

# **Attachment E**

City Council Resolution No. 2017-51 (LC2017-003 Authorization)

## RESOLUTION NO. 2017-51

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING THE SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2017-003 TO THE CALIFORNIA COASTAL COMMISSION IMPLEMENTING NEW STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS (PA2017-069)

**WHEREAS**, State law (Senate Bill 1069 and Assembly Bill 2299, Statutes of 2016) requires jurisdictions to amend their local zoning ordinances to conform to California Government Code Section 65852.2;

**WHEREAS**, Senate Bill 1069 and Assembly Bill 2299 are intended to address the State housing crisis by easing regulatory barriers for homeowners who choose to construct accessory dwelling units;

**WHEREAS**, accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, and others, at below market prices within existing neighborhoods;

**WHEREAS**, homeowners who construct accessory dwelling units may benefit from added income and an increased sense of security;

**WHEREAS**, allowing accessory dwelling units in single-family residential zones provides additional rental housing stock;

**WHEREAS**, accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character;

**WHEREAS**, adopting an ordinance consistent with California Government Code Section 65852.2 ensures that the character of the City of Newport Beach (City) is preserved to the maximum extent possible and that the City's regulation regarding accessory dwelling units continues to promote the health, safety, and welfare of the community;

**WHEREAS**, the City has designated areas where accessory dwelling units may be located, when permitted by California Government Code Section 65852.2, based in part upon adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety;

**WHEREAS**, a public hearing was held on May 4, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC) and Section 13515 of the California Code of Regulations. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing. The Planning Commission continued the hearing to June 8, 2017;

**WHEREAS**, a public hearing was held on June 8, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC) and Section 13515 of the California Code of Regulations. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

**WHEREAS**, on June 8, 2017, the Planning Commission adopted Resolution No. 2057 by a majority vote of 4-1, recommending approval of Local Coastal Program Amendment No. LC2017-003 to the City Council;

**WHEREAS**, a public hearing was held on July 25, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC) and Section 13515 of the California Code of Regulations. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing; and

**WHEREAS**, pursuant to Section 13515 of Title 14, Division 5.5, of the California Code of Regulations, review drafts of LCP Amendment No. LC2017-003 were made available and a notice of the availability was distributed a minimum of six weeks prior the City Council public hearing.

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

**Section 1:** The City Council does hereby authorize City staff to submit LCP Amendment No. LC2017-003 to the California Coastal Commission for review and approval, as attached in Exhibit A, and incorporated herein by reference.

**Section 2:** LCP Amendment No. LC2017-003 shall not become effective until approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution(s) and/or ordinance(s) of the City Council of the City of Newport Beach.

**Section 3:** The LCP including the proposed amendment will be carried out fully in conformity with the California Coastal Act.

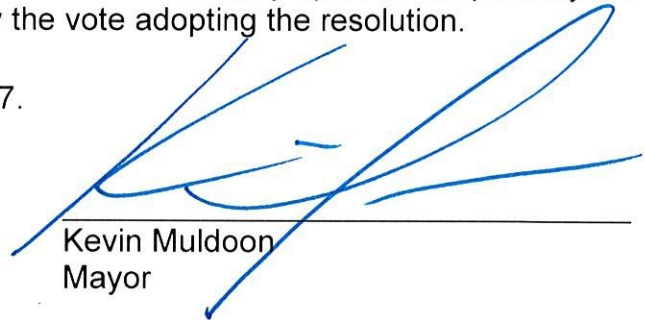
**Section 4:** The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

**Section 5:** If any section, subsection, sentence, clause or phrase of this resolution 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 resolution. The City Council hereby declares that it would have passed this resolution, 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 6:** This action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states the adoption of an ordinance regarding second units to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA. Similarly, the ministerial approval of accessory dwelling units is not a "project" for CEQA purposes, and environmental review is not required prior to approving individual applications.

**Section 7:** This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

**ADOPTED** this 25<sup>th</sup> day of July, 2017.

  
\_\_\_\_\_  
Kevin Muldoon  
Mayor

**ATTEST:**

  
\_\_\_\_\_  
Leilani I. Brown  
City Clerk



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

 (for)  
\_\_\_\_\_  
Aaron C. Harp  
City Attorney

**EXHIBIT "A"**  
**Local Coastal Program Amendment No. LC2017-003**

**Section 1:** Amending Chapter 2.0 (Land Use and Development) of the Coastal Land Use Plan to add Policy 2.7-5 as follows, with all other provisions of the Coastal Land Use Plan remaining unchanged:

**2.7-5. Administer the provisions of Government Code Section 65852.2 relative to the development of accessory dwelling units to increase the supply of lower-cost housing in the coastal zone and meet the needs of existing and future residents, while respecting the architectural character of existing neighborhoods and in a manner consistent with the LCP and any applicable policies from Chapter 3 of the Coastal Act. .**

**Section 2:** Newport Beach Municipal Code (NBMC) Subsection 21.18.010(A) and (B) are amended to read as follows:

- A. R-A (Residential-Agricultural) Coastal Zoning District. The R-A Coastal Zoning District is intended to provide for areas appropriate for detached single-family residential dwelling units, accessory dwelling units, and light farming uses, each located on a single legal lot, and does not include condominiums or cooperative housing.
- B. R-1 (Single-Unit Residential) Coastal Zoning District. The R-1 Coastal Zoning District is intended to provide for areas appropriate for a range of detached single-family residential dwelling units and accessory dwelling units, each located on a single legal lot, and does not include condominiums or cooperative housing.

**Section 3:** Table 21.18-1 in NBMC Section 21.18.020(C) (Allowed Uses and Permit Requirements) is amended, in part to the Accessory Dwelling Units" row as follows:

|                          |   |   |     |     |                          |
|--------------------------|---|---|-----|-----|--------------------------|
| Accessory Dwelling Units | A | A | --- | --- | <u>Section 21.48.200</u> |
|--------------------------|---|---|-----|-----|--------------------------|

**Section 4:** Table 21.18-2 in NBMC Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) is amended, in part, as to the "Density/Intensity" row as follows:

|                   |  |
|-------------------|--|
| Density/Intensity | Each legal lot shall be allowed one single-unit detached dwelling. <u>In addition, one accessory dwelling unit may be allowed.</u> |
|-------------------|--|

**Section 5:** NBMC Subsection 21.31.110(D) (Allowed Encroachments into Setback Areas) is amended to add subpart 16 to read as follows:

**16. Accessory Dwelling Units. Accessory dwelling units may be established within required setback areas in compliance with the requirements of Section 21.48.200 (Accessory Dwelling Units).**

**Section 6:** Table 3-10 in NBMC Section 21.41.040 (Off-Street Parking Requirements) is amended, in part, as to the “Accessory Dwelling Units” row as follows:

|                          |  |
|--------------------------|--|
| Accessory Dwelling Units | 1 per unit; a minimum of 2 covered per site.<br><u>As required per Section 21.48.200</u> |
|--------------------------|--|

**Section 7:** Amend NBMC Chapter 21.48 to add Section 21.48.200 (Accessory Dwelling Units) to read as follows, with all other provisions of Chapter 21.48 remaining unchanged:

21.48.200 Accessory Dwelling Units

- A. Purpose. The purpose of this section is to establish the procedures for the creation of accessory dwelling units as defined in Part 7 (Definitions) and in the California Government Code Section 65852.2, or any successor statute, in single-unit residential zoning districts or areas designated for single-family residential use as part of a Planned Community Development Plan or Specific Plan, and to provide development standards to ensure the orderly development of these units in appropriate areas of the City.
- B. Review Authority. Accessory dwelling units shall be approved in all single-unit residential coastal zoning districts or areas designated for single-family residential use as part of a Planned Community Development Plan or Specific Plan, subject to the approval of the Director upon finding that the following conditions have been met:
1. The dwelling conforms to the development standards and requirements for accessory dwelling units established in the subsections below.
  2. Public and utility services including emergency access are adequate to serve both dwellings.
- C. Development standards. Except as modified by this subsection, an accessory dwelling unit shall conform to all requirements of the underlying residential coastal zoning district, any applicable overlay district, and all other applicable provisions of this Code, including but not limited to height, setback, site coverage, floor area limit, and residential development standards and design criteria; unless the unit is contained within a legal, nonconforming structure and does not expand the nonconformity.
1. Minimum lot area. A minimum lot area of five thousand (5,000) square feet, excluding submerged land area, shall be required in order to establish an accessory dwelling unit.
  2. Setback requirements. Accessory dwelling units shall comply with the setback requirements applicable to the zoning district in which they are located, except in cases where the minimum required garage setbacks differ from principal building setbacks, in which case the following applies:
    - a. No additional setback shall be required for an existing garage that is converted to an accessory dwelling unit, provided that the side and rear setbacks comply with required Building Codes.
    - b. A setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit constructed above the garage.

3. Building height. Detached accessory dwelling units shall not exceed one story and a height of 14 feet, unless the accessory dwelling unit is constructed above a garage, in which case the structure shall comply with the height limits of the underlying zoning district.
4. Unit size. The maximum size of an accessory dwelling unit shall not exceed a 750 square feet of floor area, or 50 percent of the existing floor area (excluding garage) of the principal unit, whichever is less.
5. Design. An accessory dwelling unit shall be designed and sited to:
  - a. Be similar to the principal dwelling with respect to architectural style, roof pitch, color, and materials;
  - b. Protect public access to and along the shoreline areas;
  - c. Protect public views to and along the ocean and scenic coastal areas;
  - d. Protect sensitive coastal resources; and
  - e. Minimize and, where feasible, avoid shoreline hazards.
6. Conversion of space within existing structure. Notwithstanding the provisions of subsections C(1), C(2), C(3), C(4) and C(5) above, an accessory dwelling unit shall be permitted if the unit is contained within the existing space of a single-unit dwelling or existing accessory structure, has independent exterior access from the existing dwelling, and the side and rear setbacks comply with required Building Codes, and if the accessory dwelling unit conforms with the following:
  - a. For the purposes of this section, the portion of the single-unit dwelling or accessory structure must have been legally permitted and existing for a minimum of three years prior to the issuance of a permit to convert the space into an accessory dwelling unit.
  - b. No new or separate utility connection may be required between the accessory dwelling unit and the utility service, such as water, sewer, and power.
7. Fire sprinklers. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the principal residence.
8. Passageway. No passageway shall be required in conjunction with the construction of an accessory dwelling unit. For the purposes of this section, "passageway" means a pathway that is unobstructed clear to the sky and extends from the street to one entrance of the accessory dwelling unit.
9. Parking. Parking shall comply with requirements of Chapter 21.40 (Off-Street Parking), except as modified below:

- a. One parking space required for one-bedroom or efficiency unit; two parking spaces required for unit with two or more bedrooms.
- b. Such parking may be provided as tandem parking and/or may be located on an existing driveway; however, in no case shall parking be allowed in a rear setback abutting an alley.
- c. No parking shall be required for:
  - i. Accessory dwelling unit converted as part of the existing principal residence or existing accessory structure as described in subsection (C)5.
  - ii. Accessory dwelling units located within one-half mile of a public transit. For the purposes of this section "public transit" shall include a bus stop with fixed route bus service that provides transit service at 15-minute intervals or better during peak commute periods.
  - iii. Accessory dwelling unit is located within an architecturally and historically significant district.
  - iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
  - v. When there is a car-share vehicle located within one block of the accessory dwelling unit. For the purposes of this section, "car-share vehicle" shall mean part of an established program intended to stay in a fixed location for at least 10 years and available to the public.
- d. If an accessory dwelling unit replaces an existing garage, replacement spaces must be provided. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, any required replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.



- D. Additional requirements for all accessory dwelling units.
1. Sale of units. The accessory dwelling unit shall not be sold separately from the principal dwelling.
  2. Short-term lodging. The accessory dwelling unit shall not be rented for periods of less than 30 days.
  3. Number of units allowed. Only one accessory dwelling unit may be located on the lot.
  4. Existing development. A single-unit dwelling must exist on the lot or shall be constructed on the lot in conjunction with the construction of the accessory dwelling unit.
  5. Occupancy. The principal dwelling unit or the accessory dwelling unit shall be continuously occupied by at least one person having an ownership interest in the lot.
- E. Deed restriction and recordation required. Prior to the issuance of a Building and/or Grading Permit for an accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney. The deed restriction document shall notify future owners of the owner occupancy requirements and restrictions on short-term rentals. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.
- F. Coastal Development Permits.
1. Hearing Exemption. All of the provisions of Chapter 21.52 regarding the review and approval of Coastal Development Permits in relation to accessory dwelling units are applicable, except that a public hearing as required by Chapter 21.62 shall not be required. Public notice shall be provided as required in Section 21.62.020, except the requirements of Section 21.62.020(A) shall be replaced with a statement that no local public hearing will be held and that written comments on the proposed development may be submitted.
  2. Appeal Exemption. Notwithstanding the local appeal provisions of Chapter 21.64, coastal development permits for accessory dwelling units that are defined as "appealable development" pursuant to Section 21.64.035(A) may be directly appealable to the Coastal Commission in accordance with the provisions of Section 21.64.035 without a discretionary hearing by the Planning Commission or City Council.

**Section 8:** The definition of "Accessory Dwelling Unit (Land Use) in NBMC Section 21.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows:

Accessory Dwelling Unit (Land Use). See "Dwelling Unit, Senior Accessory."

**Section 9:** The definition of "Dwelling Unit, Senior Accessory (Land Use) in NBMC Section 21.70.020 (Definition of Specialized Terms and Phrases) is amended to read as follows:

~~Dwelling Unit, Senior Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family dwelling. The unit is intended for the sole occupancy of 1 or 2 adult persons who are 55 years of age or older. The floor area of the unit does not exceed 640 square feet.~~

Dwelling Unit, Accessory (Land Use). A dwelling unit accessory to and attached to, detached from, or contained within, the principal dwelling unit on a site zoned for a single-family dwelling. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code, or any successor statute.
2. A manufactured home, as defined in Section 18007 of the Health and Safety Code, or any successor statute.

**Section 10:** Subpart 8 in NBMC Subsection 21.90.060(D) (Accessory Uses Permitted) is amended to read as follows:

~~8. Granny unit, attached or detached, in conformance with Section 20.48.200, subject to the approval of a minor use permit per Part 5 of this title.~~


8. Accessory dwelling unit in conformance with Section 21.48.200.

STATE OF CALIFORNIA                    }  
COUNTY OF ORANGE                    }  
CITY OF NEWPORT BEACH                }            ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; that the foregoing resolution, being Resolution No. 2017-51 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 25<sup>th</sup> day of July, 2017, and that the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Jeff Herdman, Council Member Brad Avery, Council Member Diane Dixon, Council Member Scott Peotter, Council Member Will O'Neill, Mayor Pro Tem Duffy Duffield, Mayor Kevin Muldoon  
NAYS: None

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 26<sup>th</sup> day of July, 2017.

  
\_\_\_\_\_  
Leilani I. Brown  
City Clerk  
Newport Beach, California

