

ORDINANCE NO. 2018- 016

**AN EMERGENCY ORDINANCE OF THE COUNCIL OF  
THE CITY OF SAN BUENAVENTURA, CALIFORNIA,  
AMENDING CERTAIN PROVISIONS PERTAINING TO  
HEIGHT DETERMINATIONS AND IMPLEMENTATION  
AND RESTATING THE THOMAS FIRE REBUILD  
OVERLAY ZONE**

**Case No. OA-2-18- 44451**

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

**Section 1. Findings.** On February 26, 2018, the City Council established the Thomas Fire Rebuild Overlay Zone (TF Overlay), Ordinance No. 2018-007, 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.

- 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.

- 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. On February 26, 2018, the City Council adopted Resolution No. 2018-006 Re-Confirming the Continuing Existence of a Local Emergency and a Local Public Health Emergency.
- P. On March 19, 2018, the City Council adopted Resolution No. 2018-008 Re-Confirming the Continuing Existence of a Local Emergency and a Local Public Health Emergency.
- Q. On April 9, 2018, the City Council adopted Resolution No. 2018-008 Re-Confirming the Continuing Existence of a Local Emergency and a Local Public Health Emergency.
- R. On April 23, 2018, the City Council adopted Resolution No. 2018-019 Re-Confirming the Continuing Existence of a Local Emergency and a Local Public Health Emergency.
- S. On May 14, 2018, the City Council adopted Resolution No. 2018-028 Re-Confirming the Continuing Existence of a Local Emergency and a Local Public Health Emergency.
- T. On June 4, 2018, the City Council adopted Resolution No. 2018-031 Re-Confirming the Continuing Existence of a Local Emergency and a Local Public Health Emergency.
- U. On June 18, 2018, the City Council adopted Resolution No. 2018-037 Re-Confirming the Continuing Existence of a Local Emergency and a Local Public Health Emergency.
- V. On July 9, 2018, the City Council adopted Resolution No. 2018-043 Re-Confirming the Continuing Existence of a Local Emergency and a Local Public Health Emergency.

- W. On July 23, 2018, the City Council adopted Resolution No. 2018-046 Re-Confirming the Continuing Existence of a Local Emergency and a Local Public Health Emergency.
- X. On August 9, 2018, the City Council adopted Resolution No. 2018-047 Re-Confirming the Continuing Existence of a Local Emergency and a Local Public Health Emergency.
- Y. 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.
- Z. 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.
- AA. 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.
- BB. The housing units destroyed by the Thomas Fire increased this rental housing shortage by several orders of magnitude and severely reduced the number of owner-occupied housing units in the City.
- CC. 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.
- DD. 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.
- EE. 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.
- FF. 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.

- GG. 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 industrial zone, absent certain determinations made by the local agency.
- HH. On February 26, 2018 during the consideration and adoption of the Thomas Fire Rebuild Overlay Zone, the City Council heard concerns from homeowners and city staff about the Hillside height regulations being too restrictive for rebuilding proposals to reconstruct for most homes with modern floor plans, ceiling plate heights, and the architectural style desires of homeowners choosing to rebuild. The City Council directed the Community Development Director to create new height flexibility regulations for single-story and two-story homes, and create a permit process for streamlined approvals in the Thomas Fire Rebuild Overlay Zone.
- II. During the month of March 2018, the Thomas Fire Rebuild Office in the Community Development Department held over 60 rebuild appointments with homeowners and their architects present. The Community Development Director used the rebuild proposals presented during the rebuild appointments to help identify what kind of zoning flexibility would be most beneficial and least impactful to surrounding homes, which informed the proposed amendments to the Thomas Fire Rebuild Overlay Zone regulations.
- JJ. Since adoption of the Thomas Fire Rebuild Overlay Zone and implementation between April 24, 2018 and August 10, 2018, whereby the City conducted over 325 rebuild homeowner/architect appointments and evaluated over 200 rebuild proposals, the Community Development Director has found the need for new or revised regulations in the TF Overlay Zone would assist the impacted homeowners on rebuilding efforts for certain property situations and further expedite the City's Thomas Fire Recovery Plan for all neighborhoods to recover and is recommending that the City Council adopt the same.
- KK. On August 6, 2018, the City Council held a public meeting on the status of the Thomas Fire Recovery Plan, received a Community Development Director presentation of the effectiveness implementing the plan, considered public testimony, and directed expeditiously that new regulations and regulation changes within the Thomas Fire Rebuild Overlay Zone and return to the City Council for consideration and adoption.

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

**Section 2. 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 3. - 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 4. – 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 then in effect 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. If this Ordinance is invalidated or its effectiveness stayed for any reason, Ordinance No. 2018-007 shall become operative again for the term set forth therein or until such time as this Ordinance is again determined to be valid or effective.

**Section 5. – 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:

*Abutting Primary Residential Structure* means the existing primary residence or preexisting destroyed primary residence located on an adjacent lot of record.

*Adjacent Property of Record* means adjacent properties located within 100 feet of the subject property, including any properties separated by a street or access easement, as measured from all subject property lines.

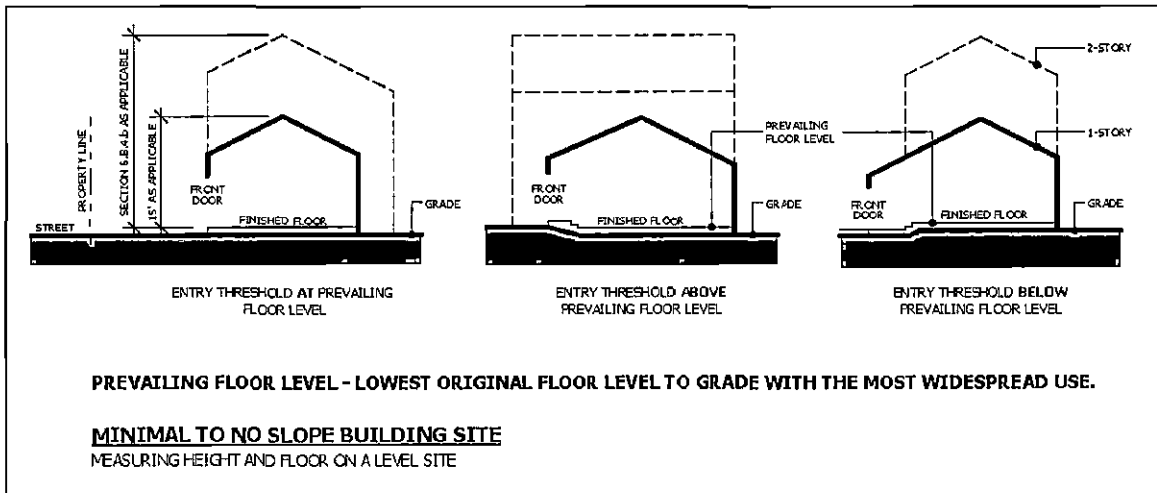
*Date of Declaration of Local Emergency* means December 4, 2017.

*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.

*Finished Floor means:*

*Pad - for homes reconstructed on a preexisting level site, the finished floor is the prevailing floor level served by the prior main entrance to the residence.*

*Sloping Lot – for homes reconstructed on a sloping lot, the finished floor shall be established in conformance with the sloping lot diagrams in Section 7.D.1.*



*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.

*Protectable Private View* means a far and distant view of ocean waters, the Channel Islands or coastline as viewed from the viewing area of the primary residence; but not the views within the city of urban areas, hillsides, agricultural lands or views of any lands located outside the city in the unincorporated county.

*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 peak at the top of one or more sloping planes of a roof.

*Structure Mass* means the three-dimensional space defined from tallest height, greatest width and greatest length measured at the structure's exterior.

*Thomas Fire Recovery Statement* means the vision statement adopted by the City Council on January 22, 2018 which states: "The City strives to quickly rebuild our communities to be more sustainable, more fire resistant, and consistent with current building materials and designs. We will work together to build communities, seeking to ensure new homes respect neighbors and a wider community identity. We will balance the needs for individual home styles and preferences with this desire to create and enhance our existing community images. The City will ensure the communities rebuilding continue to be served with adequate infrastructure."

*Viewing Area* means the portion of the structure that constitutes the primary living area of the house, which is the living room, family room, dining room, kitchen, or outdoor patio immediately adjacent to the house. If a master bedroom exists on the same level as the primary living area of the house, and if no views are enjoyed from the other primary living areas, view from the master bedroom may be determined by the Director as the primary living area. Accessory Dwelling Units are not considered primary living area. Exterior yard space is not a viewing area.

*Volume* means the three-dimensional space enclosed between the structure's floor, walls and roof, as measured from the exterior of each.



**Section 6. – Reconstruction and Repair of Fire-Damaged Structures.**

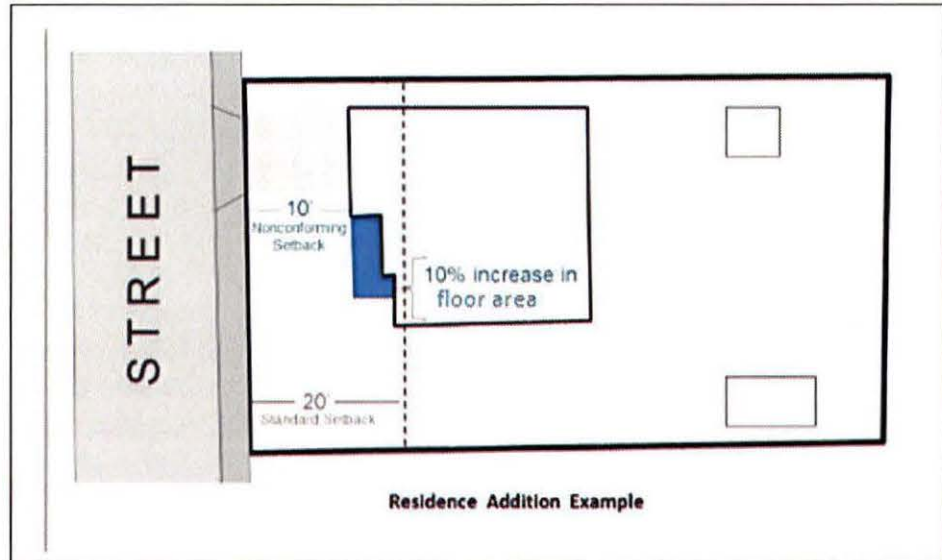
Reconstruction and repair of Qualifying Fire Damaged Structures within the TF Overlay shall be consistent with all current zoning regulations and General Plan land use designations unless otherwise stated within this Ordinance. Moreover, all reconstruction and repair shall meet current State and local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

**A. Reconstruction of Conforming Structures.**

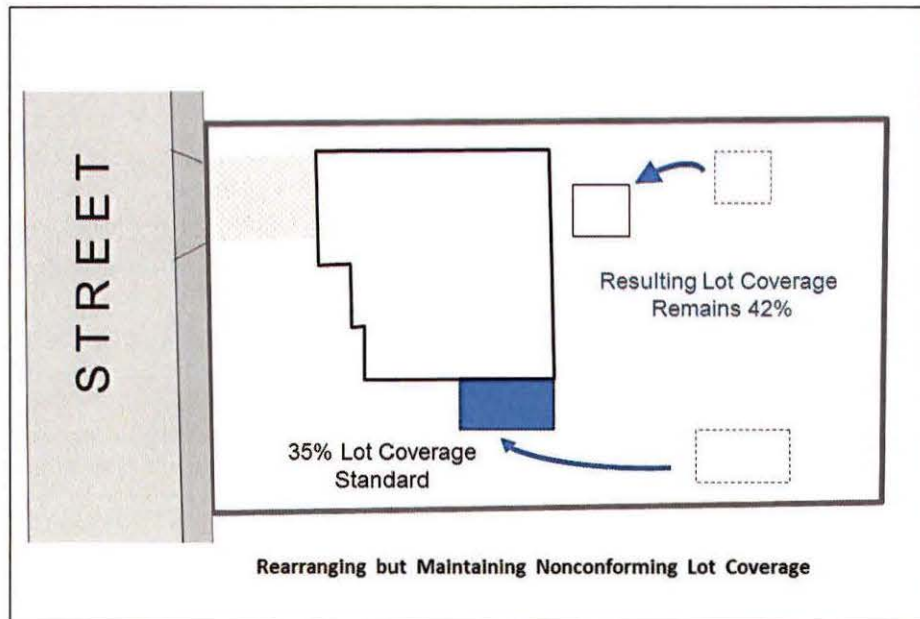
1. Building permit applications for residential and non-residential structures within the TF Overlay that are reconstructed or repaired to conform to all code requirements of the underlying zone or as Permitted shall receive Expedited Review.
2. Building permit applications for residential and non-residential structures that vary from the previous 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 previous 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.
4. Building Permit applications proposing a larger structure than what was previously Permitted but that fully complies with setbacks, lot coverage and height is allowed and will receive Expedited Review.

**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 San Buenaventura Municipal Code Section 24.110.990, and the footprint, ridgeline orientation, and use remain unchanged unless specifically allowed pursuant to the limited flexibility provisions in this section. Except as provided herein, 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 floor area, applied to the building footprint only, in a manner that maintains but does not increase any nonconformity.



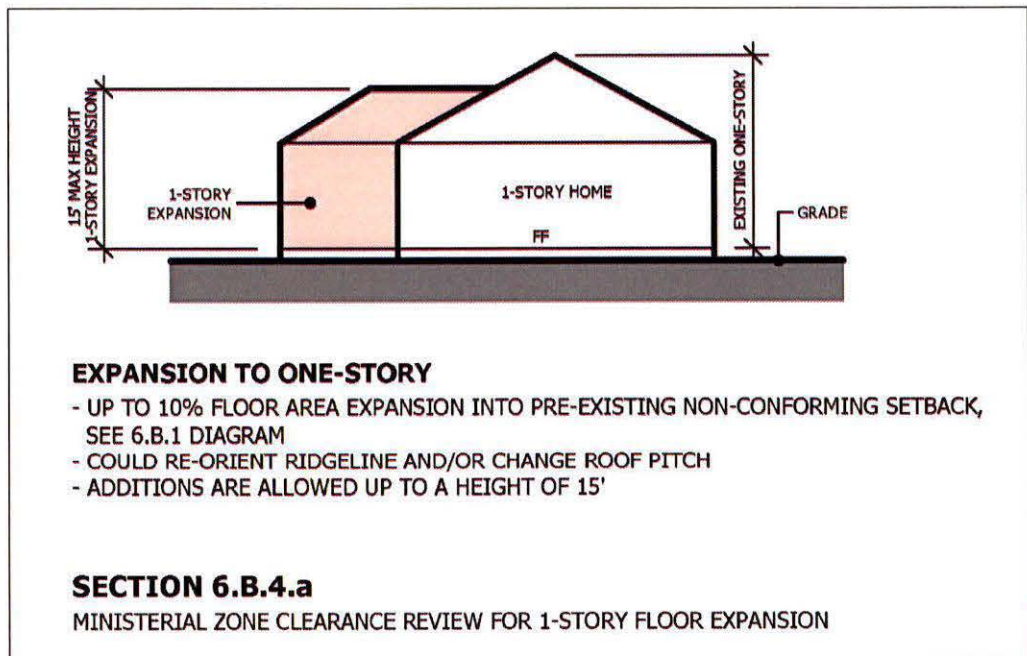
2. Nonconforming Lot Coverage Limited Flexibility Provision. Properties which exceeded the lot coverage requirement of the underlying zone are allowed to retain the nonconformity of lot coverage in any reconstruction footprint of the primary residence and/or accessory structures.



3. Determining Preexisting Lot Coverage and Setbacks. 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.

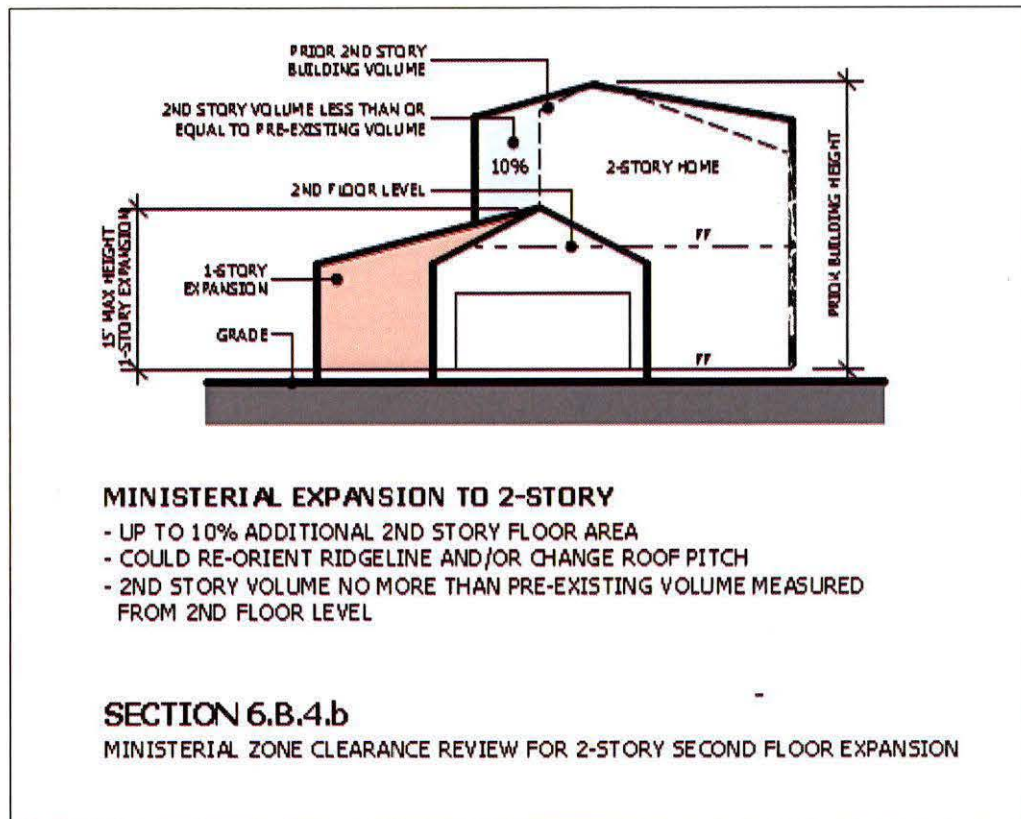
4. TF Overlay Zone Clearance Regulation to Rebuild a Previous nonconforming One-Story or Two-Story Residential Structure Mass. The following guidelines shall apply to the reconstruction of a one-story or two-story residence for ministerial zone clearance review:

- a) A one-story rebuild residence (1) may use the maximum site allowed given setback and lot coverage provisions, (2) shall be permitted to construct at a height up to 15' as measured from the finished floor (see Section 7.D.1), and (3) shall use the provision contained in Section 6.B.1 - Nonconforming Setback Limited Flexibility Provision for an increase of up to 10 percent of the floor area. Within the proposed residential structure mass, the ridgeline may be reoriented, and/or a pitched roof can be changed.



- b) A two-story rebuild residence may be rebuilt to be 1) no taller than the tallest ridgeline of the destroyed residence, 2) no closer than any required setback that existed for the destroyed residence, 3) may include a 2<sup>nd</sup> story increase of up to 10 percent of previous second-story floor area; within

the proposed residential structure mass, the ridgelines may be reoriented and/or roof pitches can be changed from the original residence, as long as the volume of the original second-story portion of the mass, as measured from the second floor level, including roofs, is maintained. In no event shall a cantilevered second story be allowed. In conjunction with the reconstruction of a two-story home, a single-story addition is permitted provided it maintains the 15' height limit and complies with setback and lot coverage standards.

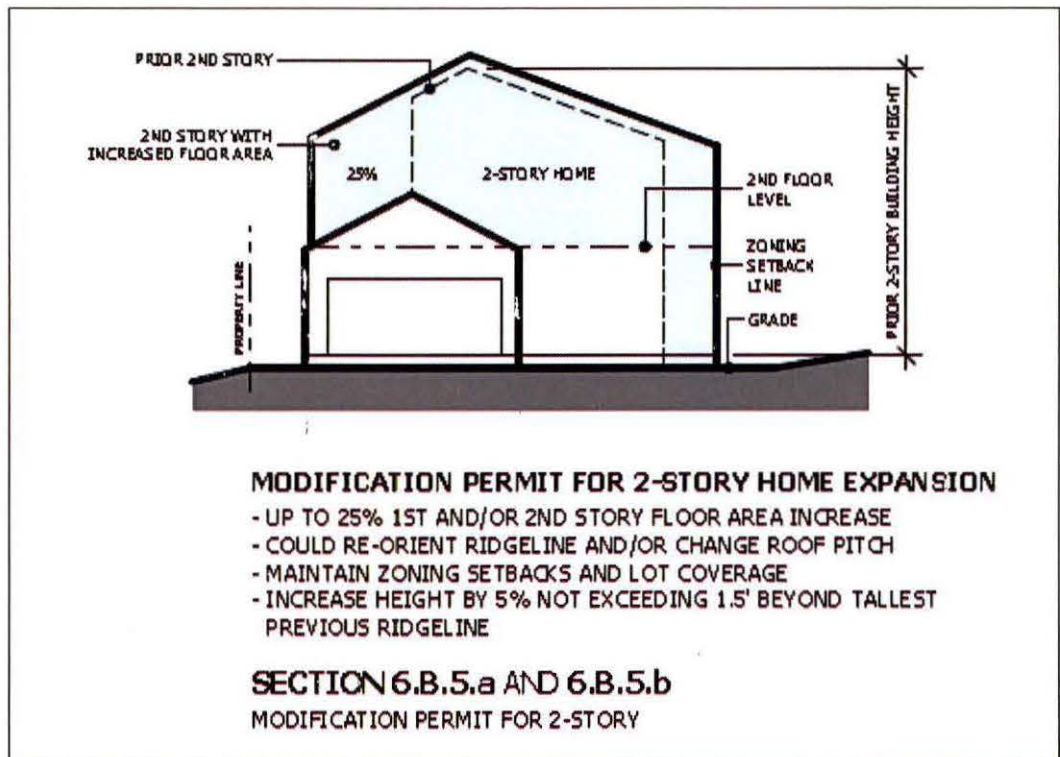


- c) Director Substantial Consistency Determination. The Director may determine an application for rebuild is substantially consistent with the intent of the Thomas Fire Recovery Statement including, but not limited to, rebuild projects seeking adjustments in structure height, setback, and fill for pad. The Director will consider information provided by the applicant such as site location within the neighborhood or previous subdivision tract information and may request additional information in making this determination. The determination by the Director shall be final and if determined to be substantially consistent, the

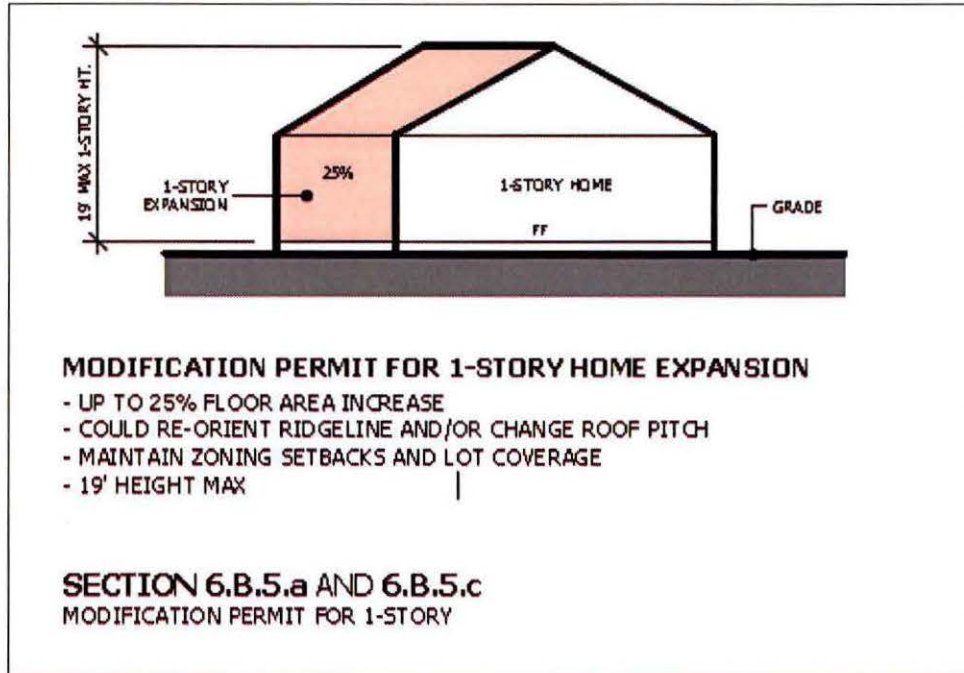
rebuild application shall receive ministerial zone clearance review by the Planning Division staff.

In addition to the adjustments provided for above, the following adjustments may be considered by following the process below:

1. **Preexisting One-Story Proposing a Two-Story Rebuild.** The Director may grant approval of a preexisting one-story structure proposed to be reconstructed as a two-story rebuild if both of the following determinations has been made:
  - a. The rebuild property has been determined by the Director to be a no impact lot to the viewing area of a protectable private view from an immediately adjacent property; and,
  - b. The Director has determined the rebuild property applicant has shared the proposed two-story project site plan and building elevation plans, in person or by mail to the address on file with the County Assessor, with the property owners of the adjacent lots of record and collected 100% support from adjacent property owners in the form of a Property Owner Two-Story Rebuild Support Forms provided by the Planning Division.
  
5. **TF Overlay Modification Permit Regulation to Rebuild a Previous One-Story or Two-Story Residential Structure with Limited Expansion.** A Modification Permit is required for reconstruction of a nonconforming one-story or two-story residence subject to the following standards to allow for limited expansion:
  - a) Except for structure height, a primary residence may be expanded above 10 percent to a maximum 25 percent of the destroyed residence floor area, but no expansion shall result in the creation of a nonconforming setback or lot coverage where the destroyed residence conformed to these development standards and in no event shall a cantilevered second story be allowed.
  - b) A two-story primary residence may reorient the ridgeline, increase height by no more than 5 percent, or both, but in no case to exceed 1.5 feet beyond the tallest preexisting ridgeline of the destroyed residence.



- c) A one-story primary residence may be rebuilt above the 15' maximum height up to a maximum of 19' subject to the provisions of this section. Within the proposed residential structure mass, the ridgelines may be reoriented and/or roof pitches can be changed from the original residence.



- d) Modification Permits are not allowed for the reconstruction of an accessory structure.
- e) Any rebuild expansion proposed beyond these limitations shall require approval of a Variance application pursuant to the requirements of Chapter 24.535 of the San Buenaventura Municipal Code, subject to all findings made by the decision-maker.

6. Modification Permit Processing. In addition to filing a Modification Permit application and the project information as required by the Planning Division, the applicant shall provide the following information to assist review of the modification proposal and to inform the neighborhood:

- a) Temporary Story Pole, Staking, and Flagging. The applicant shall construct on site a visual aid to depict a temporary frame with flagging to represent an accurate silhouette of the proposed rebuild, following the Staking and Flagging Guidelines provided by the Planning Division. Timing for installation of the story poles, staking, and flagging shall occur after filing the Modification Permit application and receiving consultation and notice to proceed by the assigned Project Case Planner. The story poles, staking and flagging shall be erected within 10 days of the Project Case Planer's issuance of the notice to proceed. The staking and flagging shall remain in place and in good condition through the

hearing date and for 10 calendar days after the day of the hearing. If an appeal of the project is filed, the story poles, staking, and flagging shall remain in place and in good condition until the appeal process to a hearing is complete.

1. Waiver for Story Pole, Staking and Flagging. The applicant may be granted a waiver to install story pole, staking and flagging by the Director if 50 percent or more of the abutting adjacent property owners, the majority of which are owner signatures from upslope and similar elevation properties, have reviewed and indicated support for the proposed rebuild project plans, signing a Neighbor Project Support Form provided by the Planning Division.
- b) Abutting Property Owner Acknowledgement Forms. The applicant shall share the proposed modification project site plan and building elevation plans, in person or by mail to the address on file with the County Assessor, with the property owners of the adjacent lots of record. The applicant shall use the Property Owner Acknowledgement Form provided by the Planning Division. The acknowledgement shall be a signature of the adjacent property owner stating awareness of the modification permit application, without expressing approval or disapproval of the proposal. Receipt of adjacent property owner acknowledgement forms from 50 percent or more of the adjacent property owners shall be deemed by the Project Case Planner as satisfying this component of the Modification Permit Application.
1. In the event the applicant has attempted to obtain signatures from the abutting property owners and is unable to reach them, the applicant can send the notice by certified U.S. mail, return receipt requested, and submit the return receipts in lieu of the Property Owner Acknowledgement Form. The Project Case Planner will accept these return receipts in lieu of the Property Owner Acknowledgement Form.
- c) Public Hearing Notice. The City shall notify all property owners within 300 feet of the exterior boundaries of the property of the subject application as well of the property owners involved in the application with postal cards or letters mailed not less than ten days prior to the hearing date. The



applicant shall (1) install onsite posted notice of the project using a sign and installation instructions provided by the Project Case Planner and (2) submit an applicant affidavit confirming signage has been posted. The onsite sign shall remain in place through the hearing date and for 10 calendar days after the day of the hearing. If an appeal of the project is filed with the City, an updated public notice shall be provided by the Project Case Planner and the above posting procedure shall be followed and the sign remain in place until the appeal process is complete.

7. Modification Permit Findings. In order to approve a Modification Permit, the following findings must be made by the decision-making authority:

- a) Approval of the Modification Permit for the rebuild proposal is consistent with the Thomas Fire Rebuild Statement;
- b) Approval of the Modification Permit for the rebuild proposal is consistent with the provisions of the TF Overlay Modification Permit regulations;
- c) Approval of the Modification Permit for the rebuild proposal does not significantly impair a Protectable Private View from the viewing area of an abutting primary residential structure;
- d) A Height Certification by licensed surveyor has been required as condition of approval of the Modification Permit to ensure accuracy of the structure height during construction of the residence; and
- e) Conditions of approval as may be necessary to enable the above findings to be made have been imposed.

8. Modification Permit Approval and Appeal Process. After public notice is provided pursuant to San Buenaventura Municipal Code Chapter 24.560, the Director or his designee shall consider any public comment and will render a decision. This decision is subject to appeal to the City Council following the procedural provisions of San Buenaventura Municipal Code Sections 24.565.050.B, 24.565.050.C, and 24.565.060.

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 San Buenaventura Municipal Code

Section 24.110.1110 which will retain the residential pattern of the preexisting neighborhood.

**Section 7. - 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.

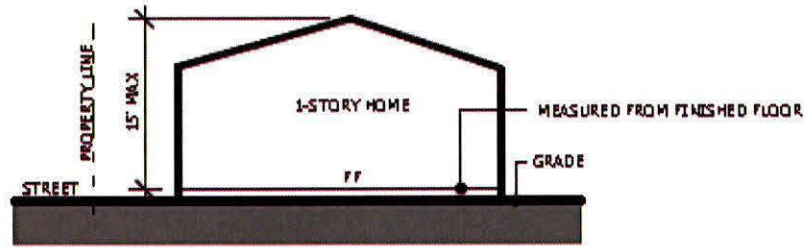
C. Exceeding Hillside Regulations. Except as provided for herein, rebuilding with a height increase will require the processing of an Administrative Variance application pursuant to the requirements of the San Buenaventura Municipal Code Chapter 24.535.

D. Height measurements in the TF Overlay. Height measurement shall occur from the general location of the preexisting primary residential structure site and shall be as follows:

1. A preexisting single-story structure may be rebuilt per the single-story height standard below; a preexisting two-story structure may be rebuilt per the two-story height standards below; and a preexisting single-story structure may be rebuilt to a two-story structure, subject to the requirement of Section 6.B.4.c.1, and per the two-story height measurement standards below.

**SINGLE STORY:**

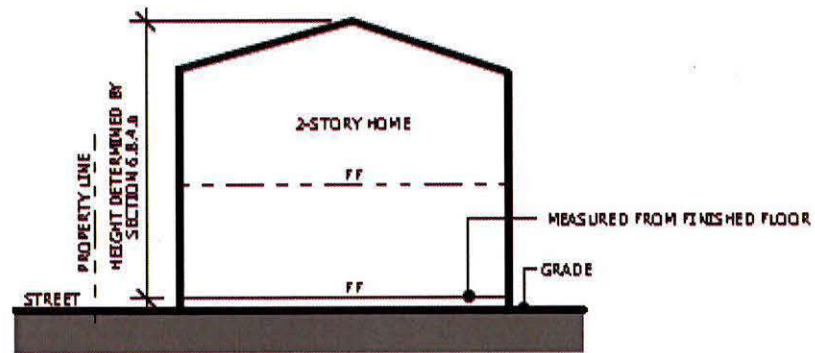
PAD - 1-STORY REBUILD ON A MINIMAL TO NO SLOPE BUILDING SITE:



MINIMAL TO NO SLOPE BUILDING SITE

**2-STORY:**

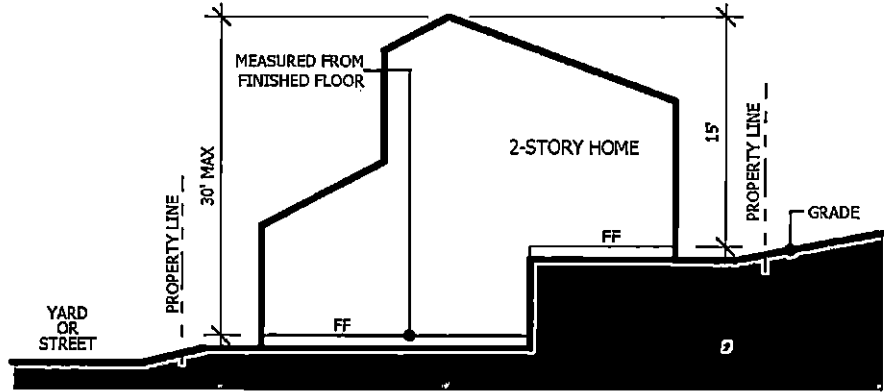
PAD - 2-STORY REBUILD ON A MINIMAL TO NO SLOPE BUILDING SITE SHALL FOLLOW THE PROVISIONS OF SECTION 6.B.4.b) HEREOF:



MINIMAL TO NO SLOPE BUILDING SITE

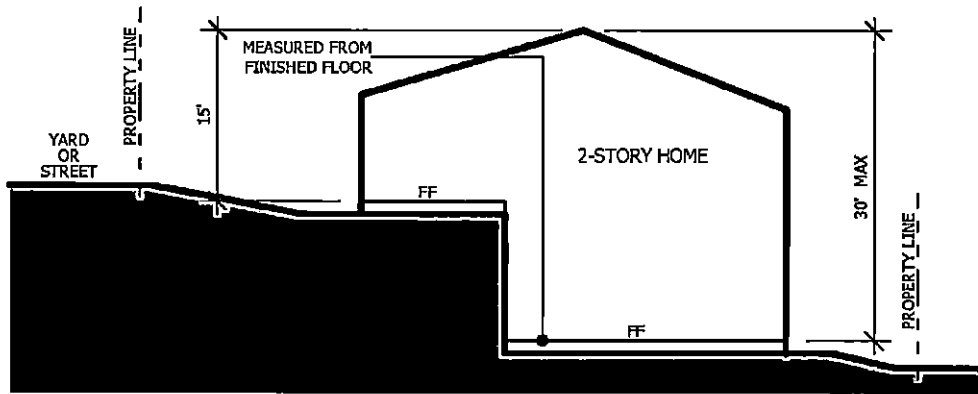
**TWO STORY:**

UPSLOPE - FOR LOTS WHICH SLOPE UPHILL FROM A YARD OR STREET OF ACCESS, MEASURED FROM THE FINISHED FLOOR.



UPSLOPE LOT

DOWNSLOPE - FOR LOTS WHICH SLOPE DOWNHILL FROM A YARD OR STREET OF ACCESS. MEASURED FROM THE FINISHED FLOOR.



DOWNSLOPE LOT

## 2. Additional Height Regulations:

- a) The definitions for basement and habitable story in the San Buenaventura Municipal Code shall apply.
- b) Adding fill to pad, other than what has occurred as compaction fill due to the required Thomas Fire removal process, or construction of a raised foundation would be counted within the height measurement to avoid a property from building up the pad or foundation to increase potential height or to capture or enhance a view, except as may be allowed pursuant to Section 6.B.4.c.
- c) A licensed surveyor shall prepare property line and topographic information for the rebuild application plans, which information shall be submitted with the application.

**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.

**Section 9.** - Accessory Dwelling Units ("ADU," formerly referred to as a 2<sup>nd</sup> 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 San Buenaventura 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 San Buenaventura 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 Sections 6 and 7

of this Ordinance, a request to rebuild to exceed the standard granted under this Ordinance will require the processing of a discretionary Variance application pursuant to the requirements of San Buenaventura Municipal Code Chapter 24.535, subject to all findings made by the decision-maker.

**Section 12.** - 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:

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 the San Buenaventura Municipal Code Section 24.545.040.

B. R-3 Multifamily Residential (3 or more units). If reconstruction is like for like, as defined in San Buenaventura Municipal Code 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 San Buenaventura 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 13.** - 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 San Buenaventura Municipal Code.

**Section 14.** - Land Use, Zoning or Related Code Provisions Not Addressed. Pursuant to the San Buenaventura 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 15.** - 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, unless otherwise established by the City Council.

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 16.** – Option to Use Hillside Regulations. While this Ordinance is in effect, a property owner of a Qualifying Fire Damaged Structure may elect to rebuild a structure on his/her/ their property in compliance with all zoning standards of the underlying zone, including the Hillside Height ordinance. Such election shall mean that the property owner shall not receive any of the benefits from the TF Overlay; however, the property owner shall receive building permit Expedited Review and the special fee provisions contained therein and as subsequently enacted by the City Council identified in Section 16 of the original TF Overlay and Section 15 hereof.

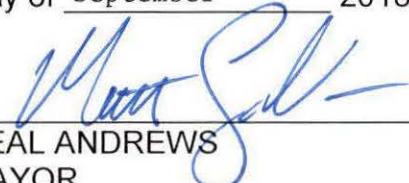
**Section 17.** - CEQA Findings.

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

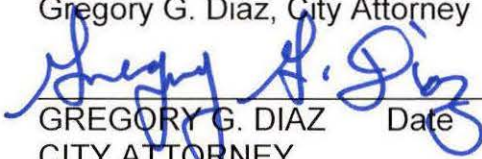
PASSED and ADOPTED this 10<sup>th</sup> day of September 2018.

  
for \_\_\_\_\_  
NEAL ANDREWS  
MAYOR

ATTEST:

  
\_\_\_\_\_  
ANTOINETTE M. MANN, MMC, CRM  
CITY CLERK

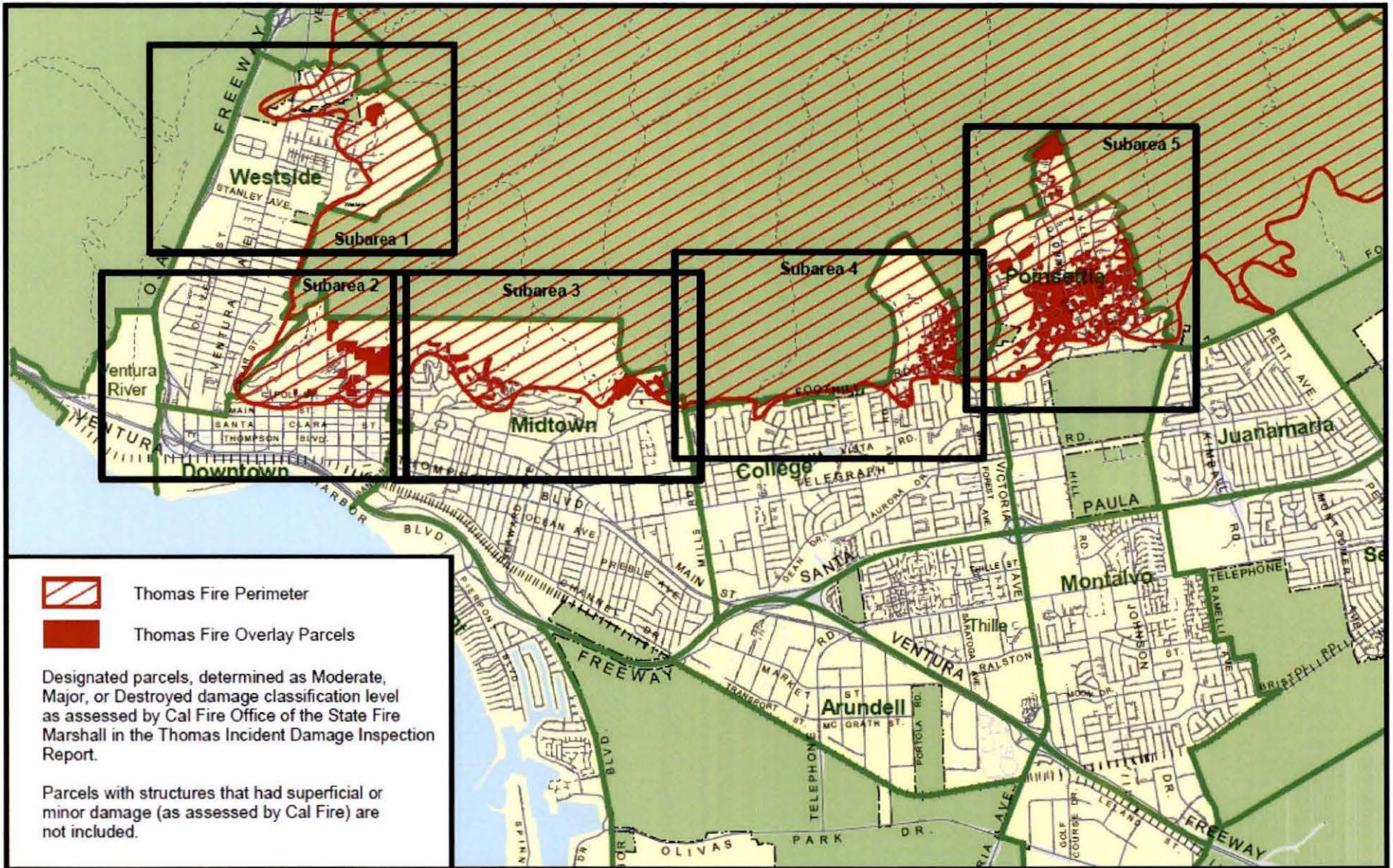
APPROVED AS TO FORM  
Gregory G. Diaz, City Attorney

  
\_\_\_\_\_  
GREGORY G. DIAZ      Date      9/11/2018  
CITY ATTORNEY

**EXHIBITS:**

Exhibit A: Map of Thomas Fire Rebuild Overlay Zone





Thomas Fire Perimeter



Thomas Fire Overlay Parcels

Designated parcels, determined as Moderate, Major, or Destroyed damage classification level as assessed by Cal Fire Office of the State Fire Marshall in the Thomas Incident Damage Inspection Report.

Parcels with structures that had superficial or minor damage (as assessed by Cal Fire) are not included.

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'

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 Ordinance No. 2018-016 that was introduced by said City Council at a regular meeting held September 10, 2018, and adopted by said City Council at a regular meeting held September 10, 2018, by the following vote:

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

NOES:     None

ABSENT:   Mayor Andrews

I further certify that said Ordinance No. 2018-016 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, MMC, CRM  
City Clerk  
City of San Buenaventura, California

  
\_\_\_\_\_  
Date Attested