

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA ADDING CHAPTER 28.20 TO THE SANTA BARBARA MUNICIPAL CODE TO IMPLEMENT THE CITY'S 2011 GENERAL PLAN AVERAGE UNIT-SIZE DENSITY INCENTIVE PROGRAM; AMENDING SECTION 28.43.040 REGARDING EXEMPTIONS TO THE CITY'S INCLUSIONARY ORDINANCE; AMENDING SECTIONS 28.66.050, 28.69.050, 28.72.050, AND 28.73.050 CONCERNING BUILDING HEIGHT STANDARDS FOR COMMUNITY BENEFIT PROJECTS IN THE C-2, C-M, M-1, AND OM-1 ZONES; AND AMENDING SECTION 28.87.062 CONCERNING ENCROACHMENTS IN OPEN YARDS.

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 28 of the Santa Barbara Municipal Code is amended by adding a new Chapter 28.20, to read as follows:

Chapter 28.20
Average Unit-Size Density Incentive Program.

Section 28.20.010 Purpose.

The Average Unit-Size Density Incentive Program carries out a key program directed by the 2011 General Plan. The Program facilitates the construction of smaller housing units by allowing increased density and development standard incentives in selected areas of the City. Housing types that provide housing opportunities to the City's workforce are encouraged and facilitated by the program. The Average Unit-Size Density Incentive Program will be in effect for a trial period of either eight years or until 250 residential units have been constructed in the areas designated for High Density residential [as defined in SBMC §28.20.060(B)] or the Priority Housing Overlay[as defined in SBMC §28.20.060(C)], as shown on the City's Average Unit-Size Density Incentive Program Map whichever occurs earlier.

Section 28.20.020 Definitions.

For purposes of this Chapter 28.20, the following words or phrases shall have the respective meanings assigned to them in the following definitions unless, in a given instance, the context in which they are used indicates a different meaning:

A. Affordable Housing. Residential units that are sold or rented at values defined as being affordable by the City of Santa Barbara's Affordable Housing Policies and Procedures, as such policies and procedures may be approved by the City Council from time to time.

B. Average Unit Size. The total of the net floor area of each of the residential units in a project and divided by the number of residential units in that project.

C. Community Benefit Housing. Residential development that has a public benefit including the following housing types:

1. Priority Housing;
2. Housing affordable to low, moderate, or middle income households as defined in SBMC Chapter 28.43; and
3. Transitional Housing, affordable efficiency dwelling units (as described in Section 28.87.150 of this Code), and Supportive Housing which supports special needs populations such as housing for seniors, the physically or mentally disabled, the homeless, or children aging out of foster care.

D. Employer-Sponsored Housing. Residential units which are developed, owned, maintained, and initially sold or rented to employees of a local Employer (or group of employers) where each residential unit is occupied as a primary residence (as defined by federal income tax law) by a household that includes at least one person who works on the south coast region of Santa Barbara County.

E. Net Floor Area. For purposes of this Average Unit-Size Density Program, net floor area is the area in square feet of all floors confined within the exterior walls of a residential unit, but not including the area of the following: exterior walls, vent shafts, courtyards, garages, carports, common areas not controlled by the occupant of an individual residential unit, and any areas with a ceiling height of less than five (5) feet above the finished floor. In addition, the area occupied by stairs or an elevator shaft within the exterior walls of a residential unit shall be counted only on one floor of the residential unit.

F. Limited-Equity Housing Cooperative. A corporation organized on a cooperative basis that meets the requirements of

state Civil Code § 817 and which restricts the resale price of the cooperative's shares in order to maintain a specified level of affordability to any new shareholder.

G. Local Employer. A person, business, company, corporation or other duly formed legal entity which employs persons whose primary place of employment is located within the South Coast region of Santa Barbara County.

H. Priority Housing. Priority Housing includes the following three categories of housing: 1. Employer-Sponsored Housing; 2. Limited-Equity Housing Cooperatives; and 3. Rental Housing.

I. Rental Housing. Housing developed and maintained as multiple dwelling units on the same lot for occupancy by separate households pursuant to a lease on other rental agreements where all dwelling units are owned exclusively by the same legal entity.

J. Supportive Housing. As defined in state Health and Safety Code Section 50675.14(b)(2).

K. Transitional Housing. That type of Supportive Housing that is re-circulated to other eligible program participants as specified and defined in state Health and Safety Code Section 50675.2(h).

Section 28.20.030 Permitted Zones for the Program.

The Average Unit-Size Density Incentive Program as established herein is a density incentive program available in the following zones of the City: R-3, R-4, HRC-2, R-O, C-P, C-L, C-1, C-2, C-M, and OC Zones, as shown on the City of Santa Barbara Average Unit-Size Density Incentive Program Map attached hereto as Exhibit A. The fact that a lot may be subject to an overlay zone, including, but not limited to, the S-D-2 or S-D-3 Overlay Zones, does not preclude the application of the Average Unit-Size Density Incentive Program on that lot if the Average Unit-Size Density Incentive Program is otherwise allowed in the base zoning of that lot. Development Projects developed in accordance with the provisions of the Average Unit-Size Density Incentive Program shall comply with the development standards specified in this Chapter 28.20.

Section 28.20.040 Program Duration.

A. Initial Program Period. The Average Unit-Size Density Incentive Program shall have an initial duration of eight years after the effective date of the ordinance codifying this Chapter or until 250 new residential units under this program are constructed (as evidenced by the issuance of a Certificate of Occupancy) within the areas of the City designated for High Density Residential or the Priority Housing overlay (as shown on the City of Santa Barbara Average Unit-Size Density Incentive Program Map attached to this Chapter as Exhibit A) whichever occurs sooner.

B. Exclusion of Low and Very Low Housing Units. Housing projects that are affordable to low-income and very low-income households, as defined in the City's Affordable Housing Policies and Procedures, will not count towards the 250 unit Program limit established in subsection A above.

C. Pending Applications. Any application for new development that is deemed complete prior to the expiration of the Program term established in subsection A or the issuance of the certificate of occupancy for the 250th residential unit (whichever occurs sooner) may continue to be processed and potentially approved under the Average Unit-Size Density Incentive Program.

Section 28.20.050 Status of R-3 and R-4 Residential Density.

Notwithstanding the provisions of SBMC Section 28.21.080 of this Title, for the duration of the Average Unit-Size Density Incentive Program established in Section 28.20.040(A) above, the following incentive program is available regarding the residential density of new development projects in zones of the City which otherwise would apply the R-3 residential density:

A. Average Unit-Size Density Incentive Program. Projects developed in accordance with the provisions of the Average Unit-Size Density Incentive Program established in Section 28.20.060 hereof are exempt from the standard R-3 residential density provisions specified in Subsections B through E of Section 28.21.080 of this Title.

B. Variable Density. The variable density provisions specified in Subsection F of Section 28.21.080 of this Code shall be suspended for the period of time the Average Unit-Size Density Incentive Program established by this Chapter is

available. Projects developed or approved in accordance with the terms of variable density prior to the effective date of this Chapter shall remain legal conforming land uses. During the suspension of Subsection F of SBMC Section 28.21.080, alterations and additions to variable density projects are permitted provided the alterations or additions do not add new residential units or add bedrooms to existing residential units in excess of the number of bedrooms that could have been developed on the real property under the Variable Density Program.

C. Development of Affordable Housing. Projects that meet the affordability criteria of the State Density Bonus Law or the City's Affordable Housing Policies and Procedures may continue to propose development pursuant to the density incentives established in Section 28.87.400 of this Title.

Section 28.20.060 Average Unit Size Density Incentives.

The Average Unit-Size Density Incentive Program offers project applicants dwelling unit density incentives as alternatives to the base residential densities specified for the particular City zones in which the program is available. The Average Unit-Size Density Incentive Program consists of three density tiers which may apply based upon the City's General Plan land use designation for the lot and the nature of the development being proposed as follows:

A. Medium-High Density. The Medium High density tier applies to those lots with a City General Plan land use designation of Medium High density residential. The Medium-High density tier allows the development of projects at residential densities ranging from fifteen (15) to twenty-seven (27) dwelling units per acre. The maximum average unit-size within the Medium-High density tier varies from 1,450 square feet of floor area to 905 square feet of floor area, depending upon the number of units per acre being developed, as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit B and incorporated by this reference as though fully set forth herein.

B. High-Density. The High-Density tier applies to those lots with a City General Plan land use designation of High-Density residential. The High-Density tier allows the development of projects at residential densities ranging from twenty-eight (28) to thirty-six (36) dwelling units per acre. The maximum average unit-size within the high density tier varies from 1,245 square

feet of floor area to 970 square feet of floor area, depending upon the number of units per acre being developed, as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit B.

C. Priority Housing Overlay. The Priority Housing Overlay applies to lots within the City with a City General Plan land use designation of High-Density residential and lots zoned C-M (regardless of the General Plan land use designation) as shown on the City of Santa Barbara Average Unit-Size Density Incentive Program Map attached to this Chapter as Exhibit A. The Priority Housing Overlay allows the development of projects at residential densities ranging from thirty-seven (37) to sixty-three (63) dwelling units per acre. The maximum average unit-size within the Priority Housing Overlay varies from 970 square feet of floor area to 811 square feet of floor area, depending upon the number of units per acre being developed, as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit B. The Priority Housing Overlay is only available for Rental Housing, Employer-Sponsored Housing, or Limited-Equity Cooperative Housing. A project developed under the Priority Housing Overlay may have a mixture of Priority Housing categories (i.e., a portion of the project may be Rental Housing while another portion of the project may be Employer-Sponsored housing.)

D. Process to Establish Priority Housing. For the purposes of this Chapter, the different forms of Priority Housing shall be established in the following manner:

- 1. Employer-Sponsored Housing.** In order to qualify for the density incentives allowed under the Average Unit-Size Density Incentive Program, the applicant for a proposed Employer Sponsored Housing project should typically propose a project which contains a range of dwelling unit sizes and which offers a range of rents or purchase prices some of which are affordable to a household earning 200% of the Area Median Income or less at the time of the initial occupancy of the project. The owner of an approved Employee Sponsored Housing project must record a written instrument against the real property, in a form acceptable to the City Attorney, by which the employer sponsor(s) that owns the real property agrees to limit the occupancy of each residential unit to a household who occupies the unit as their primary residence and which includes at least one person who is primarily employed at a place of employment located

within the south coast region of Santa Barbara County for as long as the property is developed and maintained at the incentive densities.

2. Limited Equity Housing Cooperative. In order to qualify for the density incentives provided under the Average Unit-Size Density Program, all of the dwelling units within the limited-equity housing cooperative must be affordable to households earning up to 250% of the Area Median Income measured at the time of purchase, as affordability is defined in the City's Affordable Housing Policies and Procedures and a covenant containing this requirement (in a form acceptable to the City Attorney) shall be recorded against the real property to this effect.

3. Rental Housing. In order to qualify for the Priority Housing Overlay density incentives allowed under the Average Unit-Size Density Incentive Program, the owner of real property developed with rental housing must record a written covenant, in a form acceptable to the City Attorney, by which the owner agrees to maintain the rental housing use for as long as the property is developed and maintained at the incentive densities provided for in this Chapter.

E. Dwelling Unit Sizes. The unit sizes shown in the Average Unit-Size Density Incentive Program Table are the maximum average unit sizes allowed for the corresponding residential densities specified in the applicable density tier. Projects may be developed under the Average Unit-Size Density Incentive Program at a residential density that is greater than the base density for the zone in which the lot is located, but at a residential density that is less than the density range specified in the density tier assigned to the lot by its City General Plan land use designation. However, the average unit size of any project that is developed at a residential density which exceeds the SBMC Chapter 28.21 base density for the zone in which the lot is located through the application of the Average Unit-Size Density Incentive Program may not exceed the maximum average unit size for the applicable residential density tier as specified in the Average Unit-Size Density Incentive Program Table attached to this Chapter as Exhibit A.

Section 28.20.065 Average Unit Size and Inclusionary Housing Projects.

If a project developed in accordance with the Average Unit-Size Density Incentive Program of this Chapter is required to comply with the City's Inclusionary Housing Ordinance (SBMC Chapter 28.43) and if the owner of the Project elects to provide the inclusionary units on-site as part of the project (as opposed to paying the allowed in-lieu fee allowed by SBMC Chapter 28.43), the increased number of dwelling units to which the owner is entitled under SBMC Chapter 28.43 shall also comply with the maximum average unit size for the base density of the project under the Average Unit-Size Density Incentive Program.

Section 28.20.070 Additional Development Incentives.

A. Development Standards Generally. In order to further encourage the development of projects in accordance with the provisions of this Average Unit-Size Density Incentive Program, the development standards listed in this Section 28.20.070 are allowed for those projects developed and maintained in accordance with the Average Unit-Size Density Incentive Program. Except as otherwise specified in this Section, projects developed in accordance with the provisions of the Average Unit-Size Density Incentive Program shall otherwise comply with the development standards applicable to the base zone in which the lot is located.

B. Market Rate Ownership Projects within the S-D-2 Overlay Zone. Projects developed with market rate ownership units on lots with a City General Plan land use designation of Medium-High Density within the S-D-2 overlay zone shall comply with S-D-2 zone development standards as required by Section 28.45.008 of this Title.

C. Building Height. Projects developed and maintained in accordance with the Average Unit-Size Density Incentive Program shall conform to the building height standards specified within the zone in which the lot is located, except that Average Unit-Size Density Incentive Program projects in the R-3, R-4, HRC-2, R-O, C-P, C-L, C-1, S-D-2, and OC Zones may be built with up to four stories so long as such buildings do not exceed a maximum of 45 feet in building height provided, however, that projects developed with market rate ownership units on lots with a City General Plan land use designation of Medium-High Density and subject to the S-D-2 overlay zone shall comply with S-D-2 zone

building height and building story limitations of Section 28.45.008 of this Title.

D. Setbacks. Projects developed and maintained in accordance with the Average Unit-Size Density Incentive Program shall observe the following building setback standards:

1. R-O, C-P, C-L, C-1, C-2, C-M, and S-D-2 Zones. Projects developed in accordance with the Average Unit-size Density Incentive Program in the R-O, C-P, C-L, C-1, C-2, C-M, and S-D-2 Zones shall observe the following building setback standards:

a. Front Setback.

i. State Street and First Blocks of Cross Streets.

Projects on lots fronting State Street between Montecito Street and Sola Street and lots fronting the first block east or west of State Street on streets that cross State Street between and including Montecito Street and Sola Street shall not be required to provide a front building setback.

ii. Commercially Zoned Lots Subject to the S-D-2 Overlay Zone. Projects developed on commercially zoned lots within the S-D-2 overlay zone shall observe a front setback of ten (10) feet provided, however, that projects on commercially zoned lots in the Medium-High Density designation and developed with market rate ownership units shall observe the front setback standards of the S-D-2 overlay zone required by Section 28.45.008 of this Title.

iii. All Other Lots. Projects on lots that do not front on the streets specified in Section 28.20.070(B)(1)(a)(i) shall observe the following front building setback standard: A uniform front setback of five (5) feet shall be provided except where that portion of the structure which intrudes into the required five (5) foot front setback is appropriately balanced with a front building setback area that exceeds the minimum five (5) foot front setback. The additional compensating setback area shall not be located farther from the adjacent front lot line than one half of the length of the front lot line.

b. Interior Setback Adjacent to Nonresidential Zone. No interior setback is required for those projects adjacent to a non-residential zone, provided, however, that projects on commercially zoned lots in the Medium-High Density designation within the S-D-2 overlay zone and developed with market rate

ownership units shall observe the interior setback standards required by the applicable base zone.

c. Interior Setback Adjacent to Residential Zone. A uniform interior setback of six (6) feet shall be provided except for those projects where that portion of the structure which intrudes into the required six (6) foot interior setback is appropriately balanced with an interior setback area that exceeds the minimum six (6) foot interior setback, provided, however, that projects developed on commercially zoned lots in the Medium-High Density designation within the S-D-2 overlay zone and developed with market rate ownership units shall observe the interior setback standards required by the applicable base zone.

2. R-3 and R-4 Zones. Projects on lots developed in accordance with the Average Unit-size Density Incentive Program in the R-3 and R-4 Zones (except for market rate ownership projects within the S-D-2 overlay zone) shall observe the following building setbacks:

a. Front Setback. A front setback of not less than the indicated distance indicated below shall be provided between the front lot line and all buildings, structures, and parking areas on the lot as follows:

- i. One or two story buildings or structures: ten (10) feet
- ii. Three or more story buildings or structures:
 - (1) Ground floor portions: ten (10) feet
 - (2) Second story portions: ten (10) feet
 - (3) Third or more story portions: twenty (20) feet
 - (4) Parking: As required by Sections 28.21.060.A.3 & 28.21.060.A.4 of this Title.

b. Interior Setback. An interior setback of not less than the distance indicated below shall be provided between the interior lot line and all buildings, structures, and parking on the lot as follows:

- i. One or two story buildings or structures: six (6) feet
- ii. Three or more story buildings or structures
 - (1) Ground floor portions: six (6) feet
 - (2) Second story portions: six (6) feet
 - (3) Third or more story portions: ten (10) feet

- (4) Garages, carport or uncovered parking: As required by Section 28.21.060.B.3. of this Title.

c. Rear Setback. A rear setback of not less than the indicated distance shall be provided between the rear lot line and all buildings, structures, and parking on the lot as follows:

- i. Ground floor portions: six (6) feet
- ii. Second story portions: ten (10) feet
- iii. Third or more story portions: ten (10) feet
- iv. Garage, carport, or uncovered parking: three (3) feet.

3. HRC-2 and O-C Zones. Lots developed in accordance with the Average Unit-Size Density Incentive Program in the HRC-2 and OC Zones shall observe the setback standards required by the applicable base zone.

E. Distance Between Buildings on the Same Lot.

No main building (as defined in SBMC section 28.04.145) shall be closer than ten feet (10) to any other main building on the same lot, provided, however, that projects on lots in the Medium-High Density designation subject to the S-D-2 overlay zone and developed with market rate ownership units shall observe the building separation standards required by the applicable base zone.

F. Parking.

As an alternative to the residential parking requirements specified in Subsections G and H of Section 28.90.100 of this Title, projects developed under the Average Unit-Size Density Incentive Program may observe the following residential parking requirements, provided, however, that projects on lots in the Medium-High Density designation subject to the S-D-2 overlay zone and developed with market rate ownership units shall observe the parking requirements required by the applicable base zone:

- 1. Residential Units.** A minimum of one covered or uncovered parking space shall be provided for each residential unit.
- 2. Bicycle Parking.** A minimum of one covered and secured bicycle parking space shall be provided for each

residential unit.

3. **Guest Parking.** Guest parking is not required.
4. **Other Parking Standards.** Other than the residential parking requirements specified in Subsections G and H of Section 28.90.100, projects developed under the Average Unit-Size Density Incentive Program shall observe the parking standards specified in Chapter 28.90 of this Title.

G. Outdoor Living Space.

Projects developed in accordance with the Average Unit-Size Density Incentive Program shall provide outdoor living space in accordance with the provisions of the R-3/R-4 Zone as stated in Section 28.21.081 of this Title with the following exceptions:

1. All projects on lots in the Medium-High Density designation within the S-D-2 overlay zone and developed with market rate ownership units shall observe the Outdoor Living Space requirements specified by the applicable base zone.
2. All projects in commercial zones electing to provide outdoor living space pursuant to the Private Outdoor Living Space Method specified in Subsection A of SBMC Section 28.21.081 are required to provide both the Private Outdoor Living Space specified in SBMC Section 28.21.081(A)(1) and the Common Open Area specified in SBMC Section 28.21.081(A)(3). Projects developed under the Average Unit-Size Density Incentive Program which elect to provide outdoor living space pursuant to the Private Outdoor Living Space Method of SBMC Section 28.21.081 (A)(1) may, but are not required to, provide the Open Space specified in SBMC Section 28.21.081(A)(2).
3. All projects in commercial zones electing to provide outdoor living space pursuant to the Common Outdoor Living Space Method specified in Subsection B of SBMC Section 28.21.081 shall provide common outdoor living space in accordance with Subsection B of that Section. In addition, for projects developed in accordance with the Average Unit-Size Density Incentive Program, the required common outdoor living space may be located at either grade or on any floor of the building(s), notwithstanding SBMC Section 28.21.081(B)(4) to the contrary.

SECTION 2. Section 28.21.081 of Chapter 28.21 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

Section 28.21.081 Outdoor Living Space.

Every lot in this zone shall provide outdoor living space in accordance with either of the following methods:

A. Private Outdoor Living Space Method. Lots providing outdoor living space in accordance with this method shall provide each of the spaces described in paragraphs 1-3 below:

1. Private Outdoor Living Space. Private outdoor living space shall be provided for each dwelling unit as follows:

a. Minimum size. The private outdoor living space shall be not less than the size specified below based on the number of bedrooms in the dwelling unit and the location where the private outdoor living space is provided:

- (1) Ground floor:
 - (a) Studio unit - 100 square feet
 - (b) 1 Bedroom unit - 120 square feet
 - (c) 2 Bedroom unit - 140 square feet
 - (d) 3 or more Bedroom unit - 160 square feet
- (2) Second or higher story:
 - (a) Studio unit - 60 square feet
 - (b) 1 Bedroom unit - 72 square feet
 - (c) 2 Bedroom unit - 84 square feet
 - (d) 3 or more Bedroom unit - 96 square feet

b. Minimum Dimensions. The private outdoor living space shall have minimum dimensions as specified below, measured in perpendicular directions based on the location where the private outdoor living space is provided:

- (1) Ground floor: 10 feet
- (2) Second or higher story: 6 feet

c. Connectivity. Private outdoor living space shall be contiguous to and accessible from the dwelling unit for which it is provided.

d. Multi-story dwelling units. Dwelling units that occupy more than one story may provide the required private outdoor living space on any story.

e. Allowed amenities. Private outdoor living space may include planter areas totaling no more than fifty (50) square feet, patio areas, balconies, and decks.

f. Exclusions. Private outdoor living space shall not include stairs, entrance decks, or landings. In addition, private outdoor living space shall not include areas located under eaves, balconies, or other cantilevered architectural or building projections not providing additional floor area where the vertical clearance under the architectural or building projection is less than seven feet.

g. Allowed setback encroachments. Private outdoor living space may encroach into setbacks as follows:

(1) Private outdoor living space provided on grade may encroach into interior and rear setbacks up to the property line.

(2) Private outdoor living space provided on grade may be located up to ten (10) feet from the front lot line, subject to the following conditions:

(a) The area of the private outdoor living space located in the front yard may not exceed more than 50% of the front yard area, excluding driveways.

(b) The private outdoor living space provided in the front yard shall be enclosed by a solid fence having a minimum height of five (5) feet and a maximum height of six (6) feet. The exterior of the fence shall be landscaped. However, the design review body that reviews the project may reduce or waive the requirement for a fence or landscaping in order to preserve substantial views from the unit being served by the private outdoor living space or if the area does not abut a street.

2. Open Space. In addition to all setbacks, every lot satisfying the outdoor living space requirement in accordance with this private outdoor living space method shall provide on grade open space of an area not less than ten percent (10%) of the net lot area in accordance with the provisions of this paragraph 2. The intent of this provision is to provide relief from building volume, driveways and parking beyond that afforded by setbacks.

a. **Examples of Permitted Open Space Improvements.**

The required open space may consist of landscaped or hardscaped areas unobstructed from the ground upwards, including, but not limited to:

- (1) Walks,
- (2) Patios,
- (3) Planted areas,
- (4) Decks no more than 18" above grade at all points,
- and
- (5) Swimming pool areas.

b. **Examples of Open Space Improvements Not**

Permitted. The required open space shall not consist of the following:

- (1) Garages,
- (2) Carports,
- (3) Driveways,
- (4) Loading areas,
- (5) Parking and turnaround areas,
- (6) Balconies,
- (7) Porches,
- (8) Decks higher than 18" above grade at any point,
- (9) Roof decks, or
- (10) Areas located under trellises, arbors, eaves, balconies, bay windows, window seats, or other cantilevered architectural or building projections not providing additional floor area where the vertical clearance under the structure or architectural or building projection is less than seven feet.

3. Common Open Area. The common open area requirement specified in this Paragraph 3 shall only apply to lots developed with four (4) or more dwelling units. Every lot satisfying the outdoor living space requirement in accordance with this private outdoor living space method shall provide a common open area in accordance with this paragraph 3. The common open area shall have a minimum dimension of fifteen (15) feet measured in perpendicular directions and shall be accessible to all dwelling units on the lot. The common open area may be located on grade, on the second or higher story, or on a roof deck. On grade common open area may include portions of the interior setback or rear setback. On grade common open area may include portions of any remaining front yard, but shall not include any portion of the front setback. The common open area required in this paragraph 3 may be counted as part of the open space required in paragraph 2 as long as the other conditions of paragraph 2 are

satisfied.

B. Common Outdoor Living Space Method. Lots providing outdoor living space in accordance with this method shall provide common outdoor living space in accordance with the following:

1. Accessibility. The common outdoor living space shall be accessible to all dwelling units on the lot.

2. Minimum Size. The common outdoor living space shall consist of at least fifteen percent (15%) of the net lot area.

3. Minimum Dimensions. The common outdoor living space may be provided in multiple locations on the lot, but at least one location shall have a minimum dimension of twenty (20) feet measured in perpendicular directions.

4. Location. Common outdoor living space must be located on grade. On grade common outdoor living space may be located in an interior setback or rear setback. On grade common outdoor living space may be located in the remaining front yard but shall not include any portion of the front setback.

5. Exclusions. Common outdoor living space shall not include any of the following areas:

a. Areas designed for use by motor vehicles, including, but not limited to, driveways, parking, and turnaround areas.

b. Areas located under trellises, arbors, eaves, balconies, bay windows, window seats, or other architectural or building projections not providing additional floor area where the vertical clearance under the structure or architectural or building projection is less than seven feet.

SECTION 3. Section 28.21.120 of Chapter 28.21 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

Section 28.21.120 Public Street Requirements.

A. When any person proposes to construct one (1) or more multiple-family dwellings, wherein the number of dwelling units is controlled by Section 28.20.060, on a lot or combination of lots, the size, shape, dimensions or topography of which, in relation to existing abutting public streets, require that there

be an adequate access or internal circulation roadway for vehicular traffic including but not limited to emergency vehicles and equipment traffic, the City's Chief Building Official may, prior and as a condition to the issuance of a building permit for such dwelling or dwellings, require the submission by the owner or applicant of a plot plan of such lot or combination of lots showing the location of all existing buildings and all buildings proposed to be constructed thereon and showing the location, width, and extent of improvements of an adequate access or internal circulation roadway thereon designed to connect with the abutting public street or streets.

The term adequate access or internal circulation roadway shall mean a dedicated public street established and improved to City standards and so located as to provide convenient and orderly traffic movement, ingress and egress and circulation upon, through and within the lot or combination of lots in relation to abutting streets, the multiple-family dwelling or dwellings, and the off-street parking areas required in connection with such dwelling or dwellings.

The plot plan and adequate access or internal circulation roadway shall be required by the Chief Building Official where:

1. The lot or combination of lots which is the site of the proposed construction exceeds five (5) acres; or
2. The maximum possible number of dwelling units which could be constructed on such lot or combination of lots, pursuant to Section 28.20.060 exceeds one hundred (100); or
3. Any portion of a multiple-family dwelling proposed to be constructed on the lot or combination of lots will be more than two hundred and fifty feet (250') from the right-of-way line of an abutting street.

When none of the three (3) foregoing categories are applicable to the lot or combination of lots, the adequate access or internal circulation roadway as defined herein shall not be required where the lot or combination of lots abut on a previously dedicated street or streets and where the private driveway access from the nearest entry to the required off-street parking area to the point of connection with such street or streets does not exceed one hundred and fifty (150) lineal feet.

B. When the plot plan required by the Chief Building Official

is filed, the building official shall forthwith submit the same to the Community Development Department and the Public Works Department for investigation, report and recommendation. Such reports and recommendations shall be submitted to the Planning Commission for hearing at its earliest convenience, and such Planning Commission shall, following such hearing, approve, modify or reject such proposed adequate access or internal circulation roadway in respect to location and connection with existing abutting street or streets.

C. The owner or applicant may appeal any decision of the Planning Commission to the City Council in the manner provided by Chapter 1.30 of this Code.

D. Following approval by the Planning Commission or the City Council, as the case may be, of the proposed adequate access or internal circulation roadway shown on the plot plan, the owner or applicant shall:

1. By formal instrument offer to dedicate said proposed roadway as a public street; and

2. Either complete the required improvement of such public street to the satisfaction of the City Engineer or agree to complete such improvement within a period of one (1) year, such agreement to be secured by a good and sufficient surety bond in a principal sum equivalent to the estimated cost of such public street on the basis of estimates to be provided by the Department of Public Works, and conditioned on final completion of the construction of said street.

E. Upon completion of such public street improvement to the satisfaction of the City Engineer, or the execution and acceptance of an agreement to complete, secured by bond, a building permit shall then be issued if the requirements of other applicable ordinances have been met. The offer of dedication shall continue until and shall not be accepted until the required improvements have been completed to the satisfaction of the City Engineer.

SECTION 4. Section 28.43.040 of Chapter 28.43 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

28.43.040 Exemptions.

A. **PROJECTS EXEMPTED FROM INCLUSIONARY REQUIREMENTS.** The requirements of this Chapter shall not apply to the following

types of development projects:

1. **Rental Units.** A project constructing Dwelling Units which may not be separately owned, transferred, or conveyed under the state Subdivision Map Act.

2. **Casualty Reconstruction Projects.** The reconstruction of any residential units or structures which have been destroyed by fire, flood, earthquake or other act of nature, which are being reconstructed in a manner consistent with the requirements of Santa Barbara Municipal Code Section 28.87.038.

3. **Voluntarily Affordable Projects.** Residential Developments which propose that not less than thirty percent (30%) of the units of the development will be deed restricted for occupancy by families qualifying as Upper Middle Income (or lower income) households pursuant to and in accordance with the City's Affordable Housing Policies and Procedures.

4. **Employer-Sponsored Housing Projects.** Employer Sponsored Housing Projects developed in accordance with the Average Unit-Size Density Incentive Program of SBMC Chapter 28.20.

SECTION 5. Sections 28.66.050, 28.69.050, 28.72.050, and 28.73.050 of Title 28 of the Santa Barbara Municipal Code are amended to read as follows:

28.66.050 Building Height.

A. Maximum Building Height. No building in this zone shall exceed a height of four (4) stories nor shall any building exceed a height of sixty feet (60'.)

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter, shall exceed a height of forty five feet (45') unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project and the Planning Commission expressly makes all of the following findings:

1. **Demonstrated Need.** The applicant has adequately demonstrated a need for the project to exceed 45 feet in building height that is related to the project's benefit to the community, or due to site constraints, or in order to

achieve desired architectural qualities;

2. Architecture and Design. The project will be exemplary in its design;

3. Livability. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features; such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less provided, however, a project which qualifies as a Community Benefit Project or a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Theater Additions. Notwithstanding the provisions of SBMC Section 28.04.140, a stage addition to a live performance theater shall not be considered as part of the height of the building under the following circumstances: 1. the stage addition is devoted solely to rigging fly systems, 2. the addition is made to a theater that existed as of December 31, 2003 and 3. the stage addition does not exceed the height of the theater as such theater existed on December 31, 2003.

E. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team (DART) and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code.

28.69.050 Building Height.

A. Maximum Building Height. No building in this zone shall exceed a height of four (4) stories nor shall any building exceed a height of sixty feet (60'.)

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter, shall exceed a height of forty five feet (45') unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project and the Planning Commission expressly makes all of the following findings:

- 1. Demonstrated Need.** The applicant has adequately demonstrated a need for the project to exceed 45 feet in

building height that is related to the project's benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;

2. Architecture and Design. The project will be exemplary in its design;

3. Livability. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features; such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less provided, however, a project which qualifies as a Community Benefit Project or a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team (DART) and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code.

28.72.050 Building Height.

A. Maximum Building Height. Four (4) stories and not to exceed sixty feet (60').

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter, shall exceed a height of forty five feet (45') unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project and the Planning Commission expressly makes all of the following findings:

- 1. Demonstrated Need.** The applicant has adequately demonstrated a need for the project to exceed 45 feet in building height that is related to the project's benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;
- 2. Architecture and Design.** The project will be exemplary in its design;

3. Livability. If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular

attention to good interior design features; such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less provided, however, a project which qualifies as a Community Benefit Project or a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of

a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team ("DART") and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code.

28.73.050 Building Height.

A. Maximum Building Height. No building in this zone shall exceed a height of four (4) stories nor shall any building exceed a height of sixty feet (60'.)

B. Community Benefit Projects. Notwithstanding the maximum building height specified in subsection A above, no building constructed in this zone after the effective date of the ordinance enacting this Chapter, shall exceed a height of forty five feet (45') unless the project qualifies as a Community Benefit Project or a Community Benefit Housing Project and the Planning Commission expressly makes all of the following findings:

- 1. Demonstrated Need.** The applicant has adequately demonstrated a need for the project to exceed 45 feet in building height that is related to the project's benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;
- 2. Architecture and Design.** The project will be exemplary in its design;
- 3. Livability.** If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features; such as the amount of light and air, or ceiling plate heights;

4. Sensitivity to Context. The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City designated Structures of Merit.

C. Buildings Adjacent to Residential Zones. The building height of a building which will be immediately adjacent to a residential zone shall not exceed the height allowed in the most restrictive adjacent residential zone for that part of the structure constructed within a distance of thirty (30) feet or one-half (1/2) the height of the proposed structure, whichever is less provided, however, a project which qualifies as a Community Benefit Project or, a Community Benefit Housing Project under Subsection B above need not comply with this requirement.

D. Timing and Procedure for Projects Requiring the Planning Commission Building Height Findings.

1. Conceptual Design Review. Prior to the Planning Commission considering an application for a Community Benefit Project or a Community Benefit Housing Project pursuant to this section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by SBMC Title 22.

2. Planning Commission Consideration of Findings.

a. Design Review Projects. If a project only requires design review by the ABR or HLC under SBMC Title 22, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the HLC or ABR for Project Design approval.

b. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

c. Planning Commission Projects. If a project requires the review and approval of land use permit by the Planning

Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to SBMC Title 22, but before the preparation of a full application for review by the Development Application Review Team (DART) and before the consideration of the land use permit by the Planning Commission.

d. Appeals from the Planning Commission Determination. A decision of the Planning Commission regarding the building height findings is appealable to the City Council pursuant to the provisions of Chapter 1.30 of this Code.

SECTION 6. Section 28.87.062 of Chapter 28.87 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

28.87.062 Setback, Open Yard, Common Outdoor Living Space, and Distance Between Main Buildings Encroachments.

A. Where setbacks, open yards, common outdoor living space, and minimum distances between main buildings are required in this title, they shall be not less in depth or width than the minimum dimensions specified for any part, and they shall be at every point unobstructed by structures from the ground upward, except as follows:

1. Encroachments allowed in the specific zone.

2. Cantilevered architectural features at least three feet (3') above adjacent grade or finished floor (whichever is higher), and which do not provide additional floor space within the building (such as cornices, canopies, or eaves), or chimneys may encroach up to two feet (2'). However, no cantilevered architectural feature or chimney shall be located closer than three feet (3') from any property line, except roof eaves, which may be located as close as two feet (2') from any property line.

3. Uncovered balconies not providing additional floor space within the building may encroach up to two feet (2'). However, an uncovered balcony shall not encroach into an interior setback on a lot located in any single family zone.

4. Solar energy systems, as defined in subdivision (a) of Civil Code section 801.5, that are installed roughly parallel to, and protrude no higher than ten inches (10") above (measured from the top of the roof perpendicularly to the highest point of the solar energy system), a roof eave, may encroach the same amount as the roof eave.

B. The following structures may encroach into setbacks as specified:

1. Decks that are no more than 10 inches (10") in height above existing grade may encroach into any setback.

2. Uncovered porches, terraces and outside steps, not extending above the finished floor level of the first floor, may encroach up to three feet (3') into any interior setback.

3. Covered or uncovered entrance landings not extending above the finished floor level of the ground floor and not exceeding three feet (3') measured in perpendicular dimensions (excluding the area under any handrail required under the California Building Code as adopted and amended by the City) may encroach three feet into any setback.

4. Bay windows at least three feet (3') above adjacent grade or finished floor (whichever is higher), and which do not provide additional floor space within the building may encroach up to two feet (2') into the front setback.

5. Accessible uncovered parking spaces, access aisles, and accessibility ramps necessary to make an existing building accessible to persons with disabilities may encroach into required setbacks to the extent reasonably necessary to accommodate the existing building. This encroachment is not available for new buildings or additions to existing buildings where the addition precludes the development of a conforming accessible improvement.

C. The following types of structures may encroach into the required open yard in the One-Family Residence Zone and the Two-Family Residence Zone (SBMC Section 28.15.060.C. and 28.18.060.C.1 and 3a) or common outdoor living space in the R-3/R-4 Zones (SBMC Section 28.21.081.A.3 and 28.21.081.B.), provided the total area of all such structures on the property does not occupy more than 20% of the total required open space or common outdoor living space on the lot, that no structure or structures occupy more than 20% of any individual area of required open space or common outdoor living space (if provided in multiple locations):

1. Detached, unenclosed structures (e.g., gazebos, trellises, hot tubs, spas, play equipment, or other freestanding structures).

2. Unenclosed structures which are attached to a wall or walls of a main building (e.g., patio covers, trellises, canopies, or other similar structures).

D. The following types of structures may encroach into the required minimum distance between main buildings on the same lot. However, at no time shall any structure be located closer than five (5) feet to any other structure on the lot with the exception of: planters less than ten (10) inches in height above finished grade, fences, walls, and roof eaves.

1. Detached accessory structures.
2. Uncovered parking.
3. Planters less than ten (10) inches in height from finished grade.
4. Paving.
5. Fences, hedges, and walls.
6. Uncovered bicycle parking areas including bicycle racks and posts, but excluding bicycle locker parking.
7. The following structures may encroach a maximum of three feet:

a. Balconies, decks, porches, and terraces that do not provide additional floor area. These improvements may be roofed or unroofed. If such improvements are provided above the first floor, they must be cantilevered, and the area below the structure shall not be enclosed.

b. Structures built to enclose trash, recycling, water heaters, or water softeners.

c. Exterior stairways, as long as the stairways are not enclosed by solid walls.

SECTION 7. Applications for development submitted prior to and deemed complete before the effective date of this Ordinance which propose residential units in accordance with the provisions of Subsection F of Section 28.21.080 (the Variable Density Ordinance) may proceed in accordance with the Variable Density Ordinance, SBMC Chapter 28.21.