

ORDINANCE NO. 2018-007

**AN EMERGENCY ORDINANCE OF THE COUNCIL OF
THE CITY OF SAN BUENAVENTURA, CALIFORNIA,
ESTABLISHING THE THOMAS FIRE REBUILD
OVERLAY ZONE**

Case No. OA-2-18- 43813

The Council of the City of San Buenaventura does ordain as follows:

Section 1. Title. This ordinance shall be known as the Thomas Fire Rebuild Overlay Zone (“TF Overlay”).

Section 2. Findings. The City Council finds that this Ordinance is necessary for the immediate preservation of the public peace, welfare, and health and safety based upon the following facts:

- A. Conditions of extreme peril to the safety of persons and property within the City of San Buenaventura were caused by fast-moving and widespread fires, referred to as the Thomas Fire, commencing on or about 10:00 pm on the fourth day of December 2017, at which time the City Council of the City of San Buenaventura was not in session.
- B. California Government Code section 8630 and San Buenaventura Municipal Code section 2.370.050 empower the City Manager to proclaim the existence of a local emergency when the City is affected or likely to be affected by a public calamity, subject to ratification by the City Council within seven days thereafter.
- C. On December 4, 2017, the City Manager of the City of San Buenaventura proclaimed the existence of a local emergency within the City of San Buenaventura.
- D. On December 5, 2017, the Governor of the State of California proclaimed a State of Emergency in Ventura County and ordered that the Office of Emergency Services provide local government assistance to Ventura County and that the California National Guard be mobilized to support disaster response and relief efforts.
- E. On December 5, 2017, the State of California submitted a request to the U.S. Department of Homeland Security’s Federal Emergency Management Agency (FEMA) for a Fire Management Assistance Declaration for the Thomas Fire. The state’s request was approved on December 5, 2017, at 5:05 am EST, and was designated as FEMA-5224-FM-CA.

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- F. On December 7, 2017, the City Council adopted Ordinance No. 2017-019, suspending automatic approval deadlines for all land use, subdivision and zoning applications.
- G. On December 11, 2017, the City Council adopted Resolution No. 2017-055 ratifying the City Manager's proclamation of the existence of a local emergency within the City of San Buenaventura.
- H. On December 11, 2017, the City Council adopted Resolution No. 2017-056 ratifying the proclamation of the Public Health Officer for the County of Ventura's declaration of a local public health emergency within the City of San Buenaventura.
- I. On December 18, 2017, the City Council adopted Resolution No. 2017-057 re-confirming the City Manager's proclamation of the existence of a local emergency within the City of San Buenaventura and re-confirming the proclamation of the Public Health Officer for the County of Ventura's declaration of a local public health emergency.
- J. On January 2, 2018, the President of the United States of America declared the existence of a major disaster in the State of California and ordered Federal aid to supplement state and local recovery efforts in the areas affected by wildfires, including the Thomas Fire, beginning on December 4, 2017, and continuing.
- K. On January 8, 2018, the City Council adopted Resolution No. 2018-001 re-confirming the City Manager's proclamation of the existence of a local emergency within the City of San Buenaventura and re-confirming the proclamation of the Public Health Officer for the County of Ventura's declaration of a local public health emergency.
- L. On January 8, 2018, the City Council adopted Ordinance No. 2018-002 establishing local standards and procedures for cleanup of debris generated by the Thomas Fire, and authorizing abatement of public nuisances following issuance of an inspection and abatement warrant.
- M. On January 22, 2018, the City Council adopted Resolution No. 2018-002 re-confirming the City Manager's proclamation of the existence of a local emergency within the City of San Buenaventura and re-confirming the proclamation of the Public Health Officer for the County of Ventura's declaration of a local public health emergency.

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- N. On February 12, 2018, the City Council adopted Resolution No. 2018-005 Re-Confirming the Continuing Existence of a Local Emergency and a Local Public Health Emergency.
- O. The Thomas Fire consumed 281,893 acres and has led to the damaging and/or destruction of 1,063 residences in the County of Ventura and County of Santa Barbara, of those 644 are located within the City of San Buenaventura.
- P. The City of San Buenaventura is experiencing a housing crisis. Even prior to the Thomas Fire, there existed throughout the City a severe lack of rental housing that is affordable to lower and moderate income residents.
- Q. The County of Ventura apartment rental market continues to be plagued by exceptionally low vacancy rates under 3 percent, significantly contributing to record high rents.
- R. The housing units destroyed by the Thomas Fire increased this rental housing shortage by several orders of magnitude and also severely reduced the number of owner-occupied housing units in the City.
- S. Destruction of housing units in nearby Ojai and Santa Barbara County further exacerbates the ability of persons who live and work in the City of San Buenaventura and have been displaced by the Thomas Fire to relocate to other housing.
- T. The standards within this Ordinance are intended to facilitate expedited redesign, repair, and replacement of structures within the proposed Thomas Fire Rebuild Overlay Zone that were damaged or demolished by the Thomas Fire.
- U. Construction or reconstruction of no more than one residential dwelling unit and incidental uses or structures related thereto are not subject to the Hillsides Voter Participation Area Measure.
- V. Pursuant to Government Code Sections 65803 and 65860(d), the City is exempt from various provisions of the state Planning and Zoning Law absent City Charter provisions to indicate otherwise.
- W. Government Code Section 65852.25 provides that no local agency may enact or enforce any regulation that would prohibit the reconstruction, restoration, or rebuilding of a multifamily dwelling that is involuntarily damaged or destroyed by fire and not located in an

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industrial zone, absent certain determinations made by the local agency.

- X. It is essential that this Ordinance become immediately effective in order to mitigate the current housing crisis aggravated by the Thomas Fire.

Section 3. Purpose. Given the large scale devastation created by the Thomas Fire, these provisions are intended to facilitate the reconstruction of impacted neighborhoods to allow for the fastest possible transition of homeless and displaced residents to long term shelter.

Section 4. - Applicability. The TF Overlay shall apply to Qualifying Fire Damaged Structures within the Ventura City limits that were impacted by the Thomas Fire, as illustrated in Exhibit “A”, and the standards herein shall only apply to those structures that are being reconstructed or repaired pursuant to damage caused by the fire. The TF Overlay shall regulate in addition to or in replacement of provisions of the underlying primary zoning district. Where a conflict exists between the two, this Ordinance shall take precedence unless otherwise stated herein.

Section 5. – Term of this Ordinance. This emergency ordinance is adopted pursuant to San Buenaventura City Charter Section 706 and shall take effect immediately upon its approval by at least a four-fifths vote of the City Council, except if less than all seven members are present, a unanimous vote shall be required. This Ordinance shall remain in effect until December 4, 2022, unless otherwise modified or extended by the City Council. All building permits subject to the standards within this Ordinance must be issued by December 4, 2022, with the expectation that construction and repairs be diligently pursued. Any planning or building permit application filed on or after December 5, 2022 shall be subject to the zoning regulations of the underlying zone without exception, with all deviations therefrom requiring a use permit, variance, or other authorization following standard land use procedures dictated by the Municipal Code and City rules and policies.

Section 6. – Definitions. The words and phrases included in this Ordinance shall employ the definitions found in the Chapters for the underlying zone; any term not defined therein or within this Ordinance shall have the meaning specified in Chapter 24.110 (“Definitions”). For purposes of this Ordinance, the following definitions shall apply:

Date of Declaration of Local Emergency means December 4, 2017.

Expedited Review means the Building and Safety Division performance objective to complete the first plan check review and corrections to a building permit application within fourteen (14) business days.

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Footprint means the area of building where it meets the ground, exclusive of courtyards.

Lidar means digital elevation point data captured by means of laser pulses to create 3D images used to derive contour maps.

Orientation means the position of a building on a site.

Permitted means a final building permit for any structure and additions issued by the City of San Buenaventura or the County of Ventura prior to or on the Date of Declaration of Local Emergency.

Qualifying Fire Damaged Structure means any structure damaged by the Thomas Fire that is classified by the Cal Fire Office of the State Fire Marshal in the Thomas Incident Damage Inspection Report as Moderate damage (26% to 50% loss), Major damage (51% to 75% loss) or Destroyed (76% to 100% loss).

Ridgeline means – A horizontal line of intersection at the top between two sloping planes of a roof.

Section 7. – Reconstruction and Repair of Fire-Damaged Structures.

Reconstruction and repair of Qualifying Fire Damaged Structures within the TF Overlay shall be consistent with all current zoning regulations and General Plan land use designations unless otherwise stated within this Ordinance. Moreover, all reconstruction and repair shall meet current State and local building and fire code standards.

A. Reconstruction of Conforming Structures.

1. Building permit applications for residential and non-residential structures within the TF Overlay that are reconstructed or repaired to conform to all code requirements of the underlying zone or as Permitted shall receive Expedited Review.
2. Building permit applications for residential and non-residential structures that vary from the Permitted footprint, height or ridgeline orientation, but which otherwise conform to the underlying zone standards, shall receive Expedited Review.
3. Building permit applications for residential and nonresidential structures that vary from the Permitted footprint, height, or ridgeline orientation and do not conform to the underlying zone standards, once any necessary Planning permit is approved, will receive Expedited Review.

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B. Reconstruction of Legal Nonconforming Structures and Accessory Structures. Nonconforming or accessory Qualifying Fire Damaged Structures within the TF Overlay that were legally established as of the Date of Declaration of Local Emergency may receive Expedited Review if they are reconstructed or repaired like-for-like, as defined in Section 24.110.990, and the footprint, ridgeline orientation, and use remain unchanged. Under no circumstances may the nonconformity be increased absent a variance.

1. Nonconforming Setback Limited Flexibility Provision. Legal nonconforming structures are allowed to reconstruct with up to 10% increase of the preexisting structure's total square footage, applied to the building footprint only, in a manner that maintains but does not increase any nonconformity.

2. Nonconforming Lot Coverage Limited Flexibility Provision. Properties which exceeded the lot coverage requirement of the underlining zone are allowed to retain the nonconformity of lot coverage in any reconstruction footprint of the primary residence and/or accessory structures.

3. Determining Preexisting Lot Coverage. The Community Development Director will consider, but shall not be limited to, the following information, individually or collectively, to verify the preexisting square footage of all destroyed or damaged structures: building permit records, Lidar, County assessor records, as-built plans and aerial photos. The determination by the Director shall be final.

C. Corner Lot and Main Entrance. Reconstruction of a structure on a corner lot shall maintain the preexisting main entrance orientation and relationship to front lot line pursuant to Section 24.110.1110 which will retain the residential pattern of the preexisting neighborhood.

Section 8. - Continuance of Nonconforming Uses. Legal nonconforming uses of Qualifying Fire Damaged Structures within the TF Overlay may be re-occupied with the same use.

A. Enlargement or expansion of any legal nonconforming use is not allowed.

B. If re-occupancy does not commence within six (6) months of the issuance of a certificate of occupancy, the legal nonconforming status shall terminate and the property shall thereafter be subject to all current City Codes.

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Section 9. - Accessory Dwelling Units (“ADU,” formerly referred to as a 2nd unit). Any legal Accessory Dwelling Unit destroyed or damaged by the Thomas Fire may be reconstructed or repaired pursuant to the nonconformity provisions of this Ordinance. Construction of a new ADU, concurrent with the reconstruction of a destroyed or damaged primary residence, must conform to the City’s ADU regulations, found in Municipal Code Chapter 24.430. The building permit application shall include both the ADU and the primary residence for zoning clearance and plan check.

Section 10. - Residential Planned Development Zoning Districts and Planned Development Permits. Properties within the TF Overlay that have a base zoning district of Residential Planned Development or a prior Planned Development permit approved on the subject property shall comply with the Municipal Code development standards of said district or prior permit approval.

Section 11. - Variances. Properties within the TF Overlay that had a variance approved for the subject property prior to the date this Ordinance goes into effect may rebuild the relevant structure according to the development standards granted by the variance. Except for the allowances provided in Section 7.B.(1) and (2), Nonconforming Limited Flexibility Provisions, a request to rebuild to exceed the standard granted under the variance will require the processing of a discretionary Variance application pursuant to the requirements of Chapter 24.535, subject to all findings made by the decision-maker.

Section 12. - Hillside Regulations. Reconstruction and repair of all destroyed or damaged structures in the TF Overlay shall be subject to the following provisions:

A. Ventura Hillside Voter Participation Measure Inapplicable. The Ventura Hillside Voter Participation Measure, approved by voters on November 13, 2001, does not apply to the reconstruction of a residential dwelling unit and incidental uses or structures related thereto.

B. Determining Preexisting Height. The Community Development Director will consider, but shall not be limited to, the following information, individually or collectively, to verify the preexisting height of all destroyed or damaged structures: building permit records, Lidar, County assessor records, as-built plans and site photos. The determination by the Director shall be final.

C. Exceeding Hillside Regulations. Rebuilding with a height increase will require the processing of an Administrative Variance application pursuant to the requirements of Municipal Code Chapter 24.535.

Section 13. - Design Review. In order to facilitate expeditious reconstruction of structures damaged or destroyed by the Thomas Fire within the TF Overlay, the Design Review regulations shall be as follows:

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A. R-1 Single family residential, R-2 Two Family Residential, and Accessory Dwelling Units. Reconstruction of these categories are exempt from Design Review pursuant to Municipal Code Section 24.545.040.

B. R-3 Multifamily Residential (3 or more units). If reconstruction is like for like, as defined in Section 24.110.990, no Design Review shall be required. Design Review will be required where reconstruction is expanded in size, changed in building height or ridgeline orientation, architecture style or structural design, increased in unit number, and where a variance or other land use approval is sought. After no more than two public hearings, the Design Review Committee shall make a recommendation to the Community Development Director. After public notice is provided pursuant to Municipal Code Chapter 24.560, the Director or his designee shall consider the DRC recommendation and any public comment, and will render a decision.

Section 14. - Final Map Requirements. Nothing in this Ordinance shall exempt any new development or rebuilding from the provisions of the Subdivision Regulations, Division 26 of the Municipal Code.

Section 15. - Land Use, Zoning or Related Code Provisions Not Addressed. Pursuant to Municipal Code Section 24.500.040, the Community Development Director shall have the authority to make determinations regarding the applicability of any land use, zoning or related code provision of the Zoning Regulations, Division 24, not addressed in the TF Overlay.

Section 16. - Fees. The following fees shall be applicable to the reconstruction and repair of structures destroyed or damaged by the Thomas Fire within the TF Overlay:

A. Building Permit, Fire, and Land Development fees shall be as reflected on the current Fee Schedule.

B. Planning Permit Fees. Reconstruction of all structures that do not comply with the provisions of the TF Overlay or the underlying primary zone district, and therefore require discretionary permit approval, shall be subject to the fees adopted on the Planning Division Fee Schedule.

C. Development Impact Fees. No development impact fees will be required to rebuild any legally permitted Qualifying Fire Damaged Structure in the TF Overlay.

Section 17. - CEQA Findings.

Adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code

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Section 21080(b)(3) regarding repair, restoration, demolition, or replacement of property or facilities damaged or destroyed as a result of a disaster in an area for which a state of emergency has been proclaimed by the Governor and Section 21080(b)(4) regarding actions to mitigate or prevent an emergency, and CEQA Guidelines Section 15269(a) relating to projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor of California pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code, and Section 15269(c) regarding specific actions necessary to prevent or mitigate an emergency.

Section 18. - Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

PASSED and ADOPTED this 26th day of February 2018.


Neal Andrews, Mayor

ATTEST:


ANTOINETTE M. MANN, MMC, CRM
CITY CLERK

APPROVED AS TO FORM
Gregory G. Diaz, City Attorney

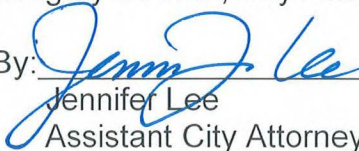
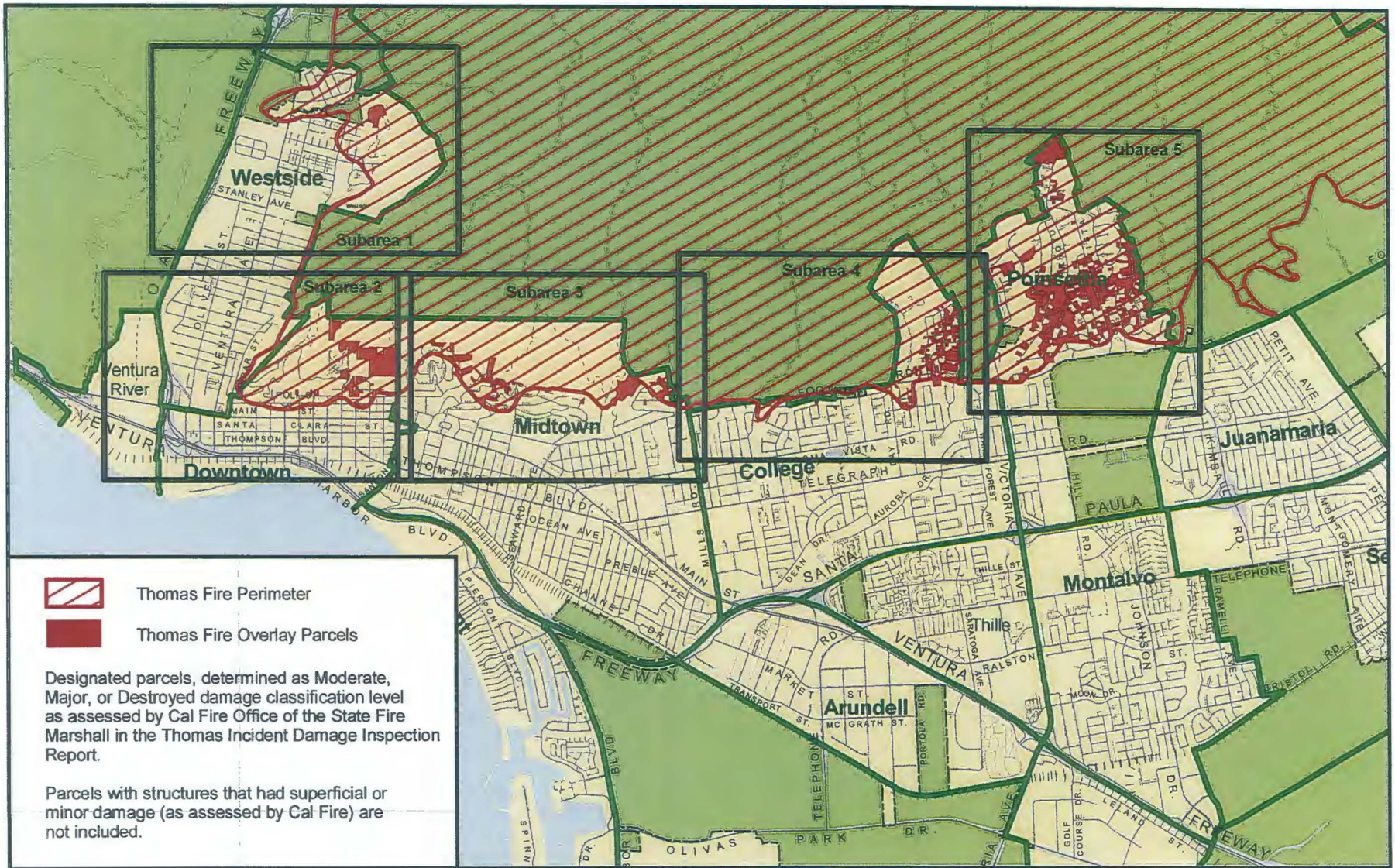
By:  2-27-18
Jennifer Lee
Assistant City Attorney

Exhibit A: Thomas Fire Rebuild Overlay Zone

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Subarea Map Nos. 1-5 remain on file with the Community Development Director and may only be viewed by impacted property owner or by their authorized representative.

Thomas Fire Rebuild (TF) Overlay

PROJ-12143; OA-2-18-43813 EXHIBIT "A"



20 FEB 2018

This map is a product of the City of San Buenaventura, California. Although reasonable efforts have been made to ensure the accuracy of this map, the City of San Buenaventura cannot guarantee its accuracy.

1" = 4500'

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CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF VENTURA) SS.
CITY OF SAN BUENAVENTURA)

I, ANTOINETTE M. MANN, City Clerk of the City of San Buenaventura, DO HEREBY CERTIFY that the foregoing is a full, true, and correct copy of Emergency Ordinance No. 2018-007 that was introduced and adopted by said City Council at a regular meeting held February 26, 2018, by the following vote:

AYES: Councilmembers Nasarenko, Weir, Tracy, Heitmann, Deputy Mayor LaVere and Mayor Andrews

NOES: None

ABSENT: Councilmember Monahan

I further certify that said Ordinance No. 2018-007 was published as required by law in the VENTURA COUNTY STAR, a newspaper of general circulation printed and published in said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Buenaventura, California.

Antoinette M. Mann

Antoinette M. Mann, MMC, CRM
City Clerk
City of San Buenaventura, California

February 28, 2018

Date Attested

