

Attachment A

Ordinance No. 2022-12

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**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF NEWPORT BEACH, CALIFORNIA, AMENDING
TITLE 21 (LOCAL COASTAL PROGRAM
IMPLEMENTATION PLAN) OF THE NEWPORT BEACH
MUNICIPAL CODE AND ADOPTING LOCAL COASTAL
PROGRAM AMENDMENT NO. LC2020-002 RELATED
TO TATTOO ESTABLISHMENT DEVELOPMENT
STANDARDS (PA2020-030)**

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 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 ("LCP") as amended from time to time;

WHEREAS, the California Coastal Commission effectively certified the City's Local Coastal Program Implementation Plan on January 13, 2017, which the City added as Title 21 (Local Coastal Program Implementation Plan) ("Title 21") to the City of Newport Beach Municipal Code ("NBMC") whereby the City assumed coastal development permit-issuing authority;

WHEREAS, both Title 20 (Planning and Zoning) ("Title 20") and Title 21 of the NBMC authorize Restricted Personal Service uses which includes day spas, healing arts, tanning salons, tattoo and body piercing establishments in office, commercial (with the exception of the Commercial Recreational and Marine [CM] zone), and mixed-use zones subject to approval of a minor use permit;

WHEREAS, on April 14, 2020, the City Council initiated LCP Amendment No. LC2020-002 pursuant to City Council Resolution No. 2020-35;

WHEREAS, pursuant to Section 13515 (Public Participation and Agency Coordination Procedures) of the California Code of Regulations, Title 14, Division 5.5, Chapter 8, drafts of LCP Amendment No. LC2020-002 were made available and a Notice of the Availability was distributed a minimum of six weeks prior to the City Council public hearing;

WHEREAS, a telephonic public hearing was held by the Planning Commission on May 6, 2021, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, observing restrictions 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 Chapters 20.62 and 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 voted (7 ayes, 0 nays) to continue the item to allow staff additional time to research and respond to the Commission's questions;

WHEREAS, a public hearing was held by the Planning Commission on July 22, 2021, 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 Planning Commission at this public hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution Nos. PC2020-018 and PC2020-019 by a unanimous vote (5 ayes, 0 nays) recommending to the City Council approval of Zoning Code Amendment No. CA2020-002 and LCP Amendment No. LC2020-002;

WHEREAS, a public hearing was held by the City Council on November 30, 2021, 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, at the hearing, the City Council introduced Ordinance No. 2021-27 adopting Zoning Code Amendment No. CA2020-002 and Resolution No. 2021-127 authorizing submittal of LCP Amendment No. LC2020-002 to the California Coastal Commission by a unanimous vote (7 ayes, 0 nays); and

WHEREAS, on March 9, 2022, the California Coastal Commission approved LCP Amendment No. LC2020-002 (LCP-5-NPB-21-0084-3 Part B) with no modifications, as a result, LCP Amendment No. LC2020-002 is now deemed approved and became a certified part of Title 21.

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

Section 1: Table 21.20-1 in Section 21.20.020(C) (Commercial Coastal Zoning Districts Land Uses) of Chapter 21.20 (Commercial Coastal Zoning Districts (CC, CG, CM, CN, CV, CV-LV, OG) of Title 21 of the Newport Beach Municipal Code is hereby amended, in part to the “Tattoo Establishments” row as follows:

TABLE 21.20-1 ALLOWED USES	Commercial Coastal Zoning Districts							
	A Allowed — Not Allowed *							
Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.	CC	CG	CM (3)	CN	CV (3)	CV- LV (3)	OG	Specific Use Regulations
Service Uses—General								
Tattoo Establishments	—	A	—	—	—	—	A	

Section 2: The definition of “Personal Services (Land Use)” in Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Chapter 21.70 (Definitions) of Title 21 of the Newport Beach Municipal Code is hereby amended to read as follows, with all other provisions of Chapter 21.70 (Definitions) remaining unchanged:

Personal Services (Land Use).

1. General. Establishments that provide recurrently needed services of a personal nature. Illustrative examples of these uses include:
 - a. Barber and beauty shops.
 - b. Clothing rental shops.

- c. Dry cleaning pick-up stores with limited equipment.
- d. Laundromats (self-service laundries).
- e. Locksmiths.
- f. Shoe repair shops.
- g. Tailors and seamstresses.

These uses may also include accessory retail sales of products related to the services provided.

2. Restricted. Personal service establishments that may tend to have a blighting and/or deteriorating effect upon surrounding areas and that may need to be dispersed from other similar uses to minimize adverse impacts, including:

- a. Day spas.
- b. Healing arts (acupuncture, aromatherapy, etc.) with no services qualifying under "Massage establishments."
- c. Tanning salons.
- d. Body piercing studios.

These uses may also include accessory retail sales of products related to the services provided.

Section 3: The definition of "Tattoo Establishment (land use)" is hereby added to Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Chapter 21.70 (Definitions) of Title 21 of the Newport Beach Municipal Code to read as follows:

"Tattoo Establishment (land use)" means a business where the insertion of pigment, ink or dye is applied under the surface of the skin by a person pricking with a needle or otherwise, to permanently change the color or appearance of the skin or to produce an indelible mark or figure visible through the skin in exchange for financial or other valuable consideration. It does not include the application of permanent make-up that is performed as an incidental service in a beauty shop, day spa, or dermatology office.

Section 4: The LCP and Title 21, including LCP Amendment No. LC2020-002, shall be carried out in full conformance with the California Coastal Act.

Section 5: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 6: 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 7: The City Council finds LCP Amendment No. LC2020-002 is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3), of Title 14, Division 6, Chapter 3 of the California Code of Regulations ("CEQA Guidelines"), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. LCP Amendment No. LC2020-002 would allow tattoo establishments as a permitted use within the City. LCP Amendment No. LC2020-002 does not authorize new development that would directly result in physical changes to the environment. There is no evidence that amending the regulations for tattoo establishments would result in any new effects on the environment. Additionally, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a LCP.

Section 8: 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 9: 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 26th day of April, 2022, and adopted on the 10th day of May, 2022, by the following vote, to-wit:

AYES: _____

NAYS: _____

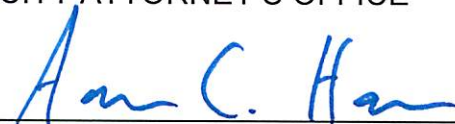
ABSENT: _____

KEVIN MULDOON, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY