

EXHIBIT 3

Proposed Non Coastal Zoning Ordinance in Legislative Format with Staff Explanations

Proposed Ordinance Establishing Setbacks from 16
Wildlife Crossing Structures in the Northern Portion of
the Ventura County Unincorporated Area

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ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF VENTURA, STATE OF CALIFORNIA
AMENDING DIVISION 8, CHAPTER 1, ARTICLES 2 AND 6 OF THE VENTURA
COUNTY ORDINANCE CODE, NON-COASTAL ZONING ORDINANCE TO
ESTABLISH SETBACKS FROM 16 WILDLIFE CROSSING STRUCTURES LOCATED
IN THE NORTHERN PORTION OF THE VENTURA COUNTY UNINCORPORATED
AREA**

The Board of Supervisors of the County of Ventura ("County") ordains as follows:

Section 1

**ARTICLE 2:
DEFINITIONS**

Article 2, Section 8102-0 – Application of Definitions, of the Ventura County Ordinance Code is hereby amended by revising the following existing definition to read as follows:

Wildlife Crossing Structure—A *structure* (such as a culvert, bridge or underpass) containing features that enhance its suitability for use by wildlife (terrestrial or aquatic) to safely cross human-made barriers (such as flood plain facilities, roadways and highways). Examples of such features include the presence of *vegetation* providing cover or habitat near the entrances and/or natural light visible at the opposite entrance. The locations of the *wildlife crossing structures* are shown on the "Wildlife Crossing Structures" map layer within the ~~Planning GIS Wildlife Corridor and Wildlife Crossing Structure Overlay Zone layer~~ of the County of Ventura, ~~Resource Management Agency~~, County View Geographic Information System (GIS), as may be amended by the *Planning Director*. The ~~term~~ definition of wildlife crossing structures does not include cattle guards.

[Staff Explanation: In addition to roadways and highways, flood plain facilities can also be a barrier to wildlife connectivity depending upon their location and design. The wildlife crossing structures that would be subject to the proposed setbacks are located exclusively in the northern portion of the Ventura County unincorporated area. The wildlife crossing structures identified in Section 8106-6.5.1 of the Proposed Ordinance would be added to an existing map layer in the County View GIS. The current map layer includes wildlife crossing structures that are located within the Habitat Connectivity and Wildlife Corridors (HCWC) and Critical Wildlife Passage Areas (CWPA) overlay zones, which are subject to the regulations set forth in Sections 8109-4.8 and 8109-4.9. The Proposed Ordinance makes no changes to the HCWC and CWPA overlays, no changes to the wildlife crossing structures located within the HCWC and CWPA overlays, and no changes to the regulations applicable to wildlife crossing structures in the HCWC and CWPA overlays. Changes to the definition of "wildlife crossing structure" are proposed to reflect the addition of the 16 wildlife crossing structures identified in Section 8106-6.5.1 to the map layer in the County GIS in addition to a few other minor grammatical non-substantive changes.]

Section 2

ARTICLE 6:

**LOT AREA AND COVERAGE, SETBACKS, HEIGHT
AND RELATED PROVISIONS**

Article 6, Sec. 8106-6.5 within Sec. 8106-6 – Miscellaneous Setback Regulations is hereby added to the Ventura County Ordinance Code to read as follows:

Section 8106-6.5 – Wildlife Crossing Structures and Setback Areas (Northern Unincorporated Area)

The purpose of this Section 8106-6.5 is to establish setbacks for certain development, land uses, and activities adjacent to wildlife crossing structures in the northern portion of the Ventura County unincorporated area to improve functional connectivity for terrestrial and aquatic wildlife across road barriers in the landscape by preserving vegetation cover and minimizing disturbances immediately adjacent to the entry and exit points of wildlife crossing structures.

[Staff Explanation: The new section states the purpose of the regulations and describes the establishment of setbacks to improve the function of the identified wildlife crossing structures.]

Section 8106-6.5.1 – Wildlife Crossing Structures

The regulations within this Section 8106-6.5 shall apply to wildlife crossing structures identified in Tables 1 and 2 (below), and the 200-foot setback area set forth in Section 8106-6.5.4.

Table 1 – Ventura County Wildlife Crossing Structures Located Within the Northern Portion of the Ventura County Unincorporated Area.

<u>Agency</u>	<u>Culvert/Bridge ID</u>	<u>Road Name</u>	<u>Latitude (N)</u>	<u>Longitude (W)</u>
<u>Ventura County</u>	<u>69112-1-1</u>	<u>Gridley Road</u>	<u>34.468831</u>	<u>119.224146</u>
	<u>322</u>		<u>34.46688</u>	<u>119.224354</u>
	<u>50825-3-14</u>	<u>Lockwood Valley Road</u>	<u>34.740338</u>	<u>119.087179</u>
	<u>50821-3-4</u>	<u>State Route. 33, Maricopa Highway</u>	<u>34.690638</u>	<u>119.343011</u>
	<u>50822-5-7</u>		<u>34.71555</u>	<u>119.265543</u>
	<u>50825-4-14</u>		<u>34.740637</u>	<u>119.086688</u>

Table 2 – California Department of Transportation (Caltrans) Wildlife Crossing Structures Located Within the Northern Portion of the Ventura County Unincorporated Area.

<u>Agency</u>	<u>Bridge ID</u>	<u>Location</u>	<u>Road Name</u>	<u>Latitude</u>	<u>Longitude</u>
<u>Caltrans</u>	<u>52 0092</u>	<u>07-VEN-033-50.70</u>	<u>State Route. 33, Maricopa Highway</u>	<u>344236</u>	<u>1192236</u>
	<u>52 0088</u>	<u>07-VEN-033-51.78</u>		<u>344318</u>	<u>1192300</u>
	<u>52 0086</u>	<u>07-VEN-033-48.69</u>		<u>344118</u>	<u>1192130</u>
	<u>52 0043</u>	<u>07-VEN-033-15.52</u>		<u>342912</u>	<u>1191812</u>
	<u>52 0044</u>	<u>07-VEN-033-15.82</u>		<u>342918</u>	<u>1191818</u>
	<u>52 0066</u>	<u>07-VEN-033-17.41</u>		<u>343024</u>	<u>1191736</u>
	<u>52 0067</u>	<u>07-VEN-033-17.84</u>		<u>343036</u>	<u>1191712</u>
	<u>52 0173</u>	<u>07-VEN-033-16.13</u>		<u>342930</u>	<u>1191818</u>
	<u>52 0087</u>	<u>07-VEN-033-50.91</u>		<u>344248</u>	<u>1192248</u>
	<u>52 0042</u>	<u>07-VEN-033-14.58</u>		<u>342806</u>	<u>1191706</u>

[Staff Explanation: Section 8106-6.5.1 identifies the 16 wildlife crossing structures that would be subject to proposed setback regulations. The wildlife crossing structures identified in Tables 1 and 2 are all located in the northern portion of the Ventura County unincorporated area and are maintained by either the County or Caltrans. Six of the 16 wildlife crossing structures that would be subject to the proposed setback regulations are maintained by the County and the remaining ten are maintained by Caltrans.]

Sec. 8106-6.5.2 – Prohibited Development, Structures, Land Uses and Activities

Unless otherwise exempt by Section 8106-6.5.3, or excepted pursuant to Section 8106-6.5.5, the following types of new development, structures, land uses, and activities constructed or occurring after [the effective date of these amendments] shall be prohibited from occurring within the 200-foot setback area described in Section 8106-6.5.4 of any wildlife crossing structure identified in Tables 1 and 2 of Section 8106-6.5.1 above.

- a. Any new structure, land use, or activity that requires a Zoning Clearance or other permit under Article 5.
- b. Any expansion or enlargement of an existing structure that requires a permit under Article 5, including any associated new fuel modification authorized or required by the Ventura County Fire Protection District.
- c. New or replacement wildlife impermeable fencing within the bank or bed of a stream or river.
- d. Any vegetation modification.
- e. New or modified landscape areas.
- f. New or replacement outdoor lighting.
- g. New indoor luminaires within translucent or transparent enclosed structures for agricultural operations.

[Staff Explanation: This section 8106-6.5.2 would prohibit certain future development, structures, land uses, and activities from occurring within the 200-foot setback area of a wildlife

crossing structure as described in Section 8106-6.5.1. By prohibiting certain development, structures, land uses, and activities from occurring within the setback area, the proposed regulations will help to enhance vegetation cover and minimize disturbances to increase wildlife use and improve the functionality of wildlife crossing structures.]

Section 8106-6.5.3 – General Exemptions

The following types of development, land uses, structures and activities are not subject to Section 8106-6.5.

a. Vegetation modification that is:

- (1) Required to comply with any federal or state law, or requirement of any permit, approval or order issued by a federal or state agency.
- (2) Carried out as part of a habitat preservation, restoration or enhancement project when specified by an agency approved mitigation plan, habitat conservation plan, or similar plan.
- (3) Conducted by a conservation organization for the purpose of maintaining or enhancing biological habitat or wildlife movement.
- (4) Reasonably required to maintain, repair or replace existing transportation, utility, and public safety infrastructure performed by a public agency or contracted designee. Examples include roads, bridges, pipelines, utility lines, flood control improvements, and drainage and utility ditches.
- (5) Performed by a public agency on publicly owned or maintained property.
- (6) Associated exclusively with vegetation that has been intentionally planted within a landscape area.
- (7) Conducted in accordance with one or more of the following: (i) as required or authorized by the Ventura County Fire Protection District (VCFPD) pursuant to VCFPD Fire Code, as may be amended; (ii) pursuant to a Community Wildfire Protection Plan or similar fuel modification/wildfire protection plan adopted and/or amended by VCFPD; or (iii) pursuant to a burn permit approved by VCFPD.
- (8) Conducted to construct or maintain a driveway or road internal to a legal lot that is utilized to plant or harvest a crop or orchard that will be commercially sold.

b. The following structures, development, land uses, and activities:

- (1) Repair or maintenance of an existing, legally established structure or fence.
- (2) The installation of wildlife impermeable fencing that is required to comply with any federal or state law, or any condition or requirement of any permit, approval or order issued by a federal or state agency.
- (3) Structures involuntarily damaged or destroyed by fire, flood, landslide, or natural disaster rebuilt to their original state and in their original location if (i) less than 50 percent of the structure is damaged or destroyed and (ii) a complete building permit application is submitted to the County within three years of the date that the damage occurred, and the permit once approved is diligently pursued to completion prior to expiration. Notwithstanding any other provision of this Chapter, the rebuilding of structures following fire, flood, landslide or natural disaster not meeting the above requirements shall comply with the requirements of this Section 8106-6.5.
- (4) Land, fences, or improvements other than structures involuntarily damaged or destroyed by fire, flood, landslide, or natural disaster restored or rebuilt to their original state and in their original location if a complete building permit application is submitted to the County within three years of the date that the damage occurred,

and the permit once approved is diligently pursued to completion prior to expiration, or if no permit is required, the rebuilding commences within the aforementioned three-year period and is diligently pursued to completion. Notwithstanding any other provision of this Chapter, the restoration of land, or rebuilding of fences, or improvements following fire, flood, landslide or natural disaster not meeting the above requirements shall comply with the requirements of this Section 8106-6.5.

- (5) Structures, wildlife impermeable fencing or improvements that are temporary, or are located entirely or substantially underground (e.g., pipelines, cables, individual sewage disposal systems). Pools are considered to be in-ground, not underground and do not qualify for this exemption.
- (6) Planting or harvesting of crops or orchards that will be commercially sold.
- (7) Livestock grazing.
- (8) Bee hives used for apiculture activities.
- (9) Surface mining operations, including but not limited to associated structures, fuel modification, fencing and lighting, that are authorized by an approved conditional use permit.
- (10) Structures, development, land uses and activities which are protected by vested right or to the minimum extent necessary to avoid a constitutional taking of property, provided they comply with the following to the maximum extent feasible: (1) are sited the furthest distance from the entry or exit points of a wildlife crossing structure; and (2) any outdoor lighting is fully-shielded, directed downward, and maintained in such a manner to avoid light trespass beyond the bank of a stream or river. If light trespass occurs beyond the bank of a stream or river, the lighting shall be operated by motion sensor or a timer switch and shall be programmed to turn off no more than five minutes after activation.

c. The following outdoor lighting and related activities:

- (1) Temporary lighting for road and utility construction.
- (2) Temporary emergency lighting.
- (3) Temporary lighting associated with a use authorized by this Chapter or a permit granted pursuant to this Chapter.
- (4) Temporary or intermittent outdoor night lighting necessary to conduct agricultural activities including outdoor lighting used during weather events such as frosts, and temporary or intermittent outdoor night lighting used for oil and gas exploration and production regardless of the location or number of lights used. As used in this Section 8106-6.5.3, the term "intermittent" means a period of between 31 and 90 calendar days within any 12- month period. For example, the use of intermittent lighting in cases where it is used simultaneously to illuminate multiple, discreet facilities (well sites, multiple tanks, etc.) is not limited provided that each individual location is illuminated no longer than 90 calendar days within any 12-month period.
- (5) Seasonal or festive lighting.
- (6) Outdoor lighting with a maximum output of 60 lumens or less that is fully shielded and directed downward, including solar lights.
- (7) Outdoor lighting on public and private streets.
- (8) Outdoor lighting used for any facility, equipment, or activity that is required to comply with any federal or state law, or any condition or requirement of any permit, approval or order issued by a federal or state agency.

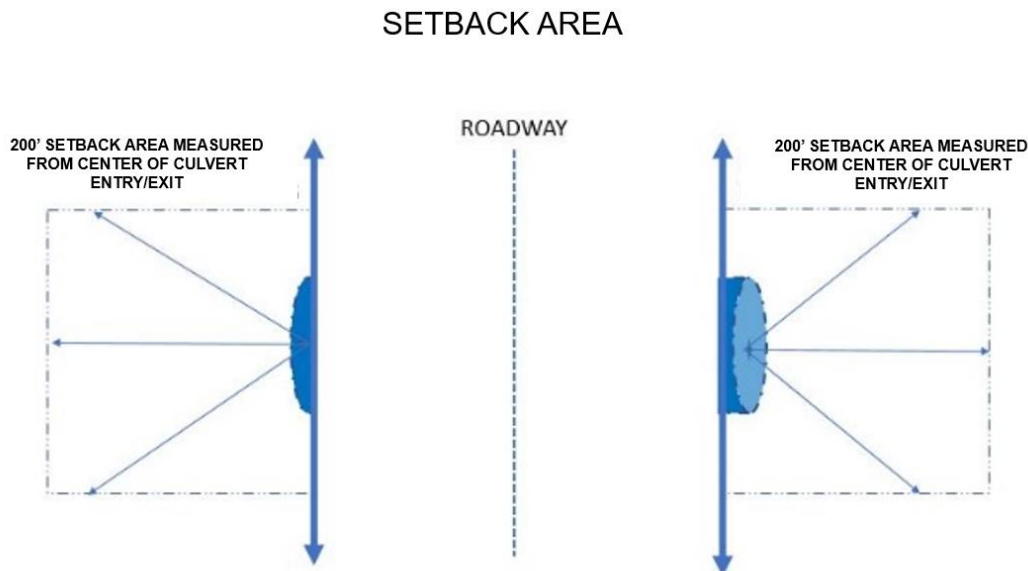
- (9) Replacement of outdoor *essential luminaires* for existing legally permitted *structures* that utilize the minimum output necessary for safety and security purposes, with a *correlated color temperature* of 2700 Kelvin or less, that are directed downward and *fully shielded* to the maximum extent possible, and controlled by a motion detector and timer that are programmed to turn off no more than five minutes after activation.

[Staff Explanation: Section 8106-6.5.3 exempts certain development, land uses and activities from the proposed setback regulations to accommodate, among other things, public health and safety and the reasonable use of one's property; the proposed exemptions help ensure that the proposed setback regulations will improve the functionality of crossing structures without compromising public safety or unduly burdening property interests.]

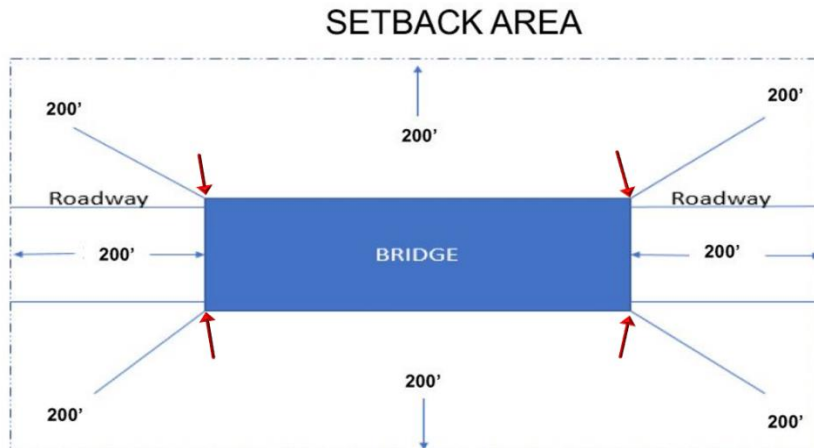
Section 8106-6.5.4 – Wildlife Crossing Structure Setback Area

The 200-foot-setback area surrounds the entry and exit point of each identified *wildlife crossing structure* and shall be measured as follows:

- a. The setback for culverts that span less than or equal to 10 feet in diameter or width shall be measured from the center of the entry and exit point, as shown in the diagram below;



- b. The setback for bridge *structures* and culverts with widths or diameters greater than 10 feet, shall be measured from the outside perimeter of the opening, as shown by the red arrows in the diagram below.



[Staff Explanation: How the 200-foot setback area is measured depends on whether it is a small culvert (10 foot diameter or less) or a large bridge or culvert. For wide bridges and culverts (i.e., those larger than 10 feet in diameter or width), if the setback is measured from the center of the structure, it may not be of suitable size to buffer disturbances or contain enough vegetative cover for wildlife to feel comfortable enough to utilize the crossing structure. Section 8106-6.5.4 takes this into account by specifying that the measurement is either from the center of the entry and exit points, or from the outside perimeter, of the crossing structure, depending on the diameter/width of the wildlife crossing structure.]

Section 8106-6.5.5 – Nonconforming Structures

Section 8113-1 shall apply to nonconforming structures located partially or wholly within the 200-foot setback area that existed as of [effective date of these amendments]. For purposes of Section 8113-1, an expansion or enlargement of a nonconforming structure shall be deemed in conformance with this Section 8106-6.5 if the expansion or enlargement, including any associated new fuel modification, is located completely outside of the 200-foot setback area or does not increase the footprint of the nonconforming structure, provided that the expansion does not increase any nonconformity with the prohibitions set forth in Section 8106-6.5.2, subdivisions (c) through (d).

[Staff Explanation: Section 8106-6.5.5 addresses situations when property owners may wish to expand or enlarge an existing structure that is rendered nonconforming by Section 8106-6.5. This section would allow for a structure to be enlarged if the expansion is either located outside the setback area or does not increase the footprint of the nonconforming structure (e.g., the property owner builds up rather than out), provided that the expansion does not increase any nonconformity with the prohibitions set forth in Section 8106-6.5.2, subdivisions (c) through (g) (e.g., prohibitions against certain wildlife impermeable fencing, vegetation modification, landscape areas, outdoor lighting, and indoor luminaires).]

Section 3

If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The

Ventura County Board of Supervisors hereby declares that it would have passed and adopted this ordinance, and each and all provisions hereof, irrespective of the fact that any one or more provisions may be deemed invalid or unconstitutional.

Section 4

This ordinance shall become effective and operative 30 days after adoption.

PASSED AND ADOPTED this ___ day of _____, 2022, by the following vote:

AYES: Supervisors _____

NOES: Supervisors _____

ABSENT: Supervisors _____

CHAIR, BOARD OF SUPERVISORS

ATTEST:

DR. SEVET JOHNSON

Clerk of the Board of Supervisors

County of Ventura, State of California

By _____

Deputy Clerk of the Board