

Attachment C

Ordinance No. 2022-3
Amending Title 21

ORDINANCE NO. 2022-3

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ACCEPTING THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS AND ADOPTING LOCAL COASTAL PROGRAM AMENDMENT NO. LC2019-004 TO AMEND TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED TO COTTAGE PRESERVATION (PA2019-181)

WHEREAS, Section 200 of the Charter of the City of Newport Beach ("City") 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 that 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 ("Local Coastal Program"), which has been amended from time to time;

WHEREAS, the California Coastal Commission effectively certified the City's LCP on January 13, 2017, which the City added as 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;

WHEREAS, an amendment to Title 21 is necessary to incentivize the preservation of cottages ("LCP Amendment No. LC2019-004");

WHEREAS, pursuant to Title 14 of the California Code of Regulations ("CCR") Section 13515 ("Public Participation"), drafts of LCP Amendments No. LC2019-004 were made available and a Notice of Availability was distributed on October 4, 2019, at least six weeks prior to the final action date;

WHEREAS, a public hearing was held by the Planning Commission on October 17, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. 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"), Chapters 20.62 and 21.62 (Public Hearings) of the NBMC, and 14 CCR Section 13515. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission voted to continue the item to allow staff additional time to revise certain aspects of LCP Amendment No. LC2019-004;

WHEREAS, a public hearing was held by the Planning Commission on November 21, 2019, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, Chapters 20.62 and 21.62 (Public Hearings) of the NBMC, and 14 CCR Section 13515. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, on November 21, 2019, the Planning Commission adopted Resolution Nos. PC2019-033 and PC2019-034 by a majority vote (5 ayes, 1 nay, 1 absent), recommending to the City Council approval of Zoning Code Amendment No. CA2019-006 and Local Coastal Program Amendment No. LC2019-004;

WHEREAS, a public hearing was held by the City Council on January 28, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, Chapters 20.62 and 21.62 (Public Hearings) of the NBMC, and 14 CCR Section 13515. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

WHEREAS, on January 28, 2020, the City Council introduced Ordinance No. 2020-4 revising Title 20 (Planning and Zoning) related to the preservation of cottages ("Zoning Code Amendment No. CA2019-006") and adopted Resolution No. 2020-12 authorizing submittal of LCP Amendment No. LC2019-004 to the Coastal Commission by a unanimous vote (7 ayes, 0 nays);

WHEREAS, at its November 19, 2021 hearing, the Coastal Commission approved and certified LCP Amendment No. LC2019-004 with modifications (LCP-5-NPB-20-0025-1 Part A) as being consistent with the California Coastal Act; and

WHEREAS, a public hearing was held by the City Council on January 11, 2022, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, and Chapters 20.62 and 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.

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

Section 1: The City Council hereby accepts the suggested modifications approved by the Coastal Commission.

Section 2: Section 21.38.060 (Nonconforming Parking) of Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code is hereby amended to read as follows:

21.38.060 Nonconforming Parking.

A. Residential. Where a residential structure or use is nonconforming only because it does not conform to the off-street parking requirements of this Implementation Plan, the following provisions shall apply:

1. Number of Spaces. A residential development having less than the required number of parking spaces per dwelling unit shall be allowed the following repairs, alterations, and additions:

- a. Repair and maintenance, interior alterations, and structural alterations, as provided for in Section 21.38.040(A) through (F);
- b. Additions up to a maximum of ten (10) percent of the existing floor area of the structure as provided in Section 21.38.040(G);
- c. Any repair, maintenance, or additions shall not result in loss of existing parking spaces; and

d. Required parking shall be provided where feasible.

2. Dimensions or Type of Parking Spaces. Residential developments that are nonconforming because they do not have the required type of covered or enclosed parking spaces or because amendments to this Implementation Plan have changed the dimensions of required parking spaces subsequent to the original construction of the structure may be altered or expanded as follows:

a. All improvements and expansions allowed under subsection (A)(1) of this section;

b. Additions larger than those allowed under subsection (A)(1) of this section may be allowed subject to the approval of a coastal development permit.

3. Alley Access. Where applicable, residential development involving repairs, alterations, and additions to residential development having less than the required number of parking spaces per dwelling unit shall provide alley access to parking area if it would result in additional public street parking.

4. Exception for Cottage Preservation. For the purposes of eligibility as a "cottage" for this section, the existing development prior to the addition shall consist of either a residential single-unit dwelling, duplex, or triplex, with individual unit sizes of 1,500 square feet or less, and does not exceed one story and sixteen (16) feet in height on the front half of the lot, and does not exceed two stories and twenty-four (24) feet in height on the rear half of the lot. Notwithstanding the provisions of subsections (A)(1)(b) and (A)(2)(b) of this section, additions of up to fifty (50) percent of the existing floor area of the structure, but no greater than 750 square feet, are permitted for a cottage that complies with the following criteria:

a. The floor area of any addition, together with the floor area of the existing structure, shall not exceed the allowed maximum floor area for the coastal zoning district where the property is located;

b. The addition shall comply with all applicable development standards and use regulations of this Implementation Plan, including the coastal resource protection development regulations of Section 21.28.040 (Bluff (B) Overlay District), Section 21.28.050 (Canyon (C) Overlay District), Section 21.30.015(D) (Waterfront Development), Section 21.30.015(E)(2) (Development in Shoreline Hazardous

Areas), Section 21.30A (Public Access and Recreation), Section 21.30B (Habitat Protection), and Section 21.30.100 (Scenic and Visual Quality Protection);

c. The square footage of residential parking area additions identified below shall be excluded from the allowed expansion under subsection (A)(4), but shall be included as gross floor area;

Required Parking	Maximum Excluded Area
One-car garage	200 square feet
Two-car garage	400 square feet
Three-car garage	600 square feet

d. The height of the residential structure including the cottage addition shall not exceed the following, regardless of roof pitch:

- i. Front half of lot: single story with a maximum height of sixteen (16) feet; and
- ii. Rear half of lot: two story with a maximum height of twenty-four (24) feet.

e. The residential structure shall not include a third floor deck;

f. In addition to limitations of Section 21.48.115 (Short Term Lodging), any cottage preservation project used for short-term lodging shall be restricted to a maximum of six (6) occupants;

g. Deed Restriction and Recordation Required. Prior to the issuance of a building permit for a cottage preservation project, the property owner shall record a deed restriction with the Orange County Recorder's Office, the form and content of which is satisfactory to the City Attorney, agreeing to maintain the property consistent with the limitations specified above for cottage preservation and the restrictions on short-term lodging. The deed restriction shall notify future owners of the restriction. The deed restriction shall remain in effect so long as the cottage preservation project exists on the property; and

h. The addition complies with the limitations of Section 21.38.040(G)(1).

Section 3: The LCP, including LCP Amendment No. LC2019-004, will be carried out fully in conformity with the California Coastal Act.

Section 4: The recitals provided in this ordinance are true and correct and are incorporated into the substantive part of this ordinance.

Section 5: The City Council hereby authorizes City staff to submit this ordinance for a determination by the Executive Director of the Coastal Commission that this action is legally adequate to satisfy the specific requirements of the Coastal Commission's November 19, 2021, action on LCP Amendment Request No. LCP-5-NPB-20-0025-1 Part A (Cottage Preservation).

Section 6: This ordinance shall not become effective until the Executive Director of the Coastal Commission certifies that this ordinance complies with the Coastal Commission's November 19, 2021, action on LCP Amendment Request No. LCP-5-NPB-20-0025-1 Part A (Cottage Preservation).

Section 7: 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 8: The City Council finds this action 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"). This action is also exempt under CEQA Guidelines Section 15061(b)(3), which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Lastly, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program. LCP Amendment No. LC2019-004 itself does not authorize development that would directly result in physical change to the environment.

Section 9: 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 10: 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 11th day of January, 2022, and adopted on the 25th day of January, 2022, by the following vote, to-wit:

AYES: _____

NAYS: _____

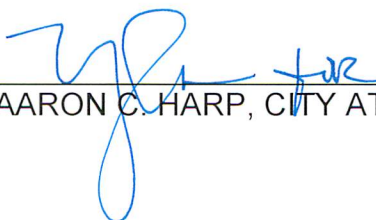
ABSENT: _____

KEVIN MULDOON, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY