

COUNCIL INTRODUCTION DRAFT 7/22/14 – OPTION 2
SHOWING CHANGES FROM EXISTING CODE

AN ORDINANCE OF THE COUNCIL OF THE CITY
OF SANTA BARBARA ESTABLISHING
REGULATIONS FOR EMERGENCY SHELTERS AS A
PERMITTED USE IN THE C-M ZONE.

WHEREAS, Senate Bill 2 was enacted in 2007, requiring all cities and counties in California to provide at least one zoning district which allows emergency shelters without a conditional use permit or other discretionary approval;

WHEREAS, on December 1, 2011, the City Council adopted an update to the General Plan, including policies in the Housing Element directing amendments to Title 28 of the Municipal Code in compliance with Senate Bill 2 requiring emergency shelters in at least one zone without any discretionary permits (Council Resolution No. 11-079);

WHEREAS, the 2011 Housing Element contains Implementation Action H4.1 directing Municipal Code amendments to the C-M (Commercial Manufacturing) zone to allow emergency shelters without a conditional use permit or other discretionary action;

WHEREAS, upon further review and consultation with the City Attorney's Office, it was determined that the City is in compliance with the requirements of Senate Bill 2 because multiple zones exist which allow the development of hotels that are, in effect, "overnight accommodation" uses similar to overnight emergency shelter for the homeless;

WHEREAS, under the City's Zoning Ordinance, facilities that provide overnight shelter to the homeless are also considered short-term, transitional accommodations similar to a hotel use and are allowed without a conditional use permit in all zones that permit overnight accommodations;

WHEREAS, overnight accommodations are allowed in the R-4 (Hotel-Motel-Multiple Residence), HRC-1 and HRC-2 (Hotel and Related Commerce), R-H (Resort Residential), C-P (Restricted Commercial), C-L and C-1 (Limited Commercial), C-2 (Commercial), C-M (Commercial Manufacturing), OC (Ocean-Oriented Commercial), M-1 (Light Manufacturing), and OM-1 (Ocean-Oriented Light Manufacturing) zones;

WHEREAS, on November 12, 2013, the City Council initiated amendments to the Zoning Ordinance to permit emergency shelters with minimal supportive services without a conditional use permit or other discretionary approval in existing zones where overnight accommodations are allowed;

WHEREAS, on May 13, 2014, the City Council Ordinance Committee held a public hearing to review the draft Emergency Shelter Zoning Ordinance and voted 2/1 to forward the ordinance amendments to the Planning Commission for further review and refinement;

WHEREAS, on June 12, 2014, the Planning Commission held a duly noticed public hearing to review the draft Emergency Shelter Zoning Ordinance and after discussing the key components of the ordinance voted 6/1 to forward the ordinance amendments with revisions to the City Council for adoption;

WHEREAS, on July 15, 2014, the City Council held a duly noticed public hearing to consider adopting ordinance amendments to the Municipal Code adding Chapter 28.79 establishing

development and management standards for emergency shelters with minimal supportive services; adding Section 28.04.273 to define emergency shelters consistent with State law; amending Sections 28.21.030, 28.54.030, 28.57.030, 28.63.030, 28.66.030, and 28.69.030 to add emergency shelter as a permitted use; and amending Section 28.94.030.W to specify which emergency shelters require a Conditional Use Permit;

WHEREAS, the City Council continued the public hearing for further discussion to consider the proposed ordinance allowing emergency shelters as a permitted use in the R-4, C-P, C-L, C-1, C-2, and C-M Zones or another option which would allow emergency shelters as a permitted use in only the C-M Zone;

WHEREAS, on _____, the City Council held a duly noticed public hearing to adopt ordinance amendments to the Municipal Code adding Chapter 28.79 establishing development and management standards for emergency shelters with minimal supportive services; adding Section 28.04.273 to define emergency shelters consistent with State law; amending Section 28.69.030 to add emergency shelter as a permitted use; and amending Section 28.94.030.W to specify which emergency shelters require a Conditional Use Permit; and

WHEREAS, a Program Final Environmental Impact Report (FEIR) was certified for the 2011 General Plan, and includes EIR Addenda prepared and considered by City Council as part of adoption of the final 2011 General Plan (12-1-11), Climate Action Plan (9-18-12), and Historic Resources Element (10-2-12).

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

SECTION 1. The City Council of the City of Santa Barbara makes the following findings in accordance with the California Environmental Quality Act regarding the adoption of the Emergency Shelter Zoning Ordinance:

1. Public Resources Code Section 21083.3 and CEQA Guidelines Section 15183 provide that projects which are consistent with the development density established by General Plan policies for which a FEIR was certified, and rezoning consistent with the plan, shall not require additional environmental review except under specified instances. The City Environmental Analyst determined that the proposed zoning ordinance amendments to the General Plan emergency shelter policies do not trigger additional environmental review requirements for the following reasons:

- a. There are no additional site-specific or project-specific significant effects which are peculiar to the proposed zoning amendments;
- b. There are no new significant effects not addressed in the prior FEIR; and
- c. There is no new information since the FEIR that would involve more significant impacts than identified in the FEIR.

Environmental review for the proposed zoning ordinance amendments is addressed by the General Plan FEIR and Addenda, and no further environmental review is required.

2. The policies and standards for the development of emergency shelters with minimal supportive services have been previously analyzed in the FEIR and Addenda for the General Plan. Specifically, the environmental impacts associated with implementing the General Plan policies related

to homeless shelters and services were included in the General Plan FEIR and Addendum and the potential emergency shelter development under the implementing ordinance is within in the growth assumptions analyzed.

3. The City Planner is the custodian of the record of proceedings for the General Plan Update FEIR, the Addenda, and the documents and other materials which constitute the record of proceedings for these City actions are located at the City of Santa Barbara Community Development Department, Planning Division, 630 Garden Street, Santa Barbara, California. Copies of these documents are available for public review during normal business hours upon request at the office of the City of Santa Barbara Community Development Department, Planning Division.

SECTION 2. Chapter 28.04 of Title 28 of the Santa Barbara Municipal Code is amended by adding Section 28.04.273 to read as follows:

28.04.273 Emergency Shelter.

Housing for homeless persons with minimal supportive services that is limited to a length of occupancy of not more than six months. Minimal supportive services shall mean administrative offices, intake and waiting areas, kitchen and dining facilities, and laundry facilities as long as the facilities are directly related to the operation of the emergency shelter or for the exclusive use of the residents of the emergency shelter. Homeless shelters providing more than minimal supportive services or supportive services to persons other than the residents of the shelter shall require a conditional use permit pursuant to Section 28.94.030.W of this Title.

SECTION 3. Section 28.69.030 of Title 28 of the Santa Barbara Municipal Code is amended to read as follows:

28.69.030 Uses Permitted.

A. Any use permitted in the C-2 Zone and subject to the use restrictions and limitations contained in that zone, except that any such use specifically mentioned hereafter shall be subject to the restrictions of the C-M Zone.

B. Any of the following uses, provided that such operations, manufacturing, processing or treatment of products are not obnoxious or offensive by reason of emission of odor, dust, gas, fumes, smoke, liquids, wastes, noise, vibrations, disturbances or other similar causes which may impose hazard to life or property:

1. Automobile body shop.
2. Automobile paint shop.
3. Bakery goods manufacturing.
4. Boat building and repairing and machine shop.
5. Building contractor and material storage.

6. Cabinet shop.
7. Canvas and canvas products manufacturing.
8. Car wash.
9. Cement products manufacturing.
10. Cleaning and dyeing.
11. Clothing products manufacturing.
12. Draying and truck yard or terminal.
13. Electronics products manufacturing.
14. Emergency Shelters in compliance with Chapter 28.79.

15. Equipment and trailer rental and storage.

~~15~~16. Food products manufacturing.

~~16~~17. House moving.

~~17~~18. Laundry.

~~18~~19. Lumber yard.

~~19~~20. Machine shop.

~~20~~21. Plating works.

~~21~~22. Produce warehouse.

~~22~~23. Research and development establishment and related administrative operations.

~~23~~24. Rug cleaning.

~~24~~25. Sheet metal shop.

~~25~~26. Sign manufacturing.

~~26~~27. Storage warehouse.

~~27~~28. Tire retreading.

~~28~~29. Veterinary hospital.

~~29~~30. Other businesses and occupations that are substantially similar to the uses enumerated

above, as determined and documented by the Community Development Director in a manner similar to the substantial conformance determination process provided in the adopted Planning Commission Guidelines.

C. Accessory buildings and accessory uses.

SECTION 4. Title 28 of the Santa Barbara Municipal Code is amended by adding Chapter 28.79 to read as follows:

28.79.010 Use Permitted.

An emergency shelter, as defined in SBMC Section 28.04.273, is a permitted use in the C-M Zone subject to the development and management standards specified in Section 28.79.020.

Notwithstanding any other provision within this Title 28, without the approval of a conditional use permit pursuant to Chapter 28.94, an emergency shelter is not a permitted use in any other zone of the City.

28.79.020 Development and Management Standards.

In addition to all other development standards generally applicable within the zone in which the emergency shelter is located, an emergency shelter shall comply with the following development and management standards:

A. Capacity. An emergency shelter located within the C-M Zone may provide a maximum of 100 beds and shall serve no more than 100 homeless persons per night.

B. Length of Stay. A resident of an emergency shelter shall not reside in the emergency shelter for more than 180 consecutive nights.

C. Intake/Waiting Area. An emergency shelter shall provide at least 10 square feet of interior intake and waiting space per bed. Intake and waiting areas shall be located within the building.

D. Outdoor Area/Activity. Outdoor gathering areas shall be screened from the public right of way and adjacent properties. An emergency shelter shall not allow prospective residents to queue on the public right of way or parking areas.

E. Parking. An emergency shelter shall provide the following parking:

1. One parking space for every 8 beds; and

2. One covered and secure bicycle parking space for every 4 beds.

3. Exceptions. An emergency shelter may propose fewer parking spaces if the emergency shelter can demonstrate by a parking study that the proposed parking will satisfy the anticipated parking demand for the project to the satisfaction of the Public Works Transportation Planning Division. In any case, the required parking for an emergency shelter shall not be more than that which is required for similar residential or commercial uses within the zone.

F. Lighting. Subject to compliance with the Lighting Ordinance (SBMC Chapter 22.75), adequate external lighting shall be provided on-site in order to maintain a safe and secure environment.

G. Concentration of Uses. No emergency shelter or homeless shelter shall be permitted within 300 feet of another emergency shelter or homeless shelter. The distance between shelters shall be measured in a straight line without regard to intervening structures or objects from the nearest point on

the property line of one shelter to the nearest point on the property line of the other.

H. Onsite Management. On-site management shall be present at all times that the shelter is in operation. A Management Plan for the operation of the emergency shelter must be submitted with the master application and shall be subject to approval by the Community Development Department Director. As appropriate, the Management Plan shall address:

1. Hours of operation

2. On-site management and security procedures

3. Neighborhood relations and communication

4. Cooking and dining facilities (for residents only)

5. Shower and laundry facilities (for residents only)

6. Smoking areas and policies

7. Outdoor gathering areas and policies

I. Ability to Pay. No individual or household may be denied emergency shelter due to an inability to pay.

SECTION 5. Section 28.94.030 of Chapter 28.94 of the Santa Barbara Municipal Code is amended to read as follows:

28.94.030 Uses Permitted in Specific Zones.

The following uses may be permitted in the zones herein indicated upon the granting of a Conditional Use Permit, except that where another section of this Title specifically allows such use in a zone in conflict with this section, the provision of such other section shall apply and a Conditional Use Permit shall not be required.

A. Church in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3, R-4, C-1, C-P, C-L, C-O, R-O, C-X, H-C, HRC-1, HRC-2, OM-1 and OC zones.

B. Convent and monastery in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, C-X, H-C, HRC-1, HRC-2, OC, M-1, and OM-1 zones.

C. Educational institution in the A-1, A-2, E-1, E-2, E-3, R-1, R-2, R-3, R-4, C-1, C-P, C-L, C-O, R-O, C-X, H C, HRC-1, HRC-2, OC, M-1, and OM-1 zones.

D. Golf course or driving range (but excluding miniature golf) in any zone.

E. Outdoor tennis club and lawn bowling club in the A, E and R Zones. Normal clubhouse facilities such as pro shop, coffee shop, administrative offices, lounge, etc. may be allowed in connection with a private club only, provided that such uses shall be clearly shown to be incidental and accessory to the outdoor recreational use of the premises, and that the clubhouse facilities shall be available only to the club members and their guests.

It is hereby declared that in addition to being special uses as set forth in Sections 28.94.001 and 28.94.005, the uses permitted under this subsection are of such a nature that it is impractical to

establish in advance of development the minimum requirements for parking, site area, setbacks, hours or manner of operation, lighting, landscaping, or other standards usually applied to classes or types of use, and that distinct and different performance and development standards must be applied to each individual facility proposed to be established under these provisions.

This declaration is based on the fact that the type of club permitted by these provisions will usually be within the City area, unique in terms of the facilities provided, activities conducted, method and intensity of operation, relationship to topography and impact on surrounding urban development and potential, and that meaningful minimum standards can only be established in relation to the particular features of each individual development.

In lieu of prescribing herein minimum performance and development standards, the Planning Commission shall, as a part of any Conditional Use Permit issued to permit the establishment of outdoor tennis or lawn bowling clubs under this subsection, make the following findings and impose conditions necessary to secure and perpetuate the bases for such findings:

1. That 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.
2. That the prescribed hours and days of operation of the various facilities of the club are such that the character of the area is not altered or disturbed.
3. That the design and operation of outdoor lighting equipment will not be a nuisance to the use of property in the area.
4. That adequate access and off-street parking 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.
5. That the appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area.

F. Planned unit development in A, E and R-1 Zones in accordance with the provisions of Chapter 28.36 of this Title.

G. Planned residence development in the A, E and R-1 Zones, subject to provisions of Chapter 28.33 of this Title.

H. Child care centers in the A, E, R-1, R-2, R-3, R-4, R-O, C-O and C-X zones, subject to the following conditions, standards and limitations:

1. Location of play areas. Outdoor play areas shall be located in a manner that is compatible with the character of the surrounding area, that minimizes significant detrimental noise impacts to adjacent properties, and that complies with the minimum standards of State Law.

2. Passenger loading. Facilities shall be provided for loading and unloading passengers, and shall be subject to the review and approval of the Planning Commission taking into consideration the recommendation of the Transportation Engineer.

I. Driveways and parking areas for nonresidential uses in residential zones.

J. Boarding house in the R-2, R-3 and R-4 Zones.

K. Club and lodge in the R-3, R-4 and R-O Zones.

L. Garden apartments in the R-2 Zone, subject to the provisions of Chapter 28.30 of this Title.

M. Hospitals, skilled nursing facilities and other similar buildings and facilities for the treatment of human ailments where facilities are provided for the keeping of patients overnight or longer, in the R-4, C-O, C-P, C-1, C-2 and C-M Zones.

N. Restaurant in the R-4 Zone, provided there is a minimum of one hundred (100) established hotel-motel guest rooms within five hundred feet (500') from the boundary of the proposed restaurant site. The one hundred (100) established hotel-motel guest rooms within five hundred feet (500') may be used to support any number of restaurants within the affected area.

O. Establishment or enterprises which involve large assemblages of people on more than four occasions per year, including, but not limited to, any open air theater, Certified Farmers Market, street market, trade fair, trade exchange, recreational or sport center, in the C Zones.

P. Automobile wrecking in the C-M and M-1 Zones.

Q. Car wash, auto polishing, auto steam cleaning establishment in the C-1, C-P and C-2 Zones, provided that such installation shall be subject to the noise restrictions established in Chapter 28.60 of this Title.

R. State-licensed residential care facilities for the elderly, community care facilities and hospices serving more than 12 individuals in the A, E, R, and C Zones.

1. STANDARDS.

- a. If a new residential care facility for the elderly, community care facility or hospice which is subject to a Conditional Use Permit includes a staffed congregated kitchen and dining facility providing regular meals to residents, living units may include modular cooking units without being counted as residential units.

b. If an existing residential care facility for the elderly, community care facility or hospice as of the effective date of this Ordinance, which is subject to a Conditional Use Permit includes a staffed congregate kitchen and dining facility providing regular meals to residents, living units may be converted to include modular cooking units without being counted as residential units under the provisions of a new Conditional Use Permit.

c. If a new or existing residential care facility for the elderly, community care facility or hospice as of the effective date of this Ordinance, which is subject to a Conditional Use Permit does not include a congregate dining facility, but does include kitchens in its living units, living units shall be counted as residential units.

d. Recreational facilities and skilled nursing facilities intended primarily for the residents may be allowed in connection with residential care facilities for the elderly, community care facilities or hospices provided that such uses are incidental and accessory thereto. The use of the facilities by persons other than residents and staff may be limited.

2. FINDINGS:

a. For new State licensed residential care facilities for the elderly, community care facility or hospice, in addition to the findings required under Section 28.94.020, the Planning Commission or City Council on appeal must find upon a showing of adequate information that:

(1) The facility will generate a demand for resources such as water, traffic, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, and such resources are available in amounts adequate to service the proposed facility.

(2) The intensity of use in terms of the number of people, hours of operation, hours of major activities, and other operational aspects of the proposed facility is compatible with any neighboring residential use.

(3) The proposed facility shall be able to be converted to a density which conforms to the residential unit density of the underlying zone. Sufficient land area has been shown to be available to meet the parking demand of a future use.

b. For existing State-licensed residential care facilities for the elderly, community care facility or hospice as of the effective date of this Ordinance requesting an alteration or modification, in addition to the findings required under Section 28.94.020, the Planning Commission or City Council on appeal must find upon a showing of adequate information that:

(1) The proposal has been reviewed and approved by the City Fire Marshall and the City Building Official.

(2) The facility will generate a demand for resources such as water, traffic and parking capacity, and other public services equivalent to no more than that which would be demanded by development of the property in accordance with the underlying zone, or if existing resource use exceeds the underlying zone, then resource use shall be equivalent to no more than that of the existing use.

(3) The intensity of use in terms of the number of people, hours of operation, hours of major activities and other operational aspects of the proposed facility is compatible with any neighboring residential use.

S. Facilities and equipment, not to include offices, used by public utilities or quasi-public utilities, e.g., cable television, to provide services to the general public in any zone, except for Radio and Television Antennas, Cellular Telephone Antennas and Emergency Service Antennas and any facilities or equipment expressly permitted in the zone or authorized pursuant to Chapter 28.93 of this Code.

T. Medical equipment and supply stores of more than 3,000 square feet of net floor area in the C-O Zone, subject to the following special provisions:

The Planning Commission shall find that the use is supportive and directly related to the providing of medical and related services. The Commission may permit a portion of the space to be used for non-medically related sales and/or a percentage of dollar volume of business for non-medically related sales, provided that said amount of non-medically related use is set forth in the Conditional Use Permit.

U. Banks of more than 1,000 square feet of net floor area in the C-O Zone, subject to the following:

The intent is to allow branch banks as a convenience to the medical community and neighborhood, so that there will be less traffic into the commercial areas for deposits, and as a cash source for patients in the area. It is not the intent to establish a banking community in the area. As a result, the limitations set forth below shall apply.

Prior to issuance, the Planning Commission shall find the following:

1. No similar facility is located on adjacent property or on a parcel within three hundred (300) feet of the subject property.

2. There shall not be more than one thousand (1,000) square feet of space accessible to customers for services.

3. There shall be no drive-up window, but a walk-up window may be permitted.
4. The signing of the operation is in a manner as to identify but not advertise, and to blend in with the neighborhood.
5. Services are limited to deposits, check cashing, cashier and travelers checks, acceptance of loan applications, and night deposits. The following services are excluded: loan applications processing and safety deposit boxes.

6. The permitted number of employees is consistent with the above.

V. Automobile service station, automobile service station/mini-market or conversion to an automobile service station/mini-market shall be subject to the following conditions, standards and limitations:

1. Conditions. Specific conditions may be imposed to carry out the purposes of this Code.
2. Lot Area. The minimum area of the parcel or lot shall not be less than eight thousand (8,000) square feet.
3. Street Frontage. Each lot shall have a minimum frontage of not less than one hundred (100) feet on one abutting street.
4. Architecture. The architecture of the service station structures and landscaping shall be reviewed and approved by the Architectural Board of Review, or 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. The architectural theme shall be integrated into the design of all improvements of the site including canopies and fencing.
5. Driveways.
 - a. New Service Stations. For service stations constructed after the effective date of this Subsection, driveway entrances to the service station shall not be within twenty (20) feet of the curb return (beginning of curve) on corner lots.
 - b. Existing Service Stations. For driveway entrances of service stations that have been constructed prior to the effective date of this Subsection, relocation of driveway entrances may be required to minimize interference with the movement and safety of vehicular and pedestrian traffic.
6. Internal Circulation. Where access from an internal circulation system of a shopping center or public parking area is available, direct street access to a service station may be prohibited or restricted.
7. Parking. Parking shall conform to the minimum parking requirements as outlined in Section 28.90.100 or a minimum of five (5) parking spaces shall be provided or one (1) parking space for each two hundred fifty (250) square feet of gross floor area used for mini-market use and one (1) space for each employee shall be provided; whichever is greater.
8. Lighting. Any perimeter flood lighting shall be hooded or shielded so that no direct beams fall upon adjacent residential property. Indirect soft lights and low garden lights shall be used wherever possible, and shall be required as necessary to assure compatibility with adjacent and surrounding properties.
9. Landscaping. All landscaped areas shall be as follows:
 - a. A planter shall be provided along all street-side property lines except for driveway openings.
 - b. On corner lots, a minimum of one hundred fifty (150) square feet of planter area shall be provided on the property adjacent to the corner intersection.
 - c. At least ten percent (10%) of the area not covered by buildings on the parcel shall be landscaped.
10. Restrooms. The entrance to all restrooms shall be screened from abutting properties by a decorative screen.
11. Fencing. A decorative fence six (6) feet in height from finished grade shall be provided on all property lines that do not abut a street, alley or parking area, with the exception that a fence may not be required for a service station that is an integral part of a commercial, industrial or office center or where combined landscaping will be achieved with such adjacent properties.
12. Operations and Storage.
 - a. Repair of vehicles is only permitted within an enclosed building.
 - b. All servicing of vehicles other than minor servicing shall be conducted within an enclosed building.
 - c. All materials, products and merchandise shall be stored and displayed only within an enclosed building.
 - d. No used or discarded automotive parts or equipment or visible junk or wrecked vehicles shall be located or stored outside the service station building.
 - e. Trash shall be stored in areas screened from public view by a fence with a minimum height of six (6) feet. Trash shall not be stored or piled above the height of the fence.

13. Fire Department Approval. Prior to the issuance of any building permit for a service station or any portion thereof, the Fire Department shall review the plans and approve said plans if they comply with applicable Fire Department ordinances and regulations.

W. Public or quasi-public facility, including homeless shelters providing services and programs beyond the definition of minimal supportive services specified in Section 28.04.273 (subject to a separation of at least 300 feet from another emergency shelter or homeless shelter), in any zone, except those expressly permitted in the zone or authorized pursuant to Chapter 28.93 of this Code, and Radio and Television Antennas, Cellular Telephone Antennas and Emergency Service Antennas.

X. Any use other than those permitted by Section 28.73.030.A of the OM-1 Zone and permitted in the M-1 Zone and subject to those findings required in Section 28.73.030.B and Section 28.94.020.

Y. General office uses in the HRC-2 Zone as permitted by Subsection 28.22.030.2.c, and subject to the findings required in Subsection 28.22.030.2.c and Section 28.94.020.

Z. Secondary Dwelling Units in any A, E or R-1 Zone, subject to the following provisions:

1. The minimum lot size for any parcel containing a Secondary Dwelling Unit shall be seven thousand (7,000) square feet.

2. There shall be no more than one (1) existing single-family dwelling, hereinafter referred to as the primary dwelling, on the parcel.

3. The Secondary Dwelling Unit shall be attached to the primary dwelling by a common wall, floor or ceiling and not simply by an attached breeze-way or porch. Said unit shall involve no more than a ten percent (10%) increase in the square footage of the primary dwelling nor shall it constitute more than forty percent (40%) of the combined floor area of the primary dwelling and Secondary Dwelling Unit, exclusive of the garage or carport.

4. The maximum floor area of the Secondary Dwelling Unit shall not exceed six hundred (600) square feet.

5. Setbacks and height limitations for the Secondary Dwelling Unit shall be the same as for the primary dwelling.

6. One (1) off-street parking space, covered or uncovered, shall be required for a Secondary Dwelling Unit. In addition, if the primary dwelling does not provide parking as required by Subsection 28.90.100.G.1 of this Title, such parking shall be provided. The garage or carport for the primary dwelling shall not be converted to provide a Secondary Dwelling Unit.

7. There shall be no more than four (4) separate rooms in a Secondary Dwelling Unit, one of which shall be a kitchen and one a bathroom. The total number of rooms on the parcel shall not be increased by more than two (2), including the bathroom and kitchen for the Secondary Dwelling Unit. The Secondary Dwelling Unit shall also provide a separate entrance.

8. Both the primary dwelling and the Secondary Dwelling Unit shall comply with all requirements of the housing code in effect on the date of issuance of the building permit for the Secondary Dwelling Unit. Any alteration or addition shall comply with all requirements of the California Building Code as adopted and amended by the City.

9. A separate water meter shall be provided for the Secondary Dwelling Unit. The primary dwelling shall be retrofitted with water-conserving devices to the same extent as if the dwelling were being built under the California Building Code as adopted and amended by the City.

10. Before obtaining a building permit for a Secondary Dwelling Unit, the property owner shall file with the County Recorder, upon approval by the City Attorney as to form and content, a covenant containing a reference to the deed under which the property was acquired by the present owner and stating that:

a. The Secondary Dwelling Unit shall not be sold separately from the primary dwelling.

b. The Secondary Dwelling Unit is restricted to the approved size.

c. The conditional use permit for the Secondary Dwelling Unit shall be in effect only so long as either the primary dwelling or the Secondary Dwelling Unit is occupied by the owner of the lot on which the Secondary Dwelling Unit is located, except for bona fide temporary absences. The conditional use permit shall remain valid if disability or infirmity require the institutionalization of the owner.

d. The Secondary Dwelling Unit shall be rented at a rate that is affordable to low and moderate income families or to immediate family members as required under Subsection 28.94.030.Z.12 of this Title.

e. The conditional use permit, and any conditions imposed by said permit, shall lapse upon removal of the Secondary Dwelling Unit.

f. There shall be no more than two (2) inhabitants in any Secondary Dwelling Unit.

g. The above declarations are binding upon any successors in ownership of the property; any lack of compliance shall revoke the conditional use permit.

11. Secondary Dwelling Units shall be prohibited in High Fire Hazard Areas (as defined in the Fire Master Plan.)

12. The Secondary Dwelling Unit, or the primary dwelling if the owner chooses to live in the Secondary Dwelling Unit, shall be leased or rented to a person or persons falling within one or more of the following categories:

a. A household whose head is a member of the owner's immediate family. For purposes of this Section, "immediate family" shall be defined as parents, grandparents, children, grandchildren, sisters, brothers, and equivalent in-laws.

b. Low income households (incomes less than 80 percent of the median income for the City), as determined by the United States Department of Housing and Urban Development (HUD). The rent level will be no more than the Fair Market Rent levels for the City as determined and adjusted from time to time by HUD, and the owner shall give priority for occupancy to households referred by the Santa Barbara Housing Authority. If the unit is rented or leased to households not referred by the Housing Authority, the income level of the renter selected must be certified by the Housing Authority as to eligibility and this certification must be submitted to the Community Development Director. The Housing Authority may assess a fee for certification of renters other than those referred by the Housing Authority. The rent level for such low-income renters shall not exceed one twelfth (1/12) of thirty percent (30%) of the certified income of the renter. In addition, the owner must submit annually to the Housing Authority a copy of the lease or rental agreement in effect that identifies the rent level and the name and income level of the lessee/renter.

c. Moderate income households (incomes between 81 and 120 percent of the median income of the City), if the owner chooses not to rent to a family member and a sworn declaration supported by written documentation, such as loan documents, setting forth the financial reasons why the unit will not be rented to a low-income household is submitted to the City. Generally, the only acceptable financial reason would be that higher rent is required in order to meet the carrying costs of new construction. The rent levels will be not more than one-twelfth (1/12) of thirty percent (30%) of the median income for a family of four in the City adjusted for household/unit size according to the following factors:

Unit Size	Factor
Studio	.70
One-Bedroom	.80
Two-Bedroom	.95
Three-Bedroom	1.065

Prior to the rental or leasing of the unit, the income level of the household shall be certified by the Housing Authority. The Housing Authority may assess a fee for certification of renters other than those referred by the Housing Authority. In addition, the owner must submit annually to the Housing Authority a copy of the lease or rental agreement in effect that identifies the rent level and name and income of the lessee/renter.

13. Approved Secondary Dwelling Units shall be subtracted from the Density Reserve established by Policy 5-1.0 of the City's Housing Element, as adopted by the City of Santa Barbara on June 8, 1982. When there are no units available in the Density Reserve, no conditional use permits shall be granted for Secondary Dwelling Units.

14. Secondary Dwelling Units shall be prohibited if there is an accessory building containing additional dwelling space, an additional dwelling unit approved under Section 28.93.030.E, caretaker's residence or similar use on the parcel. Furthermore, no accessory building intended to provide additional dwelling space, additional dwelling unit under Section 28.93.030.E, caretaker's residence or similar use shall be constructed on a lot where there is an approved Secondary Dwelling Unit.

15. The Architectural Board of Review, or 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, shall review all Secondary Dwelling Units which require exterior change to the primary dwelling to assure that there is minimal evidence of occupancy of the parcel by more than one (1) family and that any changes or additions to the exterior of the primary dwelling necessary to establish the Secondary Dwelling Unit blend architecturally with the primary dwelling.

16. In order to encourage the development of housing opportunities for disabled and handicapped individuals, the Planning Commission may allow reasonable deviation from the stated physical requirements where necessary to install features that facilitate access and mobility for disabled persons. Otherwise, no modification of the requirements for a Secondary Dwelling Unit shall be allowed unless specifically stated in this Section.

17. In addition to the findings required under Section 28.94.020, the Planning Commission, or City Council on appeal, must find that:

a. The Secondary Dwelling Unit does not overload the capacity of the neighborhood to absorb it or cause a concentration of such units sufficient to change the character of the single-family neighborhood in which it is located.

b. The Secondary Dwelling Unit does not detract from the privacy of the surrounding residents.

18. Modifications.

a. Parking. No modification of the required number of parking spaces shall be allowed. Modification of other parking-related requirements may be allowed subject to the provisions of Section 28.92.110 of this Code.

b. Setbacks and height limitations. Modification of these requirements may be allowed subject to the provisions of Section 28.92.110 of this Code.

AA. Any interim use deemed appropriate by the Planning Commission in those areas identified by resolution of the City Council as impacted by governmental action. Such interim uses shall be limited in duration as specified by the Planning Commission, provided all such uses are discontinued within two (2) years of the completion of the governmental action. Any authorization granted by the conditional use permit shall terminate at that time.

The conditional use permit granted pursuant to this Subsection shall not be effective until the property owner has duly executed and recorded an instrument binding itself, its successors in interest and any person holding thereunder, which contains (i) notice of the conditional use permit, (ii) notice of any conditions established thereunder, (iii) an agreement to comply with the terms and conditions of the conditional use permit, (iv) a waiver of any claim that a temporary use or any improvements on real property creates any vested right to continue a non-conforming use after completion of the governmental action, and (v) any other conditions as deemed necessary to comply with the purposes and intent of this Subsection. This instrument shall be subject to the review and approval of the City Attorney and the Community Development Director.

BB. Bed and Breakfast Inns in Designated Historic Structures.

1. R-O Zone

a. Bed and Breakfast Inns in Structures of Merit or Landmarks in the R-O zone, in accordance with the provisions of Chapter 22.22 of this Title.

b. Bed and Breakfast Inns in a structure located on a lot in the R-O zone, on which a Structure of Merit or Landmark used as a Bed and Breakfast Inn is also located.

2. R-3 Zone

a. Bed and Breakfast Inns in Structures of Merit or Landmarks in the R-3 zone, in accordance with the provisions of Chapter 22.22 of this Title, subject to the following conditions.

(1) The owner or manager of the Bed and Breakfast Inn shall maintain his or her primary residence on the property that contains the Bed and Breakfast Inn.

(2) No meals shall be served to persons other than guests and residents of the Bed and Breakfast Inn.

(3) No conference or meeting rooms/facilities shall be provided.

(4) No outdoor swimming pool shall be provided; however, outdoor spas, hot tubs or similar facilities may be provided.

(5) Other conditions imposed by the Planning Commission in order to ensure compatibility with the surrounding neighborhood.

b. Bed and Breakfast Inns in a structure located on a lot in the R-3 zone, on which a Structure of Merit or Landmark used as a Bed and Breakfast Inn is also located, subject to the conditions listed in §28.94.030.BB.2.a. above.

3. Review by the Historic Landmarks Commission. Plans for new structures or alterations to existing structures under 1 and 2 above shall be submitted to the Historic Landmarks Commission for review and action in accordance with the provisions of Chapter 22.22 of this Title.

CC. Offsite Hazardous Waste Management Facilities in the C-M, M-1, and OM-1 zones, subject to the provisions in Chapter 28.75, HWMF Overlay Zone.

DD. Television, Radio and Cellular Telephone Antennas in all zones, subject to the following provisions:

1. Exemptions. The following are exempt from the requirement of a Conditional Use Permit, and shall be considered a permitted use in all zones:

a. Repairs and maintenance of existing facilities, whether emergency or routine, or replacement of transmitters, antennas, or other components of existing permitted facilities, provided there is little or no change in the visual appearance or any increase in radio frequency emission levels.

b. Satellite Dish Antennas designed or used for the reception of television or other electronic communications signal broadcast or relayed from an earth satellite.

c. One or more cellular telephone antennas or paging antennas, provided that the Community Development Director finds as follows:

(1) Height: The height of the antenna and supporting structure does not exceed Municipal Code height limits set forth in Sec. 28.87.260, except where said antenna is being installed on an existing structure, in which event the height limit is measured from the highest point of the building and cannot exceed 15 feet above the building height.

(2) Separation: There is at least 100 feet between the base of the antenna support structure and the nearest dwelling unit.

(3) Access Control: The applicant establishes that the general public will be excluded from an area at least 50 feet in all directions from the antenna if antenna is not at least 10 feet off the ground. If the antenna is at least 10 feet above grade, this distance may be reduced to 30 feet.

(4) No Resource Impacts: The project will have no significant impact on any biological or archeological resources and will not generate additional traffic. The applicant may be required to provide information to the Community Development Director regarding these matters.

(5) No Visual Impacts: The project has been reviewed by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located in the El Pueblo Viejo Landmark District or another landmark district or if the property contains a designated City Landmark. The Board and Commission may take action regarding the location of the antenna(s) on the site, color and size of the proposed antennas so as to minimize any adverse visual impacts.

d. A microcell, provided it has been reviewed by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located in the El Pueblo Viejo Landmark District or another landmark district or if the property or a structure thereon is a designated City Landmark. The Board and Commission may take action regarding the location of the antenna(s) on the site, color and size of the proposed antennas so as to minimize any adverse visual impacts.

2. Conditional Use Permit by Planning Commission. A Radio or Television Antenna shall be permitted only upon issuance of a conditional use permit by the Planning Commission, and only if each of the following findings has been made:

a. Shared Use of Support Structure. The applicant had made a good faith effort to demonstrate that no existing or planned support structure, including an antenna tower, is available to accommodate the proposed antenna.

b. Site Size. The site is of a size and shape sufficient to provide an adequate setback from the base of the antenna support structure to any property line abutting a residential use.

c. Visual Impact. The project has been reviewed by the Architectural Board of Review, or the Historic Landmarks Commission if the property is located in the El Pueblo Viejo Landmark District or another landmark district or if the property contains a designated City Landmark. The Board and Commission may take action on the location of the antenna(s) on the site, color and size so as to minimize any adverse visual impacts by requiring that the antenna and its supporting structure be designed and placed so as to be as visually unobtrusive as feasible, taking into consideration technical engineering and other pertinent factors. The Planning Commission may grant a waiver from height limitations if it finds that no feasible alternative location or design would not require such a waiver.

d. Non-ionizing Electromagnetic Radiation (NIER) Emissions. Any new transmitters and/or antennas, when combined with existing sources of NIER emissions on or adjacent to the site and when operating as designed and licensed, shall not expose the general public to ambient radiation emissions which exceed American National Standards Institute (ANSI) C95.1-1992 standard (if the Federal Communications Commission (FCC) rulemaking committee adopts a revised standard, said standard shall apply).

EE. Outdoor performance areas involving structures such as bandshells or amphitheaters in the PR Zone.