



CITY OF

NEWPORT BEACH

City Council Staff Report

October 14, 2025
Agenda Item No. 16

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Ordinance Nos. 2025-32 and 2025-33: Amending Titles 20 and 21 of the Newport Beach Municipal Code Establishing the Special Flood Hazard Area (VE) Overlay (PA2018-075)

ABSTRACT:

On June 13, 2025, the City Council introduced and subsequently adopted Ordinance No. 2023-10 to establish the Special Flood Hazard Area (VE) Overlay (i.e., the "VE Overlay") in Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC). The City Council also authorized the submittal of a complementary amendment to Title 21 (Local Coastal Program Implementation Plan) to the California Coastal Commission (CCC). The amendments would establish the overlay and modify allowed setback encroachments to help provide access without impact to the buildable area of affected residential lots. Although Ordinance No. 2023-10 was adopted, it is notable that its effectiveness was delayed to align with the effective date of the changes to Title 21 for consistency.

On July 10, 2025, the CCC approved the submitted Title 21 amendment with suggested modifications. For the City Council's consideration are proposed ordinances to accept and incorporate the CCC's suggested modifications into Title 21 (Attachment B) and into Title 20 for consistency (Attachment A).

RECOMMENDATIONS:

- a) Conduct a public hearing;
- b) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2), 15060(c)(3), and 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines because it has no potential to have a significant effect on the environment;
- c) Waive full reading, direct City Clerk to read by title only, introduce Ordinance No. 2025-32, *An Ordinance of the City Council of the City of Newport Beach, California, Adopting Revisions to Zoning Code Amendment (PA2018-075) Amending Title 20 (Planning and Zoning) of the City of Newport Beach Municipal Code to Establish the Special Flood Hazard Area Overlay for Consistency with the California Coastal Commission's Modifications (PA2018-075)*, and pass to second reading on October 28, 2025; and

- d) Waive full reading, direct City Clerk to read by title only, introduce Ordinance No. 2025-33, *An Ordinance of the City Council of the City of Newport Beach, California, Approving an Amendment to Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code, as Modified by the California Coastal Commission, to Establish the Special Flood Hazard Area Overlay (PA2018-075)*, and pass to second reading on October 28, 2025.

DISCUSSION:

On March 26, 2019, the City Council adopted Resolution No. 2019-31 initiating amendments to Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the NBMC. A draft of the proposed amendments was presented to the design community on December 2, 2021, and on January 19, 2022, a draft was presented to affected and nearby property owners via virtual community meetings. Comments from the two outreach meetings were incorporated into the draft amendments, and on May 4, 2023, the Planning Commission unanimously recommended approval of the amendments to the City Council.

On June 13, 2023, the City Council introduced Ordinance No. 2023-10 (Attachment D) to establish an overlay in Title 20 of the NBMC for the Special Flood Hazard Area (VE) (i.e., “VE Overlay”) to modify allowed setback encroachments. The Ordinance was adopted on June 27, 2023, but deferred the effective date until the associated Title 21 amendments were approved by the CCC. Concurrently, on June 13, 2023, the City Council adopted Resolution No. 2023-34, authorizing submittal of the Local Coastal Program Amendment (PA2018-075) to the CCC to similarly amend Title 21. The changes proposed to Titles 20 and 21 are consistent.

The changes included adoption of a new overlay in both Title 20 and Title 21 for 166 properties located within the VE Overlay as designated by the Federal Emergency Management Agency (FEMA) in the March 21, 2019, Flood Insurance Rate Maps (FIRMs). Residential construction in the VE Special Flood Hazard Area is required to raise the finished floor approximately three to five feet above the ground on posts, piers, or piles. The overlay is intended to resolve a design constraint by providing flexibility for the allowed height of encroachments in front, side, and rear setbacks, to allow for reasonable access to the elevated homes. Additional details on the VE Special Flood Hazard Area and related design requirements are included in the City Council Staff Report dated June 13, 2023 (Attachment E).

Allowed encroachments, as originally proposed in the VE Overlay, included the following:

Side and Rear Setbacks

- Stairs, steps, landings, platforms, terraces, etc. to the minimum extent necessary to provide access to the home; and

- Required guardrails and handrails (open style construction) associated with the above encroachments.

Front Setbacks

- Balconies, patios, decks, terraces, etc. including ground supports extending up to 3 feet into the front setback abutting the boardwalk or beach;
- Stairs to extend to the front property line abutting the boardwalk or beach; and
- Required handrails and guardrails (open style construction) associated with the above encroachments.

Coastal Commission Action and Acceptance of Suggested Modifications

On August 31, 2023, staff submitted the City Council's authorized Title 21 amendment to the CCC. On July 10, 2025, the CCC considered and denied the amendment, as submitted, but approved it with suggested modifications, which are outlined in Attachment F.

A summary of the suggested modifications include:

- **Suggested Modification 1 – Reference and Codify Applicability Map:** The modification establishes a map to illustrate the properties eligible for the new VE Overlay. The original draft code language simply referenced Chapter 15.50 (Floodplain Management) of the NBMC, which defines the areas that are subject to the building standards of the special flood hazard area. This would have allowed the VE Overlay to be somewhat adaptable in the future, should FEMA reduce or increase the number of properties included in the VE Zone. However, CCC staff found there were too many variables related to coastal resources to analyze properties should the extent or location of the VE Zone be adjusted in the future. The revised language now specifically references the March 21, 2019, Flood Insurance Rate Map and a map is included to show the affected properties. Any future changes to the FIRMs would likely require another amendment to the LCP to expand or reduce the overlay location.
- **Suggested Modification 2 – Reduced Encroachments in Front Setback:** The modification reduces the type and extent of allowed encroachments in the front setback. The original draft text would have allowed stairs to fully encroach in the front setback to the property line (i.e., zero-foot setback). The revised language only allows stairs to encroach up to three feet into the setback (i.e., leaving a two-foot setback).

Furthermore, instead of allowing a variety of encroachments such as patios, terraces and decks (including ground supports) to extend three feet into the front setback, the revised language removes the allowance for these features to encroach into the front setback any amount. CCC staff was concerned about

potential visual impacts related to encroachments in the front setback including the supports that would be associated with decks, patios, and terraces. However, there are existing provisions in Title 21 that would continue to allow “balconies” without ground supports to extend three feet into the front setback consistent with Section 21.30.110(D) (Allowed Encroachments into Setback Areas) of the NBMC. The allowed stairs encroachment would provide practical access to these balconies not previously achievable.

- **Suggested Modification 3 – Reference Clean-Up:** The modification removes and consolidates several references in the draft VE Overlay text related to the design requirements associated with building in the VE Zone including several references to Title 15 (Buildings and Construction). The revised text states that Overlay would not constitute a waiver of building code requirements contained in Chapter 15.40 (Floodplain Management) of the NBMC, ensuring that new construction will still comply with relevant building standards.

The recommended action is to accept and incorporate all the CCC’s suggested modifications into the amendments to both Title 21 and Title 20. The amendments as modified will continue to resolve the design constraints associated with providing access to these elevated homes.

The City Council must accept or reject all the suggested modifications. Partial acceptance is not permitted and would require resubmittal to the CCC through a new amendment application. A redline-strikeout version incorporating all CCC modifications for Title 21 is included as Attachment G.

If introduced, the ordinances would return for a second reading on October 28, 2025, and take effect 30 days thereafter.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

Staff recommends that the City Council also find these amendments categorically exempt from CEQA pursuant to Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, because they have no potential to have a significant

effect on the environment. The Class 5 exemption allows minor alterations in land use limitations in areas with an average slope of less than twenty percent, which do not result in any changes in land use or density. The amendments seek to provide flexibility for potential encroachments into side, rear, and front setback areas for properties located within the VE Zone. The proposed changes to the NBMC could result in raised decks, landings, stairs, and other accessory features in the front, side, and rear setbacks for the affected properties. All changes are limited in scope and would only alter regulations for the height of accessory structures, which would not result in any changes to land use intensity or density.

The exceptions to this categorical exemption under Section 15300.2 are not applicable. The affected location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

NOTICING:

Pursuant to Section 13515 of the California Code of Regulations, a review draft of the Title 21 Amendment was made available, and a Notice of Availability was originally distributed on May 2, 2023, to all persons and agencies on the Notice of Availability mailing list.

In addition, notice of this hearing was published in the Daily Pilot as an eighth-page advertisement, mailed to all owners of property within 300 feet of the boundaries of the properties in the VE Special Flood Hazard Area (excluding intervening rights-of-way and waterways) and posted near the end of the properties in the VE Special Flood Hazard Area at least 10 days before the scheduled meeting, consistent with the provisions of the NBMC. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City's website.

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Ordinance No. 2025-32 (Title 20)
Attachment B – Ordinance No. 2025-33 (Title 21)
Attachment C – Resolution No. 2023-37
Attachment D – Ordinance No. 2023-10
Attachment E – City Council Staff Report dated June 13, 2023 (without attachments)
Attachment F – Coastal Commission Approval Letter and Suggested Modifications
Attachment G – Redline-Strikeout Version of Title 21 Code Amendment