

## ATTACHMENT A

### ORDINANCE NO. 2021-26

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT NO. LC2019-001 AMENDING TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) TO CORRECT AND CLARIFY PROVISIONS RELATED TO MINIMUM LOT SIZE AND DIMENSIONS, OVERLAYS AND PUBLIC HEARING NOTICE REQUIREMENTS (PA2019-055)**

**WHEREAS**, Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

**WHEREAS**, Section 30500 of the California Public Resources Code requires each county and city to prepare a local coastal program for the portion of the coastal zone within its jurisdiction;

**WHEREAS**, in 2005, the City adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan ("LCP") as amended from time to time including most recently on September 14, 2021, via Resolution No. 2021-79;

**WHEREAS**, the California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, and the City Council adopted Ordinance No. 2016-19 adding Title 21 (Local Coastal Program Implementation Plan) ("Title 21") to the Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit-issuing authority as of January 30, 2017;

**WHEREAS**, on April 23, 2019, the City Council adopted Resolution No. 2019-41 to initiate amendments to Title 21 related to minimum lot size and dimensions, overlay zoning districts, public hearing notification, corrections to setback maps and the transfer of development rights ("LCP Amendment No. LC2019-001");

**WHEREAS**, a telephonic public hearing was held by the Planning Commission on June 18, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the public hearing was given in accordance with the California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

**WHEREAS**, at the hearing, the Planning Commission adopted Resolution No. PC2020-025 (6 ayes, 0 nays, 1 absent) recommending to the City Council adoption of LCP Amendment No. LC2019-001;

**WHEREAS**, a telephonic public hearing was held by the City Council on July 28, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

**WHEREAS**, at the hearing, the City Council adopted Resolution No. 2020-072 authorizing submittal of LCP Amendment No. LC2019-001 to the California Coastal Commission and Ordinance No. 2020-19 by a unanimous vote (7 ayes, 0 nays);

**WHEREAS**, on October 13, 2021, the California Coastal Commission approved LCP Amendment No. LC2019-001 (LCP-5-NPB-20-0060-2 Part B) with no modifications, as a result, LCP Amendment No. LC2019-001 is now deemed approved and became a certified part the City's Local Coastal Program on October 13, 2021; and

**WHEREAS**, pursuant to Section 13515 (Public Participation and Agency Coordination Procedures) of the California Code of Regulations Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 5, drafts of LCP Amendment No. LC2019-001 were made available and a notice of availability was distributed at least six weeks prior to the City Council public hearing.

**NOW THEREFORE**, the City Council of the City of Newport Beach ordains as follows:

**Section 1:** Add Note 6 and amend the Lot Area row of Table 21.18-2 of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of Chapter 21.18 (Residential Coastal Zoning Districts (R-A, R-1, R-BI, R-2, and RM)) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

<b>Development Feature</b>	<b>R-A</b>	<b>R-1</b>	<b>R-1-6,000</b>	<b>Additional Requirements</b>
Lot Area (1) (6):				
Corner lot	87,120 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	87,120 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	

(6) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same coastal zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).

**Section 2:** Add Note 6 and amend the Lot Area row of Table 21.18-3 of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of Chapter 21.18 (Residential Coastal Zoning Districts (R-A, R-1, R-BI, R-2, and RM)) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

<b>Development Feature</b>	<b>R-BI</b>	<b>R-2</b>	<b>R-2-6,000</b>	<b>Additional Requirements</b>
Lot Area (1)(2)(3)(6):				
Corner lot	2,375 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	2,375 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	

(6) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same coastal zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).

**Section 3:** Add Note 8 and amend the Lot Area row of Table 21.18-4 of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of Chapter 21.18 (Residential Coastal Zoning Districts (R-A, R-1, R-BI, R-2, and RM)) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

Development Feature	RM	RM-6,000	Additional Requirements
Lot Dimensions	Minimum dimensions required for each newly created lot.		
Lot Area (1)(2)(8):			
Corner lot	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	5,000 sq. ft.	6,000 sq. ft.	

(8) Lots may be subdivided so that the resulting lot area and dimensions for each new lot are less than that identified in this table in compliance with the provisions of Title 19 (Subdivisions). The minimum lot size shall not be less than the original underlying lots on the same block face and in the same coastal zoning district. Lot width and length may vary according to the width and depth of the original underlying lots. New subdivisions that would result in additional dwelling units beyond what the original underlying lots would allow are not permitted unless authorized by an amendment of the General Plan (GPA).

**Section 4:** Amend the introductory paragraph of Section 21.28.010 (Purposes of Overlay Coastal Zoning Districts) of Chapter 21.28 (Overlay Coastal Zoning Districts (MHP, PM, B, C and H)) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows. In all other respects, Section 21.28.010 shall remain unchanged:

### **21.28.010 Purposes of Overlay Coastal Zoning Districts.**

The purposes of the individual overlay coastal zoning districts and the manner in which they are applied are outlined below. An overlay district may be initiated as a Coastal Zoning Map amendment in compliance with Chapter 21.14 (Coastal Maps). All development shall comply with the applicable development standards (e.g., setbacks, height) of the underlying coastal zoning district in addition to the standards provided in this chapter, if any. In situations where an inconsistency occurs between the development standards of the underlying coastal zoning district and the standards in this chapter, the standards of the overlay district shall prevail.

**Section 5:** Amend Subsection 21.62.020(B)(2)(c) (Nearby Property Owners) of Chapter 21.62 (Public Hearing) Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code to read as follows:

c. Nearby Property Owners. All owners of property located within a three hundred (300) foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject lot, as shown on the last equalized assessment roll or, alternatively, from other records that contain more recent addresses. It shall be the responsibility of the applicant to obtain and provide to the Department the names and addresses of all owners required by this section. If the number of property owners to whom notice would be mailed in compliance with this section is more than one thousand (1,000), in lieu of mailed notice, the Director may choose to publish a one-eighth page display advertisement in a newspaper of general circulation within the City. However, a mailed notice shall still be provided to those persons who have requested notice, including all persons known to the applicant to be a party interested in the application, including those persons who testified at or submitted written comments for the local hearing(s);

**Section 6:** Subsection 21.62.020(B)(4) (Alternative to Mailing) is repealed and replaced with a new Subsection 21.62.020(B)(4) (Additional Notice) of Chapter 21.62 (Public Hearings) Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code as follows:

4. Additional Notice. The Director may provide additional notice of the hearing in any other manner deemed necessary.

**Section 7:** The LCP and Title 21 (Local Coastal Program Implementation Plan), including LCP Amendment No. LC2019-001, shall be carried out in full conformance with the California Coastal Act.

**Section 8:** The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

**Section 9:** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 10:** The City Council finds the adoption of this ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 21065 of the California Public Resources Code and Sections 15060(c)(2), 15060(c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 ("CEQA Guidelines"). LCP Amendment No. LC2019-001 is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. LCP Amendment No. LC2019-001 itself does not authorize development that would directly result in physical change to the environment.

**Section 11:** Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

**Section 12:** The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 30<sup>th</sup> day of November, 2021, and adopted on the 14<sup>th</sup> day of December, 2021, by the following vote, to-wit:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
BRAD AVERY, MAYOR

**ATTEST:**

\_\_\_\_\_  
LEILANI I. BROWN, CITY CLERK

**APPROVED AS TO FORM:**  
CITY ATTORNEY'S OFFICE

  
\_\_\_\_\_  
AARON C. HARP, CITY ATTORNEY