

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING TITLE 22 OF THE SANTA BARBARA MUNICIPAL CODE BY ADDING CHAPTER 22.65 ESTABLISHING AIR QUALITY DESIGN STANDARDS FOR NEW DEVELOPMENT NEAR HIGHWAY 101 TO IMPLEMENT POLICY ER7 OF THE 2011 GENERAL PLAN.

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

SECTION ONE: The City Council adopts the ordinance codified in Chapter 22.65 of the Santa Barbara Municipal Code based on the following findings:

- A.** The California Air Resources Board and the Santa Barbara County Air Pollution Control District have recommended reducing potential health hazards associated with vehicle exhaust, including diesel particulates, by limiting development of new residences and other sensitive land uses in close proximity to highways.
- B.** A Program Environmental Impact Report (EIR) certified for the City of Santa Barbara 2011 General Plan update evaluated air quality effects associated with new development in close proximity to Highway 101 during the General Plan time horizon. The EIR identified an interim policy for limiting new development of sensitive land uses within 250 feet of Highway 101. The EIR analysis concluded that the interim policy would mitigate the potential air quality impact associated with future development within the City near Highway 101 to a less than significant level until such time as statewide diesel particulate levels and associated health hazards are reduced by planned State regulations or other means.
- C.** Interim policy ER7 adopted as part of the City of Santa Barbara 2011 General Plan directs that the development of new sensitive land uses within 250 feet of Highway 101 be limited unless the City determines that diesel emission risks or exposures are satisfactorily addressed. Implementation Measure ER7.1 directs that the City establish development standards for new development to implement the policy, and track State regulations and progress on reducing highway diesel particulates pollution to determine when the interim policy is to be retired.
- D.** This ordinance is consistent with City policy, including Charter Section 1507 directing that development shall not exceed physical and natural resources including air quality; General Plan policy ER7 establishing limitation on specified new development within 250 feet of Highway 101; and General Plan Implementation Measure ER7.1 directing development of standards for new development next to Highway 101. The adoption of this implementing ordinance is in compliance with California Environmental Quality Act (CEQA) provisions for environmental review under CEQA Guidelines Section 15168 and 15162, based on the staff analyst determination that the ordinance is within the scope of the 2011 General Plan update and its certified Program Environmental Impact Report (EIR), would not result in additional environmental impacts beyond those identified in the Program EIR, implements Program EIR Mitigation Measure AQ-1, and requires no further environmental review process.

SECTION TWO: Title 22 of the Santa Barbara Municipal Code is amended by adding Chapter 22.65 titled “Design Standards for Development Near Highway 101” to read as follows:

22.65.010 Purpose and Intent.

It is the purpose of this section to limit and regulate development within close proximity to Highway 101 in a manner that promotes the health, safety, and welfare of the residents of the City of Santa Barbara.

Pursuant to 2011 General Plan Policy ER7, the design standards in this Chapter are intended to limit the number of people, including Sensitive Individuals, who receive Extensive Exposure to potential air pollution hazards from highway vehicle exhaust including diesel particulates by limiting the development of new sensitive land uses within close proximity of Highway 101 or by modifying the design of new sensitive land uses to reduce the amount of air pollution exposure received, until such time as statewide diesel particulate levels are reduced by planned State regulations or other means.

22.65.020 Definitions.

For the purpose of this Chapter, the following words and phrases shall have the following meanings:

- A. Accessory Building.** As defined in Section 28.04.010 of this Code.
- B. Extensive Occupancy or Exposure.** Substantial time periods involving daily occupancy or frequent lengthy visits of many hours occurring repeatedly over many years as experienced with residential land uses and schools.
- C. Main Building.** As defined in Section 28.04.145 of this Code.
- D. Required Outdoor Living Space.** Outdoor living space or open yard area required in accordance with City residential zoning standards as specified in Title 28 of this Code.
- E. Sensitive Individuals.** Persons most susceptible to adverse affects of poor air quality (including from diesel particulates) including children, the elderly, and people who are ill or have serious chronic respiratory, heart, or other medical conditions that are exacerbated by air pollution.
- F. Sensitive Land Uses.** Land uses that involve Extensive Occupancy or Exposure by Sensitive Individuals including residences; nursing homes, retirement homes, and other community care facilities; schools; and large family day care facilities. Land uses not considered sensitive land uses include retail, commercial services, and offices.
- G. State Highway Roadside Sound Wall.** A roadside sound wall constructed by the California Department of Transportation.

22.65.030 Applicability and Exemptions.

A. Applicability.

- 1. Location.** Any property that is located in whole or part within 250 feet of Highway 101 as measured from the outer edge of the nearest highway travel lane (excluding highway on- and off-ramps) is subject to the requirements of this Chapter, unless identified as exempt in Subsection B of this Section 22.65.030.

2. **Types of Development.** The following types of development are subject to the requirements of this Chapter, unless identified as exempt in Subsection B of this Section 22.65.030:
 - a. The development of one or more new residential units on a lot.
 - b. An addition to an existing residential unit that increases the net floor area of the residential unit by more than 50% of the net floor area that existed within the residential unit as of December 1, 2011. If multiple additions are made to a residential unit during the time this Chapter is in effect, the amount of the additional floor area shall be measured in the aggregate.
 - c. The development of a new main building that will be occupied by a Sensitive Land Use.
 - d. The demolition of an existing building and its replacement with a main building that will be occupied by a Sensitive Land Use.
 - e. A change of use of an existing main building from a use not defined as a Sensitive Land Use to a Sensitive Land Use.
 - f. A change of use of an existing Main Building from a Sensitive Land Use that existed on the effective date of the ordinance adopting this Chapter to a different Sensitive Land Use.

B. Exemptions. The following projects are exempt from this Chapter:

1. **Sound Walls.** Projects on sites where a State Highway Roadside Sound Wall is located between the highway and project site.
2. **Prior Applications.** Projects with applications submitted to the City before December 1, 2011 for development permits including a Master Application, building permit plan check, or for other development approval, where the application has not expired.
3. **Approved Projects.** Projects that received a final approval from the City prior to December 1, 2011 where the approval remains valid.
4. **New Buildings More than 250 Feet from Highway.** Projects where the property owner submits a site plan that demonstrates that no new Main Building or required outdoor living area that is to be occupied by a Sensitive Land Use will be located within 250 feet of Highway 101, as measured from the outer edge of the nearest highway travel lane.
5. **Site-specific Demonstration.** Projects where the property owner can demonstrate to the satisfaction of the Community Development Director or the Director's designee that site-specific climatic or topographic conditions avoid or address the air quality risks from Highway 101 on the site such that the site specific conditions present a health risk of less than 10 excess cancer cases per one million persons.

Nothing in this Subsection B prevents an applicant from incorporating the design standards specified in Section 22.65.040 to exempt projects on a voluntary basis.

22.65.040 Design Standards for Air Quality.

The following design standards apply to development and occupancy of main buildings to which this Chapter applies. The location, design, and filtration standards specified in this Section are not required for accessory buildings or areas on the lot where Sensitive Individuals would not be subject to Extensive Occupancy or Exposure (e.g., parking).

- A. Proximity to Highway 101 and Project Design Features.** Main buildings that will be occupied by Sensitive Land Uses are prohibited from locating within 250 feet of Highway 101 unless the City Community Development Director or designee determines that project design features satisfactorily address air quality risks. When determining whether the project design features satisfactorily address air quality risks, the Director shall consider the following factors:
- 1. Distance from Highway 101.** Main buildings and outdoor living areas that will be extensively occupied by Sensitive Land Uses should be located as far from Highway 101 as feasible. For projects that have a mixture of Sensitive Land Uses and non-sensitive land uses, Main Buildings and areas expected to have Extensive Occupancy or Exposure by Sensitive Individuals should be located furthest from the highway, while facilities for non-sensitive populations and/or involving short-term use (such as parking facilities) should be placed closer to the highway.
 - 2. Building Orientation and Outdoor Living Areas.** Main Buildings for occupancy by Sensitive Land Uses should be oriented with doors and outdoor living areas on the side of the building away from the highway in order to provide physical screening by the building.
 - 3. Vegetative Screening and Physical Barriers.** Project sites to be occupied by Sensitive Land Uses should incorporate dense, tiered vegetative plantings between the highway and the Main buildings and outdoor living areas that are to be occupied by Sensitive Land Uses, which helps to remove air pollutants and reduce diesel particulate concentrations. Vegetation should largely entail trees with complex foliage (leafy vegetation or with needles) that allow substantial in-canopy airflow; preferably in multiple rows, using tree plantings of tall and uniform height that retain foliage year-round and have a long life span. Inclusion of physical barriers such as walls and solid fences between the highway and the project also help to reduce air pollutant exposure levels.
 - 4. Air Infiltration.** In addition to a filtration system as required in Section 22.65.040 B, Main Buildings occupied by Sensitive Land Uses should be designed to locate air intake vents on the side of building away from the highway and use double-paned windows throughout.
 - 5. Other Measures.** An applicant proposing a Sensitive Land Use that will be located within 250 feet of Highway 101 may propose other measures that have a demonstrated ability to reduce highway air pollution exposure.
- B. Interior Air Filtration System.** Main Buildings intended for occupation by a Sensitive Land Use that are located within 250 feet of Highway 101 and are not exempt pursuant to Section 22.65.030.B shall incorporate a central ventilation system with air filtration rated at Minimum Efficiency Reporting Value of “MERV13” or better for enhanced particulate removal efficiency. The owner of any development subject to this requirement shall attach a copy of the operator’s manual for the central ventilation and filtration system as an exhibit to every lease of the building or any portion of the building.

22.65.050 Maintenance of Design Features.

Design features incorporated into an approved project design pursuant to Section 22.65.040 shall be maintained as long as this Chapter remains in effect.