



## **NOTICE OF AVAILABILITY OF DRAFT LOCAL COASTAL PROGRAM AMENDMENT RELATED TO NONCONFORMING USES AND STRUCTURES**

**NOTICE IS HEREBY GIVEN** that in accordance with applicable provisions of the Coastal Act and California Code of Regulations (CCR) §13515, a draft of the proposed amendment is available for public review and inspection at the Planning Division and at all branches of the Newport Beach Public Library for the following amendment to the Implementation Plan (IP) of certified Local Coastal Program (LCP):

**Nonconforming Uses and Structures LCP Amendment (LC2022-002)** – An amendment to Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code updating Sections 21.18.030 (Residential Coastal Zoning Districts General Development Standards), 21.38.040 (Nonconforming Structures), and 21.38.050 (Nonconforming Uses) to: 1) clarify development allowances for residential uses that are nonconforming due to density; and 2) reinstate a side setback allowance for properties in the R-1-6,000, R-1-7,200, R-1-10,000, R-2-6,000, and the RM-6,000 coastal zoning district. The side setback allowance would allow additions in line with the existing side setback of the principal structure regardless of the current minimum side setbacks standards (PA2022-076).

The Planning Commission of the City of Newport Beach is scheduled to consider this item and make a recommendation to the City Council at a regular meeting to be held at 6:30 p.m. on Thursday, October 20, 2022, at the City of Newport Beach Council Chambers, 100 Civic Center Drive, Newport Beach, CA 92660. The date and time of the Planning Commission meeting will be noticed in accordance with City of Newport Beach notification requirements.

Furthermore, the City Council of the City of Newport Beach is tentatively scheduled to consider this item at a regular meeting to be held on Tuesday, November 15, 2022, at the City of Newport Beach Council Chambers, 100 Civic Center Drive, Newport Beach, CA 92660. The date and time of the City Council meeting will be noticed in accordance with City of Newport Beach notification requirements.

For questions regarding this Amendment, please contact Joselyn Perez, Assistant Planner, at 949-644-3312 or [jperez@newportbeachca.gov](mailto:jperez@newportbeachca.gov).

## Proposed Local Coastal Program Amendment

### Proposed Local Coastal Program Amendment No. LC2022-002 Related to Nonconforming Uses and Structures (PA2022-076)

**Section 1:** The rows entitled “Side [Setbacks]” in Table 21.18-2 (Development Standards for Single-Unit Residential Coastal Zoning Districts) of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of the NBMC shall be amended to read as follows:

#### 21.18.030 Residential Coastal Zoning Districts General Development Standards.

TABLE 21.18-2

DEVELOPMENT STANDARDS FOR SINGLE-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	R-A	R-1	R-1-6,000	R-1-7,200	R-1-10,000	Additional Requirements
Side (interior, each):						
Lots 40 ft. wide or less	5 ft.	3 ft. (4)	6 ft. (7)	5 ft.	10 ft. (7)	21.30.110 21.38.040 (I)
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft. (7)	5 ft.	10 ft. (7)	
Side (street side):						
Lots 40 ft. wide or less	5 ft.	3 ft.	6 ft. (7)	5 ft.	10 ft. (7)	21.30.110 21.38.040 (I)
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft. (7)	5 ft.	10 ft. (7)	

**Section 2:** The following footnote for Table 21.18-2 (Development Standards for Single-Unit Residential Coastal Zoning Districts) of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of the NBMC shall be added:

(7) An addition to the principal structure shall be allowed to be constructed to the side yard setback in effect at the time the principal structure was constructed.

**Section 3:** The rows entitled “Side [Setbacks]” Table 21.18-3 (Development Standards for Two-Unit Residential Coastal Zoning Districts) of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of the NBMC shall be amended to read as follows:

**TABLE 21.18-3**

<b>DEVELOPMENT STANDARDS FOR TWO-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS</b>				
<b>Development Feature</b>	<b>R-BI</b>	<b>R-2</b>	<b>R-2-6,000</b>	<b>Additional Requirements</b>
Side (interior, each):				
Lots 40 ft. wide or less	3 ft.	3 ft.	6 ft. (7)	21.38.040 (I)
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	6 ft. (7)	
Lots 50 ft. wide and greater	N/A	4 ft.	6 ft. (7)	
Side (street side):				
Lots 40 ft. wide or less	3 ft.	3 ft.	N/A	21.38.040 (I)
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	N/A	
Lots 50 ft. wide and greater	N/A	N/A	6 ft. (7)	

**Section 4:** The following footnote for Table 21.18-3 (Development Standards for Two-Unit Residential Coastal Zoning Districts) of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of the NBMC shall be added:

(7) An addition to the principal structure shall be allowed to be constructed to the side yard setback in effect at the time the principal structure was constructed.

**Section 5:** The rows entitled “Side [Setbacks]” Table 21.18-4 (Development Standards for Multi-Unit Residential Coastal Zoning Districts) of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of the NBMC shall be amended to read as follows:

**TABLE 21.18-4**

<b>DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS</b>			
<b>Development Feature</b>	<b>RM</b>	<b>RM-6,000</b>	<b>Additional Requirements</b>
Side (interior, each):			
Lots 40 ft. wide or less	3 ft.	6 ft. (9)	21.38.040 (I)
Lots 40'1" wide to 49'11" wide	4 ft.	6 ft. (9)	
Lots 50 ft. wide and greater	8% of the average lot width (4)	6 ft. (9)	

Development Feature	RM	RM-6,000	Additional Requirements
Side (street side):			
Lots 40 ft. wide or less	3 ft.	N/A	
Lots 40'1" wide to 49'11" wide	4 ft.	N/A	21.38.040 (I)
Lots 50 ft. wide and greater	8% of the average lot width (4)	6 ft. (9)	

**Section 6:** The following footnote for Table 21.18-4 (Development Standards for Multi-Unit Residential Coastal Zoning Districts) of Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) of the NBMC shall be added:

(9) An addition to the principal structure shall be allowed to be constructed to the side yard setback in effect at the time the principal structure was constructed.

**Section 7:** NBMC Section 21.38.040 (Nonconforming Structures) is amended to read as follows:

**21.38.040 Nonconforming Structures.**

I. Exceptions.

1. Corona del Mar and Balboa Village. Existing nonresidential structures within Corona del Mar and Balboa Village that are nonconforming because they exceed the allowed floor area shall be exempt from the limits of this section and may be demolished and reconstructed to their preexisting height and floor area; provided, that not less than the preexisting number of parking spaces is provided along with provisions for alternative modes of transportation.

2. Landmark Structures. Landmark structures shall be exempt from the requirements of this chapter in compliance with Section 21.38.070 (Landmark Structures).

3. R-1-6,000, R-2-6,000, and RM-6,000 Coastal Zoning Districts. Existing principal structures that are nonconforming only because side yard setback requirements have been amended subsequent to the original construction shall be exempt from the limits of this section.

**Section 8:** Newport Beach Municipal Code (NBMC) Section 21.38.050 is amended to read as follows:

**21.38.050 Nonconforming Uses.**

Nonconforming uses may be changed, expanded, increased, or intensified only as provided in this section.

A. Expansion and Intensification of Existing Nonconforming Uses.

1. Nonresidential Coastal Zoning Districts. In nonresidential zoning districts, and in areas where residential uses are not allowed in Planned Community Districts or specific plan districts, a use that was previously allowed by right, but which becomes nonconforming because of new permit regulations, may be expanded or intensified (e.g., increase in floor area, lot area, or occupancy load) ~~if such new development does not increase the degree of nonconformity, complies with the coastal protection policies of the Local Coastal Program, and is subject to the approval of a coastal development permit.~~ ~~subject to the approval of a conditional use permit.~~

2. Residential Coastal Zoning Districts. In residential coastal zoning districts, and in areas where residential uses are allowed in Planned Community Districts or Specific Plans, a residential use that is nonconforming because it exceeds the allowed number of units for the coastal zoning district may be altered in compliance with the requirements of 20.38.040 (Nonconforming Structures).

B. Change of Use.

4. A nonconforming nonresidential use may be changed to a conforming use, provided the change does not create or increase a deficiency in required off-street parking except as provided in Section 21.38.060 (Nonconforming Parking).

~~2. A residential use that is nonconforming because it exceeds the allowed number of units for the zoning district may be altered to reduce the number of dwelling units, provided the reduction complies with any floor area limit and the provisions of Chapter 20.34 (Conversion or Demolition of Affordable Housing) are satisfied.~~

C. Exception for Landmark Structures. The use of a landmark structure may be changed, expanded, increased, or intensified ~~without obtaining a conditional use permit required by this section~~ subject to compliance with the provisions of Section 21.38.070 (Landmark Structures).