0%)
Secondary Dwelling Unit	1; see §TBD, Secondary Dwelling Unit	None
Senior Housing – Non-restricted	See §TBD, Affordable and Senior Housing	None
Senior Housing – Low Income	See §TBD, Affordable and Senior Housing	None
Supportive Housing	None beyond what is required for the Residential Unit	None beyond what is required for the Residential Unit
Transitional Housing	None beyond what is required for the Residential Unit	None beyond what is required for the Residential Unit
Public and Semi-Public Uses		
Cemetery	None beyond what is required for any Community Assembly or Office, if applicable	1 per 1,750 square feet (0%/100%)
Colleges and Trade Schools	1 per 250 square feet of net floor area	1 per 1,750 square feet (50%/50%)
Community Assembly	1 per 100 square feet of net floor area Outdoor areas: as determined by the Public Works Director in consultation with Community Development Director	1 per 1,000 square feet (0%/100%)
Community Garden	None	None
Cultural Institution	1 per 250 square feet of net floor area	1 per 1,750 square feet (50%/50%)
Day Care Centers	1 per 250 square feet of net floor area	1 per 1,750 square feet (50%/50%)
Emergency Shelter	1 per 8 beds, or as determined by the Public Works Director in consultation with Community Development Director	1 per 4 beds (100%/0%)

TABLE 28.26.040: REQUIRED OFF-STREET PARKING SPACES		
Use Classification or Development Type	*Required Automobile Parking Spaces*	*Required Bicycle Parking Spaces (long term/short term).*
Hospital and Clinic - Hospital	1 per 250 square feet of net floor area	1 per 1,750 square feet (50%/50%)
Hospital and Clinic - Clinic	1 per 250 square feet of net floor area	1 per 1,750 square feet (50%/50%)
Hospital and Clinic - Birth Center	1 per 250 square feet of net floor area	1 per 1,750 square feet (50%/50%)
Instructional Services	1 per 250 square feet of net floor area	1 per 1,750 square feet (50%/50%)
Park and Recreation Facilities	As determined by the Public Works Director in consultation with Community Development Director	As determined by the Public Works Director
Public Facilities	As determined by the Public Works Director in consultation with Community Development Director	As determined by the Public Works Director
Recreational Vehicle Park - Overnight	Guest Parking only: 1 per 4 recreational vehicle spaces	None
Recreational Vehicle Park - Permanent	Consistent with Multi-Unit Residential	None
Schools	High School: 5 per classroom Elementary and Junior High School: 2 per classroom	5 per classroom (50%/50%)
Skilled Nursing Facilities	1 per 2 beds	1 per 15 beds (25%/75%)
Social Service Facilities	1 per 250 square feet of net floor area	1 per 1,750 square feet (25%/75%)
Commercial Uses		
Adult Entertainment Facilities	1 per 250 square feet of net floor area	1 per 1,750 square feet (25%/75%)
Agriculture	Outdoor Uses: none Indoor Uses: As determined by the Public Works Director in consultation with Community Development Director	None
Animal Care, Sales and Services - Animal Daycare	1 per 250 square feet of net floor area	1 per 1,750 square feet (100%/0%)
Animal Care, Sales and Services - Kennels	1 per 250 square feet of net floor area	1 per 1,750 square feet (100%/0%)
Animal Care, Sales and Services - Veterinary Services	1 per 250 square feet of net floor area	1 per 1,750 square feet (100%/0%)

TABLE 28.26.040: REQUIRED OFF-STREET PARKING SPACES		
Use Classification or Development Type	*Required Automobile Parking Spaces*	*Required Bicycle Parking Spaces (long term/short term).*
Artist's Studio	1 per 250 square feet of net floor area	1 per 1,750 square feet (0%/100%)
ATM	1 per 250 square feet of net floor area	1 per 1,750 square feet (0%/100%)
Automobile Rentals	1 per 250 square feet of net floor area, plus 1 space per fleet vehicle	1 per 1,750 square feet (25%/75%)
Automobile/Vehicle Sales and Leasing	1 per 250 square feet of net floor area, plus 1 space per fleet vehicle	1 per 1,750 square feet (25%/75%)
Automobile/Vehicle Service and Repair, Minor	1 per 250 square feet, including vehicle repair bay area	1 per 1,750 square feet (25%/75%)
Automobile/Vehicle Fuel Station	1 per 250 square feet of net floor area	1 per 1,750 square feet (25%/75%)
Automobile/Vehicle Washing	As determined by the Public Works Director in consultation with Community Development Director; minimum 2 spaces	1 per 1,750 square feet (25%/75%)
Banks and Financial Institutions	1 per 250 square feet of net floor area	1 per 1,750 square feet (25%/75%)
Business Services	1 per 250 square feet of net floor area	1 per 1,750 square feet (25%/75%)
Cinema/Theaters	1 per 100 square feet of net floor area	1 per 1,000 square feet (0%/100%)
Commercial Entertainment and Recreation - Large Scale	As determined by the Public Works Director in consultation with Community Development Director	As determined by the Public Works Director
Commercial Entertainment and Recreation - Small Scale	1 per 250 square feet of net floor area, plus 2 spaces per any outdoor sport court, plus 1 per 250 square feet of the surface area of any outdoor swimming pool	1 per 1,750 square feet (25%/75%)
Drive-Through Facility	None beyond what is required for the primary Use Classification	None beyond what is required for the primary Use Classification
Eating and Drinking Establishments - Bars/Night Clubs/Lounges	See Staff Report	1 per 500 square feet (25%/75%)
Eating and Drinking Establishments - Food and Beverage Tasting	See Staff Report	1 per 500 square feet (25%/75%)
Eating and Drinking Establishments - Full Service	See Staff Report	1 per 500 square feet (25%/75%)

TABLE 28.26.040: REQUIRED OFF-STREET PARKING SPACES		
Use Classification or Development Type	*Required Automobile Parking Spaces*	*Required Bicycle Parking Spaces (long term/short term).*
Eating and Drinking Establishments - Convenience	See Staff Report	1 per 500 square feet (25%/75%)
Food Preparation	See Staff Report	1 per 500 square feet (25%/75%)
Funeral Parlors and Interment Services	Consistent with Community Assembly or Office, per this table, as applicable	1 per 3,500 square feet (25%/75%)
Hotels and Extended Stay Hotels	See §TBD, Standards for Specific Uses and Activities	1 per 20 rooms, minimum 2 spaces (50%/50%)
Live-Work Unit	1 for the residential unit, plus 1 per 500 square feet nonresidential floor area	1 per 3,500 square feet of nonresidential floor area (50%/50%)
Maintenance and Repair Services	1 per 250 square feet of net floor area	1 per 1,750 square feet (50%/50%)
Market Garden	1 per 2,000 square feet of net lot area, plus General Retail per this table, minimum 2 spaces shall be provided per site	1 per 1,750 square feet (0%/100%)
Medical Cannabis Dispensary	1 per 250 square feet of net floor area	1 per 1,750 square feet (25%/75%)
Mobile Food Vendor	None	None
Nurseries and Garden Centers	1 per 2,000 square feet of net lot area, plus General Retail per this table, minimum 2 spaces shall be provided per site	1 per 1,750 square feet (75%/25%)
Offices - Business and Professional	1 per 250 square feet of net floor area	1 per 1,750 square feet (75%/25%)
Offices - Medical and Dental	1 per 250 square feet of net floor area	1 per 1,750 square feet (75%/25%)
Outdoor Sales and Display	None, if Outdoor Sales and Display is an Accessory Use; otherwise, 1 per 500 square feet of area devoted to onsite outdoor sales and display	1 per 3,500 square feet (50%/50%)
Outdoor Seating	See Staff Report.	1 per 1,500 square feet (25%/75%)
Parking, Public or Private	None	None
Personal Services	1 per 250 square feet of net floor area	1 per 1,750 square feet (50%/50%)
Retail Sales - Building Materials and Services	1 per 2,000 square feet of lot area if any products are stored or sold outdoors, plus General Retail per this table for indoor areas; minimum 2 spaces shall be provided per site	1 per 1,750 square feet (75%/25%)

TABLE 28.26.040: REQUIRED OFF-STREET PARKING SPACES		
Use Classification or Development Type	*Required Automobile Parking Spaces*	*Required Bicycle Parking Spaces (long term/short term).*
Retail Sales - Food and Beverage Sales	1 per 250 square feet of net floor area	1 per 1,750 square feet (25%/75%)
Retail Sales - General Retail	1 per 250 square feet of net floor area	1 per 1,750 square feet (25%/75%)
Retail Sales - Neighborhood Market	None	None
Industrial Uses		
Automobile and Vehicle Repair, Major	1 per 500 square feet, including the vehicle repair bay area	1 per 1,750 square feet (75%/25%)
Commercial Vehicle and Equipment Sales and Rental	1 per 500 square feet, plus 1 space per fleet vehicle; plus, Fueling and Washing per this table, if applicable	1 per 3,500 square feet (75%/25%)
Construction and Material Yards	1 per 2,000 square feet of lot area if any products are stored or sold outdoors, plus General Retail per this table for indoor areas; minimum 2 spaces shall be provided per site	1 per 1,750 square feet of General Retail (75%/25%)
Custom Manufacturing	1 per 500 square feet of net floor area;	1 per 3,500 square feet (100%/0%)
Food and Beverage Manufacturing - Limited/Small Scale	1 per 500 square feet of net floor area;	1 per 3,500 square feet (100%/0%)
Food and Beverage Manufacturing - General/Large Scale	1 per 500 square feet of net floor area;	1 per 3,500 square feet (100%/0%)
Hazardous Waste Management Facility	As determined by the Public Works Director in consultation with Community Development Director	1 per 3,500 square feet (100%/0%)
Household Hazardous Waste Collection Facility	1 per 500 square feet	As determined by the Public Works Director
Industry, General	1 per 500 square feet of net floor area;	1 per 3,500 square feet (100%/0%)
Industry, Limited	1 per 500 square feet of net floor area;	1 per 3,500 square feet (100%/0%)
Recycling Collection Facility	1 per 500 square feet of net floor area;	1 per 3,500 square feet (100%/0%)
Research and Development	1 per 500 square feet of net floor area;	1 per 3,500 square feet (75%/25%)
Salvage and Wrecking	1 per 500 square feet of net floor area, plus 1 per 2,000 square feet of net lot area, minimum 2 spaces shall be provided per site	None

TABLE 28.26.040: REQUIRED OFF-STREET PARKING SPACES		
Use Classification or Development Type	*Required Automobile Parking Spaces*	*Required Bicycle Parking Spaces (long term/short term).*
Towing and Impound	1 per 500 square feet of net floor area, plus 1 per 2,000 square feet of net lot area, minimum 2 spaces shall be provided per site	None
Warehousing and Storage - Indoor	1 per 2,000 square feet of net floor area, plus 1 per 250 square feet for any office space;	1 per 1,750 square feet of office space (75%/25%)
Warehousing and Storage - Outdoor	1 per 2,000 square feet of lot area, minimum 2 spaces shall be provided per site	None
Warehousing and Storage - Personal	1 per 2,000 square feet of net floor area, plus 1 per 250 square feet for any office space; minimum 3 spaces	1 per 1,750 square feet of office space (25%/75%)
Wholesaling and Distribution	1 per 500 square feet, see of net floor area;	1 per 3,500 square feet (75%/25%)
Transportation, Communication, and Utilities Uses		
Freight/Truck Terminals and Warehouses	1 per 500 square feet of net floor area, plus 1 space per fleet vehicle	1 per 3,500 square feet (75%/25%)
Light Fleet-Based Services	1 per 500 square feet of net floor area, plus 1 space per fleet vehicle	1 per 3,500 square feet (75%/25%)
Telecommunication Facilities	Unstaffed facility: 0 Staffed facility: As determined by the Public Works Director in consultation with Community Development Director	None
Transportation Passenger Terminals	As determined by the Public Works Director in consultation with Community Development Director	As determined by the Public Works Director
Public Works and Utilities	As determined by the Public Works Director in consultation with Community Development Director	As determined by the Public Works Director

B. **Standards for Specific Uses and Activities.** The number of required parking spaces for the following specific uses and activities shall be calculated as follows:

1. ***Multiple Uses.*** For uses other than shopping centers and accessory uses, if more than one use is proposed on a lot, the number of required parking spaces shall be equal to the sum of the parking requirement calculated separately for each use as described below.

   a. *Separation.* Multiple uses with different parking requirements, but located in the same building, must be physically separated with a fixed barrier, of a sufficient height and material to adequately separate uses, or the parking requirement shall be calculated at the highest rate for all uses.

b. *Common Areas.* Common areas, such as hallways or shared bathrooms, for multiple uses shall be calculated using the highest parking rate for all proposed uses.

2. ***Shopping Centers.*** Shopping centers may provide required off-street parking spaces at a rate of one space per 250 square feet of net floor area of all buildings occupied with a commercial use, even if a higher minimum parking requirement is indicated in Table TBD, Required Off-Street Parking Spaces for individual uses. This provision does not apply to the following uses: Hotels and Extended Stay Hotels, Residential, Public and Semi-Public, Industrial, or Transportation, Communication and Utilities.

3. ***Accessory Uses.*** If the floor area of any accessory use does not exceed the maximum size, as described in Section TBD, Accessory Uses, additional parking spaces shall not be required for any accessory use, even if a higher minimum parking requirement is indicated in Table TBD, Required Off-Street Parking Spaces. However, no manufacturing, warehouse, or storage use that is incidental, or accessory to a primary use shall be parked at a lower rate than that required for the primary use.

4. ***Outdoor Uses.*** The area of any outdoor use that requires parking spaces per Table TBD shall be identified on an approved plan and shall be demarcated on the site with a fixed barrier which may include, but is not limited to, bollards, railings, posts, walls, fences, patios, planters, or any similar visual or physical border.

5. ***Group Residential, Hotels and Extended Stay Hotels.*** Required Parking for Group Residential Hotels, Extended Stay Hotels, is as follows:

   a. Rooms with kitchen facilities provided in the unit shall provide either one parking space per bedroom, or per the parking requirements for the Residential Housing Type in Table TBD, whichever is greater. A "bedroom" for the purposes of this section shall mean any individual sleeping room, or any suite of rooms in which the individual rooms cannot be rented separately.

   b. If individual beds are provided for rent, rather than rooms (e.g., youth hostel or dormitory), then the parking requirement is one space per two beds. A "bed" for the purposes of this section shall mean 70 square feet in any sleeping room

   c. Auxiliary uses, including restaurants, spas, fitness centers, retail or similar uses, which are only open to hotel occupants and their guests, shall require no additional off-street parking spaces;

   d. Auxiliary uses, including restaurants, spas, fitness centers, retail or similar uses, which are open to members of the public other than hotel occupants and their guests, shall require additional off-street parking spaces pursuant to Table TBD. However, no conference centers in a hotel shall require additional parking spaces.

6. ***Warehousing and Storage.*** Warehousing and storage uses that meet the following standards may use the parking ratio for Warehousing and Storage uses in Table TBD. Other warehousing and storage uses shall use the required parking ratio for the most similar industrial or commercial use.

   a. Warehousing and Storage is an allowed use in the Zone.

   b. With the exception of Personal Warehousing and Storage, a minimum of 2,000 net square feet of contiguous, undivided warehouse or storage area is provided.

7. ***Uses Not Specified***. If parking requirements for a use are not specified in Table TBD, off-street parking spaces shall be required in an amount adequate to meet the purpose of this Chapter, as determined by the Community Development Director.

8. ***Parking Demand Study.*** In order to evaluate a proposed project's compliance with this Chapter, the Public Works Director may require submittal of a parking demand study.

28.26.050 Parking Exceptions and Reductions

A. **Affordable and Senior Housing.** Unless further reduced by any applicable State law, development in which 100 percent of the units are developed as rental units affordable to very low or low income households, or Senior Housing, may reduce the number of parking spaces to one uncovered parking space per unit, and units restricted to Low Income Senior Housing may reduce the number of parking spaces to one parking space for every two units, provided the following conditions are met:

   1. ***Storage Space.*** Each unit shall have a minimum of 200 cubic feet of enclosed, weatherproofed, and lockable private storage space for the sole use of the unit tenant. Such space shall be accessible from the exterior of the unit it serves and shall have a minimum dimension of three feet.

   2. ***Recorded Covenant.*** A covenant is recorded in the County Land Records against the title stating the following. The City shall be a party to the covenant.

      a. All of the dwelling units on the Real Property shall be rented to very low or low income households or seniors; the maximum rent and the maximum household income of tenants shall be determined as set forth in the Affordable Housing Policies and Procedures Manual, and affordability shall continue for a minimum 90 years from the initial occupancy of the dwelling unit.

      b. The development has received a reduction in the amount of parking required because it is a 100 percent affordable or senior project. In the event that the Real Property, or any portion thereof, is not or cannot be used solely for very low or low income rental or senior housing, either (i) the structure(s) shall be redesigned and possibly reconstructed

and the number of dwelling units shall be reduced so that the maximum number of dwelling units on the Real Property does not exceed the number of dwelling units that would be allowed if there is compliance with the City's parking requirements then in effect, or (ii) the owner shall provide the number of spaces required by the Zoning Ordinance for the new use.

B. **Central Business District (CBD).**

1. ***Automobile Parking.*** The number of off-street parking spaces required within the Central Business District (CBD) delineated in Figure TBD, Central Business District and Parking Zones of Benefit, shall be as follows.

   a. *Non-Residential Parking.* One space per 500 square feet of net floor area.

      i. Zone of Benefit Reduction. The number of required parking spaces shall be reduced by the applicable Zone of Benefit Reduction percentage.

   b. *Residential Only Parking.* Residential only developments shall provide parking in accordance with Section TBD, Required Parking Spaces, and guest parking is not required.

   c. *Mixed-Use Developments.* The residential parking requirement for mixed-use developments in the CBD is one uncovered parking space per dwelling unit, and guest parking is not required.

2. ***Bicycle Parking***. Short term bicycle parking is not required for any uses on State Street and in first block east or west of State Street within the Central Business District.

C. **Mixed-Use Development.** Where residential uses occupy less than 50 percent of the total net floor area of a mixed-use building, the number of required residential parking spaces shall be one space per unit unless fewer allowed by Table TBD. Guest parking is required.

D. **Reduction for Bicycle Parking.** Uncovered automobile parking spaces required for any nonresidential development may be substituted with bicycle parking, pursuant to the following:

1. One of every seven required automobile parking spaces, up to a maximum of two spaces, may be substituted with bicycle parking.

2. Six bicycle parking spaces shall be provided for each substituted automobile parking space.

3. Adequate maneuvering aisle shall be provided;

4. Bicycle parking spaces provided shall be consistent with the City Access and Parking Design Guidelines; and

5. The bicycle parking spaces shall be located as near as practical to the primary entrance of the main building or buildings.

E. **Reduction for Motorcycle Parking.** Uncovered automobile parking spaces required for any nonresidential development may be substituted with motorcycle parking, pursuant to the:

1. One of every 20 required automobile parking spaces up to a maximum of five spaces, may be substituted with motorcycle parking;
2. Two motorcycle parking spaces shall be provided for each substituted automobile parking space;
3. Adequate maneuvering aisle shall be provided;
4. Motorcycle parking spaces provided shall be consistent with the City Access and Parking Design Guidelines; and
5. The motorcycle parking spaces shall be located as near as practical to the primary entrance of the main building or buildings.

F. **Reduction for Parking Area Improvements.** The Community Development Director may approve a reduction of up to two required parking spaces for multiunit residential, nonresidential, or mixed-use development, in order to:

1. Provide appropriately screened and located trash and recycling areas,
2. Make an improvement to the existing circulation, safety or other required parking lot design and development standards, or
3. To provide parking lot landscaping in conformance with this Chapter.

This reduction is allowed only if the Community Development Director finds that no alternative methods for achieving the same result can be made without a reduction in parking spaces.

G. **Small Residential Unit Reduction.** Required off-street parking for any residential unit with 600 square feet or less of livable floor area, excluding covered parking, and no more than one bedroom, is one uncovered parking space per unit.

H. **Other Parking Reductions.** Required parking for any use may be reduced through approval of a Modification, pursuant to Chapter TBD, Modifications.

28.26.060 Location of Required Parking

A. **Residential Only Development.**

1. ***On-Site Parking Required.*** Required parking shall be located on the same lot as the dwelling unit served for all residential only development.
2. ***Front Setback.*** Required parking shall not be located within any front setback.
   a. *Additional Setback for Back-Out Parking.* Parking that backs out to the street shall be setback a minimum of 20 feet from the front property line.
3. ***Front Yard.*** Uncovered parking in the front yard is prohibited on any single-unit or two-unit residential development unless it is screened from public view.

Parking is considered "screened" when it is not visible looking perpendicular from any street. Such screening shall be approved by the appropriate Design Review Body.

4. ***Interior Setback.*** Required parking shall not be located within any interior setback, with the following exceptions:

   a. *Single-Unit Residential.* Where allowed pursuant to Section TBD, Covered Parking, uncovered parking may be located three feet from any interior lot line, provided a minimum of three feet in width of planting area shall be provided for the length of the paved parking area and driveway.

   b. *Multi-Unit Residential.* Uncovered parking may be allowed in an interior setback provided the required landscape buffer is provided per section TBD, Parking Area Landscape and Fence Standards.

B. **Nonresidential and Mixed-Use Development.**

1. ***Allowance for Off-Site Parking.*** Required parking for any nonresidential use, or residential uses in a mixed-use development, shall be on the same lot as the use served, or in an offsite facility, subject to approval by the Community Development Director, provided the following conditions are met:

   a. *Location.* Any offsite parking facility must be located within 500 feet, along a designated pedestrian route, of the principal entrance containing the use for which the parking is required. The Public Works Director may approve a distance of up to 1,250 feet for nonresidential uses only.

   b. *Assigned.* Offsite parking areas shall be assigned to the site with parking directional signs, both onsite and offsite.

   c. *Recorded Agreement.* A Recorded Agreement is required pursuant to section TBD, Recorded Agreements.

2. ***Front Setback.*** Required parking shall not be located within any required front setback.

3. ***Interior Setback.*** Uncovered parking may be allowed in an interior setback provided the required landscape buffer is provided per section TBD, Parking Area Landscape and Fence Standards.

C. **Automobile Overhang.** The automobile overhang is considered part of the parking space and shall not encroach into any sidewalk, roadway, setback, adjoining property lines, or reduce the clear area of walkways or access aisles.

28.26.070 Bicycle Parking

Bicycle parking shall be provided in accordance with the Building Code except where greater requirements are identified below.

A. **Bicycle Parking Spaces Required.** Each land use shall be provided at least the number of long term and short term bicycle parking spaces stated in Table TBD, Required Off-Street Parking and Bicycle Parking Spaces, unless a reduction is approved pursuant to Section TBD, Bicycle Parking Reductions. Long term bicycle parking is covered and secured, and intended for use by residents, employees or students for long time periods. Short term bicycle parking is conveniently located and intended for use by business patrons, visitors, and guests for a shorter time.

B. **Bicycle Parking Facility Design.** All bicycle parking facilities shall be designed and constructed consistent with the City Standards for Parking Design, as determined by the Public Works Director.

C. **Bicycle Parking Reductions.** The number, percentages, or other standards for required long term and short term bicycle parking spaces may be reduced or waived if the Public Works Director finds that:

1. Adequate site space is not available on an existing development to provide bicycle parking; or
2. Reduced bicycle parking is justified by reasonably anticipated demand; or
3. Other criteria based on unusual or specific circumstances of the particular case as deemed appropriate by the Public Works Director.

28.26.080 Parking Area Landscape and Fence Standards

A. **Landscaping.** Landscaping of parking areas shall be provided and maintained according to the standards of this Subsection for any multiunit residential, nonresidential or mixed-use development.

1. ***Licensed Architect Required.*** Landscape and irrigation plans shall be prepared by an architect or landscape architect registered in the State of California, unless waived by the Review Authority.
2. ***Perimeter Planter.*** Perimeter planting is required where a parking area is adjacent to a property line.
   a. *Front Lot Lines.* A landscaped buffer in compliance with one of the following methods shall be provided along all front property lines for the length of the parking area.
      i. A landscaped buffer with a minimum inside width of five feet and a wall or fence 42 inches in height, or
      ii. A landscaped buffer with a minimum inside width of eight feet.
   b. *Interior Lot Lines.* A landscaped buffer with a minimum inside width of five feet shall be provided along all interior property lines for the length of the parking area.

3. ***Driveway Planter.*** Driveways adjacent to onsite buildings must be separated from building walls by a planting area with a minimum inside width of three feet.

4. ***Island Planter.*** A landscaped island, at least four feet in all interior dimensions, and containing at least one tree, shall be provided at each end of each interior row of parking stalls and between every eight consecutive parking stalls.

5. ***Trees.***

   a. *Number Required.* One for each five parking spaces.

   b. *Distribution.* Trees shall be distributed relatively evenly throughout the parking area, in a planter at least four feet in all interior dimensions.

   c. *Size.* Two-thirds of the trees shall be a minimum 15gallon size, the rest of the trees shall be a minimum five-gallon size.

6. ***Protection and Maintenance of Vegetation.***

   a. *Clearance from Automobiles.* All required landscaped areas shall be designed so that plant materials, at maturity, are protected from automobile damage by providing a minimum two-foot clearance of low-growing plants where automobile overhang is permitted, or by wheel stops set a minimum of two feet from the back of the curb.

   b. *Planter Protection.* Required landscape areas shall be protected from vehicles by a physical barrier. The physical barrier shall be designed to allow stormwater runoff to pass through, unless an alternate stormwater runoff plan is approved. The planter shall also include an outlet structure (e.g. weir or atrium grate) for excess storm water to flow out of the planter and into the storm drain system.

   c. *Irrigation Plan Required.* A sprinkler system or drip irrigation system designed to provide complete coverage of all planted areas is required.

   d. *Maintenance.* All vegetation shown on an approved parking area landscape plan shall be maintained and shall not be altered or removed except as allowed pursuant to Chapters 22.11, Maintenance of Approved Landscape Plans, and 15.24, Preservation of Trees, of the Santa Barbara Municipal Code.

B. **Fences and Hedges.** A decorative fence or hedge shall be provided where parking areas or driveways abut property used or zoned for residential purposes.

1. The fence or hedge shall be six feet high except within the visibility triangle described in Section TBD, Visibility at Driveways and Intersections, where the maximum height is 42 inches.

2. A five-foot-wide planting area shall be provided along the interior side of the fence or hedge.

C. **Retaining Walls.** Retaining walls shall be set back a minimum of three feet from parking areas and driveways. Footing design shall allow for planting in the space between the parking area and retaining wall.

D. **Visibility.** Notwithstanding other provisions of this Section, fences, walls, screens, and landscaping must comply with Section TBD, Visibility at Driveways and Intersections.

E. **Alternative Landscape Designs.** Where an applicant can demonstrate to the satisfaction of the applicable Design Review body that variations in the requirements of this Section are warranted in order to provide relief for existing site constraints, or to achieve a superior aesthetic or environmental design, an alternative landscape design may be approved. However, no perimeter planter on any interior lot line in a residential zone or adjacent to a residential zone shall be reduced to less than three feet.

28.26.090 Parking Area Design and Development Standards

All parking areas shall be designed and developed consistent with the City Standard for Parking Design and the following standards as determined by the Public Works Director.

A. **Circulation and Safety.**

1. Visibility shall be assured for pedestrians, bicyclists, and motorists entering, circulating within and leaving a parking facility.
2. Parking lots shall be designed so that sanitation, emergency, and other public service vehicles can provide service without backing unreasonable distances or making other dangerous or hazardous turning movements.
3. Backing out onto a public street or sidewalk from a parking space shall be permitted only for Single-Unit and Two-Unit Residential, and where not more than four spaces are provided.
4. All turnaround movements shall be accomplished in one maneuver. One maneuver is considered to be one back up and one forward movement.
5. All parking spaces shall be clearly marked with paint or other similar distinguishable material, except spaces established in a garage or carport having not more than three spaces, or for Single-Unit Residential.

B. **Pedestrian Access.** Safe, accessible, direct and convenient off-street pedestrian circulation consistent with the City Access and Parking Design Guidelines shall be provided for all developments other than single-unit residential.

C. **Driveways.** Driveway access to the required off-street parking area shall be consistent with the City Access and Parking Design Guidelines and the California Fire Code as amended and adopted by ordinance of this City.

1. Driveways, fire lanes, or other required vehicular maneuvering areas in any parking lot shall not be used for parking of vehicles or other storage that prohibits access.

2. Circular driveways, multiple driveways, or motor courts in any setback are prohibited, unless determined necessary for safety or necessary to serve permitted parking spaces.

3. All driveways and turnarounds shall serve approved parking or loading areas only, and shall not exceed the minimum dimensions necessary for vehicular maneuvering. If a driveway or driveway approach is no longer necessary to serve an approved parking or loading area, all paving shall be removed, and the curb, gutter, and sidewalk shall be replaced to meet City Construction Standard Details.

D. **Loading.** In order to avoid undue interference with the public use of streets and alleys, off-street loading and unloading areas shall be provided for any use that employs valet parking and any other use where loading interferes with short-term or visitor parking, as determined by the Public Works Director.

E. **Tandem Parking.** Tandem parking may be permitted to satisfy the off-street parking requirement required by this Chapter in accordance with the following.

1. ***Residential Uses.***

a. *Multi-Unit and Mixed-Use Development.* Tandem parking for multiunit residential, or for residential uses in a mixed-use development, shall meet the following:

i. No more than two automobiles shall be placed one behind the other;

ii. Both automobile spaces parked in tandem shall be assigned to the same residential unit;

iii. Automobile movements necessary to move cars parked in a tandem arrangement shall not take place on any street or alley;

iv. Tandem parking shall not be used to meet the guest parking requirement; and

v. Vertical or stackable tandem parking, provided by means of mechanical lifts, is subject to approval by the Public Works Director. Mechanical lifts shall be fully enclosed within a structure and shall require a recorded maintenance agreement, pursuant to TBD, Recorded Agreements.

b. *Other Residential Uses.* For all other residential uses, tandem parking shall only be approved for existing development if the Public Works Director finds that the tandem parking is needed for flexibility on a constrained lot, and where tandem parking does not create a safety hazard or traffic impacts. If approved, no more than two automobile spaces shall be placed one behind the other, and both automobile spaces parked in tandem shall be assigned to the same residential unit. Tandem parking shall not be used to provide for the conversion of garage or carport spaces.

2. ***Nonresidential Uses.*** Tandem parking for nonresidential uses may be approved by the Public Works Director to satisfy the off-street parking required by this Chapter in accordance with the following:

   a. *Allowed Uses.* Limited to Hospitals and Clinics, Medical and Dental Offices, and Hotels and Extended Stay Hotels.

   b. *Minimum Number of Spaces.* Parking lots used for tandem parking shall contain a minimum of 20 parking spaces;

   c. *Design and Operation.* Shall be designed and operated in compliance with all standards in Subsection TBD, Valet Parking; and

   d. *Recorded Agreement Required.* A recorded agreement shall be executed establishing the valet parking will be maintained and reserved for the uses served for as long as such uses are in operation.

F. **Valet Parking.** Valet parking shall comply with all of the following:

1. Sites utilizing valet parking shall not use any street, alley, or City-owned parking facilities for automobile storage, pickup, drop-off, or interfere with any right-of-way without approval of the Public Works Director;

2. Vehicle movements in a tandem arrangement shall not take place on any street or alley;

3. The valet drop-off lanes, and any associated kiosks or other similar items, shall be located to allow for the safe and efficient function of the valet operation, in that it will neither adversely impact the parking and internal circulation of the parking lot, nor encroach into any required fire lane access area;

4. Valet parking shall not interfere with, reduce, remove, or utilize any parking spaces required for any other use; and

5. Sites utilizing valet parking shall ensure a parking attendant will be on duty at all times that the facility is in use, and sufficient staff and facilities to ensure that automobiles are moved for parking promptly. No automobile queuing or parking is allowed in travel lanes at any time. If the site is unable to meet the valet parking demand and queuing or double-parking occurs, the operation shall be temporarily closed, until the demand can be properly handled, and shall display a sign with the word "FULL" that is clearly visible to approaching traffic.

G. **Materials.** All required off-street automobile parking areas and driveways shall be fully hard surfaced with asphaltic concrete of minimum thickness of two inches, with four inches compacted base, or other techniques or materials providing equivalent service. Gravel, dirt, and other similar loose materials are prohibited in the driveway within 100 feet of any right-of-way.

H. **Waiver.** Any variation from the requirements of this Section must be approved pursuant to a waiver by the Public Works Director.

Temporary Uses

28.26.350 Temporary Uses

A. **Purpose.** The City recognizes that certain temporary uses can be a benefit to the community and should be allowed; provided that short-term negative effects, such as noise, lighting, parking, and traffic, are minimized. This section establishes standards for certain uses that are intended to be of limited duration of time and that will not permanently alter the character or physical facilities of the site where they occur.

B. **Limitations.** Any use allowances described in this Section do not override any use limitations placed on a lot pursuant to existing discretionary approvals. Temporary uses shall comply with all other applicable provisions of the Santa Barbara Municipal Code, including, but not limited to, the Sign Ordinance, the Outdoor Lighting Ordinance, applicable Building and Fire Codes, and any applicable design review of buildings or structures.

C. **Determination of Approval Required.** The Community Development Director shall determine if a particular use, structure, or event represents a variation from the normal operations of a legally recognized use on a lot and shall be subject to the requirements of this Section.

D. **Exempt Temporary Uses.** The following temporary uses are exempt from a permit or other approval.

1. ***Temporary Events Subject to Other City Temporary Use Permits.*** Temporary uses that are approved by other City Departments, such as a Parks and Recreation Permit, Parade Permit, or Circus and Carnival Permit, or similar permit or approvals, are exempt from a permit or approval under this Section.

2. ***Garage Sales.*** Residential garage or estate sales of personal property conducted by, or on behalf of, a resident of the premises may be conducted consistent with the following standards.

   a. *Number of Events.* A maximum of four times per 12-month period, per lot.

   b. *Duration.* A maximum of three consecutive days per event.

3. ***Non-Profit Fund Raising.*** Fund raising sales by a nonprofit organization may be conducted consistent with the following standards.

   a. *Zone.* Located in a nonresidential zone.

   b. *Number of Events.* A maximum of four times per 12-month period, per site.

   c. *Duration.* A maximum of three consecutive days per event.

   d. *Parking.* Parking spaces or loading areas required for other uses on the lot shall not be displaced.

e. *Obstructions.* The fund raising sale shall not obstruct the right-of-way, sight distances, building or site ingress or egress, or otherwise create hazards for vehicle or pedestrian traffic.

E. **Temporary Uses Requiring a Zoning Clearance.** The following types of temporary uses may be conducted with a Zoning Clearance pursuant to Chapter TBD, Zoning Clearance. A Zoning Clearance is required for each separate temporary use occurrence and expires at the conclusion of the individual use, activity, or event. Temporary uses in the Coastal (CZ) Overlay Zone shall also require either a Coastal Exemption or Coastal Development Permit pursuant to Chapter TBD, Coastal (CZ) Overlay Zone.

1. ***Temporary Structures.*** Temporary buildings, lighting, or other structures for a maximum of 12 months.

2. ***Seasonal Sales.*** The annual sales of holiday related items such as Christmas trees, pumpkins and similar items consistent with the following standards:

   a. *Zone.* Located in the CC, GC, CM, M1, or PD zone.

   b. *Duration.* A maximum of six weeks per holiday.

   c. *Number of Events.* A maximum of six times per 12-month period, per site.

   d. *Parking.* Parking spaces or loading areas required for other uses on the lot shall not be displaced.

   e. *Site Condition.* All items for sale, as well as signs and temporary structures, shall be removed within one week following the respective holiday, and the appearance of the site shall be returned to its original state.

3. ***Special Events and Sales.*** Other short term special events, outdoor sales, and displays consistent with the following standards:

   a. *Use Limitation.* Limited to nonresidential uses associated with an existing use on the same site.

   b. *Zone.* Located in a nonresidential zone.

   c. *Number of Events.* A maximum of six times per 12-month period, per site.

   d. *Duration.* A maximum of three consecutive days per event.

   e. *Time Limit.* Hours of operation occur between 8:00 a.m. and 9:00 p.m.

   f. *Surfacing.* If outdoors, located on a paved or concrete area on the same site as the structure(s) containing the use with which the event is associated.

   g. *Parking.* Parking spaces or loading areas required for other uses on the lot shall not be displaced, except as provided below.

h. *Spaces not Being Used.* Required parking spaces for existing nonresidential uses may be displaced if the existing nonresidential use is not open during the event.

i. *Offsite Parking.* Equivalent replacement parking spaces are provided offsite in an existing paved, permitted parking lot approved by Transportation Manager.

j. *Obstructions.* The event shall not obstruct the right-of-way, sight distances, building or site ingress or egress, or otherwise create hazards for vehicle or pedestrian traffic.

k. *Accessibility/Americans with Disabilities Act.* The event must comply with all applicable accessibility requirements and the Americans with Disabilities Act.

l. *Site Condition.* The appearance of the site shall be returned to its original state, including the removal of all signs and temporary structures, within one week following the event.

4. ***Mobile Food Vendors.*** Mobile Food Vendors on private property located and operated in compliance with the following standards.

a. *Use and Zone.* Mobile Food Vendors may only operate in nonresidential zones, on lots developed with nonresidential uses.

b. *Number.* Maximum one truck per day per parking lot.

c. *Duration.* Maximum four hours per day per parking lot. No lot may have a mobile food vendor onsite for more than 90 days total in any 12-month period.

d. *Distance.* No mobile food vendor on private property shall operate closer than a 500-foot radius from another mobile food vendor operating on private property.

e. *Setback.* Mobile food vehicles shall maintain a minimum 10-foot front setback from any right-of-way, for site visibility.

f. *Required Parking.* No parking spaces are required for a Mobile Food Vendor that meets all of the standards under this section.

g. *Displaced Parking.* Unless otherwise allowed in this Section, Mobile Food Vendors may not eliminate any parking spaces required for any existing uses on the same lot. Required parking spaces for an existing nonresidential use may be displaced if the existing nonresidential use is not open during the event.

h. *Location.* Mobile food vehicles used by vendors shall not be permitted as a permanent or proprietary location on any property within the City. Vehicles shall not be left unattended at any time, or be left onsite when inactive or stored overnight.

i. *Obstructions.* Location and operation including customers, seating, and equipment, shall not obstruct the right-of-way, sight distances, or otherwise create hazards for vehicle or pedestrian traffic. The location shall comply with applicable accessibility requirements and the Americans with Disabilities Act.

j. *Allowed Products.* Operations are limited to the sales of food and beverages for immediate consumption.

k. *Allowed Vehicles.* Operations shall only be conducted from a motor vehicle, or vehicle with a trailer consistent with State law and County Health Department approvals. Other types of food vending from a temporary structure such as a push cart, standalone trailer, or kiosk are not allowed under this Title.

l. *Nuisance.* Mobile Food Vendors shall be responsible for keeping the area clean of any litter or debris and shall provide trash receptacles for customer use on site. No vendor shall ring bells, play chimes, play an amplified musical system, or make any other notice to attract attention to its business while operating within city limits. The use of prohibited or unpermitted signs for mobile food vendors is not allowed.

F. **Temporary Uses Requiring a Performance Standard Permit.** Temporary uses that do not meet certain standards to be considered exempt or allowed pursuant to Zoning Clearance may be permitted with a Performance Standard Permit pursuant to Chapter TBD, Performance Standard Permit, as follows.

1. ***Additional Allowances.*** The Staff Hearing Officer may allow additional allowances for the following standards.

a. *Use Limitation.*

b. *Zone.*

c. *Number of Events.* Up to 12 times per 12-month period, per site. A Performance Standard Permit approval may authorize multiple occurrences of a temporary use provided all occurrences are conducted within a 12-month period. Conditional Use Permit approval is required for temporary uses that occur over multiple years.

d. *Duration.* Up to 11 consecutive days per event.

e. *Time Limit.*

f. *Surfacing.*

g. *Parking Displacement.* A parking analysis may be used to establish the number of parking spaces required for all uses for the duration of the event.

h. *Obstructions.*

i. *Mobile Food Vendors.*

2. ***Required Findings.*** The Staff Hearing Officer may approve or conditionally approve an application for a Performance Standard Permit only upon making of the following findings in addition to any other findings required pursuant to this Title:

   a. The proposed use will not unreasonably affect adjacent properties, their owners or occupants, or the surrounding neighborhood, and will not in any other way constitute a nuisance or be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the area of such use or to the general welfare of the City; and

   b. The proposed use will not unreasonably interfere with pedestrian, bicycle or vehicular traffic or circulation in the area surrounding the proposed use, and will create a demand for additional parking that cannot be safely and efficiently accommodated by existing parking areas.

3. ***Conditions of Approval.*** The Staff Hearing Officer may impose reasonable conditions deemed necessary to ensure compliance with the findings listed in Section TBD, Required Findings, above, including, but not limited to: regulation of ingress and egress and traffic circulation; fire protection and access for fire vehicles; regulation of lighting, noise and odors; regulation of hours and/or other characteristics of operation; and removal of all trash, debris, signs, sign supports and temporary structures and electrical service and returning the site to its original condition. The Staff Hearing Officer may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.

G. **Temporary Uses Requiring a Conditional Use Permit.**

1. A Conditional Use Permit is required for any temporary use that would affect persons or property owners other than those entitled to notice.

2. A Conditional Use Permit is required for any temporary use that will occur on the same site more than 12 times per year or that will occur over multiple years.

H. **Interim Governmental Displacement Use.** Any interim use deemed appropriate by the Planning Commission in those areas identified by resolution of the City Council as impacted by governmental action may be allowed through Conditional Use Permit approval pursuant to Chapter TBD, Conditional Use Permits. Interim uses and any authorization granted by the Conditional Use Permit shall be limited in duration as specified by the Planning Commission.