



## **NOTICE OF AVAILABILITY OF DRAFT LOCAL COASTAL PROGRAM AMENDMENT RELATED TO COMPREHENSIVE MUNICIPAL CODE AMENDMENTS**

**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):

**Local Coastal Program Amendment No. PA2022-0219** – City Council established an Ad Hoc Municipal Code and Council Policy Review Committee to comprehensively review and amend the Newport Beach Municipal Code (NBMC) to reduce regulations, streamline processes, and generally eliminate outdated information. The proposed changes affecting Implementation Plan (NBMC Title 21) include:

- Deletion of Chapter 21.34 (Conversion or Demolition of Affordable Housing) as those requirements are provided in State law so local regulations are unnecessary and the City does not meet the applicability criteria of the regulations;
- Creating a coastal development permit exemption for tentative parcel maps involving the subdivision of airspace within multi-unit dwellings for condominium purposes;
- Correcting, updating and/or clarifying the references to State law throughout;
- Changing references from “Building Director” or “Planning Director” to “Community Development Director”; and
- Clarifying the definition of “Code” to mean the Newport Beach Municipal Code.

The Planning Commission of the City of Newport Beach is scheduled to consider the amendments and make a recommendation to the City Council at a regular meeting to be held at 6:00 p.m. on Thursday, **October 19, 2023**, 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 has been 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 14, 2023**, 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 Jaime Murillo, AICP, Principal Planner, at 949-644-3209 or [jmurillo@newportbeachca.gov](mailto:jmurillo@newportbeachca.gov).

# Proposed Local Coastal Program Amendment

## Proposed Local Coastal Program Amendment No. PA2022-0219 Related to Comprehensive Municipal Code Clean Up

### Title 21

#### LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN

##### Chapters:

##### Part 1. Implementation Plan Applicability

21.10 Purpose and Applicability of the Implementation Plan

21.12 Interpretation of Implementation Plan Provisions

21.14 Coastal Maps

##### Part 2. Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards

21.16 Development and Land Use Approval Requirements

21.18 Residential Coastal Zoning Districts (R-A, R-1, R-BI, R-2, and RM)

21.20 Commercial Coastal Zoning Districts (CC, CG, CM, CN, CV, CV-LV, OG)

21.22 Mixed-Use Coastal Zoning Districts (MU-V, MU-MM, MU-CV/15th St., MU-W1, MU-W2)

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##### Part 3. Site Planning and Development Standards

21.30 Property Development Standards

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21.30C Harbor and Bay Regulations

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21.35 Water Quality Control

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21.44 Transportation and Circulation

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**Part 4. Standards for Specific Land Uses**

**21.48 Standards for Specific Land Uses**

**21.49 Wireless Telecommunications Facilities**

**Part 5. Planning Permit Procedures**

**21.50 Permit Application Filing and Processing**

**21.52 Coastal Development Review Procedures**

**21.54 Permit Implementation, Time Limits, and Extensions**

**Part 6. Implementation Plan Administration**

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**21.64 Appeals and Calls for Review**

**21.68 Enforcement**

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**21.70 Definitions**

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**Part 9. Specific Plans**

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**Appendix A Sea Level Rise**

**Appendix B Coastal Access Signing Program**

**Appendix C Oceanfront Encroachment Policy Guidelines**

## Chapter 21.10

### PURPOSE AND APPLICABILITY OF THE IMPLEMENTATION PLAN

#### 21.10.030 Authority—Relationship to Coastal Land Use Plan.

A. Authority. This Implementation Plan is adopted pursuant to the authority contained in Section 65850 et seq. of the [California Cal. Government Code](#), Division 20 of the [Cal. Public Resources Code](#) (California Coastal Act), and [Title 14 CCR, Division 5.5 Section 13001 et seq. of the California Cal. Code of Regulations](#) (California Coastal Commission Regulations).

## Chapter 21.16

### DEVELOPMENT AND LAND USE APPROVAL REQUIREMENTS

#### 21.16.060 Additional Permits and Approvals May Be Required.

A. 1 Other provisions of ~~the Municipal~~[this](#) Code (e.g., conditional use permits, minor use permits, limited-term permits, site development review, zoning clearances, building permits, grading permits, other construction permits, live entertainment permit, or a business license); or

## Chapter 21.18

### RESIDENTIAL COASTAL ZONING DISTRICT ( R-A, R-1, R-BI, R-2, AND RM)

#### TABLE 21.18-4 Notes

(7) Density bonuses may be granted for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens in compliance with [Government-Cal. Gov. Code Sections 65915 through 65917](#). Any housing development approved pursuant to [Government-Cal. Gov. Code Section 65915](#) shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable Local Coastal Program policies and development standards.

## Chapter 21.22

### MIXED-USE COASTAL ZONING DISTRICTS (MU-V, MU-MM, MU-CV/15<sup>TH</sup> ST., MU-W1, MU-W2)

#### TABLE 21.22-3 Notes

(6) Density bonuses may be granted for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens in compliance with [Government-Cal. Gov. Code Sections 65915 through 65917](#). Any housing development approved pursuant to [Government-Cal. Gov. Code Section 65915](#) shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable Local Coastal Program policies and development standards.

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## Chapter 21.26

### SPECIAL PURPOSE COASTAL ZONING DISTRICTS (OS, PC, PF, PI, PR, AND TS)

#### 21.26.045 Planned Community Coastal Zoning District Land Uses.

C 2 Subject to approval of the ~~Planning Director~~[Community Development Director](#) after a determination that the parking provided is adequate to serve demand and that the uses will not adversely impact other land uses in the area.

## Chapter 21.28

### OVERLAY COASTAL ZONING DISTRICTS (MHP, PM, B, C AND H)

#### 21.28.020 Mobile Home Park (MHP) Overlay Coastal Zoning District.

A 1. Mobile Home Parks. Mobile home parks as regulated by the State of California pursuant to the Mobile Home Parks Act ([Cal. Health and Safety Code Section 18300](#)) and the California Coastal Act ([Cal. Public Resources Code Division 20](#)).

C 3. A mobile home park phase out plan and report on the impact of conversion, closure, or cessation of the use on the displaced residents of the mobile home park has been prepared, reviewed, and found to be acceptable and consistent with the provisions of the [California Government Code](#).

## Chapter 21.30

### PROPERTY DEVELOPMENT STANDARDS

#### 21.30.105 Cultural Resource Protection.

B 1 b. A site where evidence of potentially significant historical resources is found in an initial study conducted in compliance with the California Environmental Quality Act (CEQA) ([Cal. Pub. Resources Code Section 21000 et seq.](#)).

B 5. Offer for Relocation of Historic Structure. Before issuance of a permit by the [Building Director](#)~~Community Development Director~~ for the demolition of an historic structure the applicant shall first offer the structure for relocation by interested parties.

## Chapter 21.30A

### PUBLIC ACCESS AND RECREATION

#### 21.30A.040 Determination of Public Access/Recreation Impacts.

B. 1 Land Use. The project's impact on use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation and other priority uses specified in [California Cal. Pub. Resources Code Sections 30222 and 30223](#).

## Chapter 21.30B

### HABITAT PROTECTION

#### 21.30B.040 Wetlands, Deepwater Areas, and Other Water Areas.

B. 1 Methodology. Wetland delineations shall be conducted in accordance with the definitions of wetland boundaries contained in [14 CCR Section 13577\(b\)](#) ~~of the California Code of Regulations.~~

D. Limits on Development and Uses. Development involving diking, filling, or dredging of open coastal waters, wetlands, and estuaries shall be limited to uses consistent with the Section 30233 of the [California Cal. Pub. Resources Code](#) (Coastal Act) and Section 21.30B.040(E)(2).

## Chapter 21.34

### ~~CONVERSION OR DEMOLITION OF AFFORDABLE HOUSING~~

Sections:

#### ~~21.34.010 Purpose.~~

#### ~~21.34.020 Applicability.~~

#### ~~21.34.030 Exemptions.~~

#### ~~21.34.050 Replacement of Affordable Housing.~~

#### ~~21.34.010 Purpose.~~

The purpose of this chapter is to:

- A. Be consistent with and implement the provisions of the Mello Act (Government Code Section 65590); and
- B. Maintain the number of low and moderate income dwelling units within the coastal zone.

#### ~~21.34.020 Applicability.~~

The provisions of this chapter shall apply to the conversion or demolition of existing residential dwelling units within the coastal zone occupied by persons or families of low or moderate income ("affordable units"), as defined in Health and Safety Code Section 50093, when either of the following occurs:

- A. The conversion or demolition of eleven (11) or more dwelling units located in two or more structures; or
- B. The conversion or demolition of three or more dwelling units located in one structure.

#### ~~21.34.030 Exemptions.~~

The provisions of this chapter shall not apply to the following:

- A. Demolition of a Public Nuisance. The demolition of a residential structure that has been declared a public nuisance; or
- B. Replacement with a Coastal Dependent or Coastal Related Use. The conversion or demolition of a residential structure for purposes of a coastal dependent or coastal related use; or
- C. Land Availability. The conversion or demolition of a residential structure when there are less than fifty (50) acres, in aggregate, of privately owned, vacant land available for residential use within the City's coastal zone or within three miles inland of the coastal zone.

#### ~~21.34.050 Replacement of Affordable Housing.~~

- A. One for One Replacement. If the Director determines that the proposed conversion or demolition activities involve affordable dwelling units, replacement of the affordable dwelling units shall be provided on a one for one basis, unless the Director determines that replacement is not feasible.

~~B.— Location of Replacement Units. Replacement dwelling units shall be located on the site of the converted or demolished structure(s) or elsewhere within the coastal zone if feasible. If location on the site or elsewhere within the coastal zone is not feasible, the replacement units shall be located within three miles of the coastal zone.~~

## Chapter 21.38

### NONCONFORMING USES AND STRUCTURES

#### 21.38.070 Landmark Structures.

D 3. Any permit required by other titles of ~~the Municipal~~this Code (other than this title) shall be obtained before the initiation or intensification of an accessory use of a landmark structure;



## Chapter 21.44

### TRANSPORTATION AND CIRCULATION

#### 21.44.045 Vacations and Abandonments.

C. Procedure. Vacations and abandonments shall be processed by filing an application for vacation or abandonment pursuant to [Cal. Streets and Highways Sts. & Hy.](#) Code Sections 8300 through 8363 and by filing an application for a coastal development permit pursuant to Chapters 21.50 and 21.52.

#### 21.44.055 Temporary Street Closures.

A. General. Temporary closing of portions of any street for celebrations, parades, local special events, and other purposes when necessary for public safety shall be permitted pursuant to Section 21101 of the [Cal. Vehicle Code](#).

B. West Newport. Temporarily closing certain streets in West Newport for a period of no more than twenty-four (24) hours during the Independence Day holiday shall be permitted when, in the opinion of the Police Chief ~~or his designee~~, the closure is necessary to protect the public safety. In no event shall any street closure prevent or interfere with the public's access to the beach or bay.

## Chapter 21.48

### STANDARDS FOR SPECIFIC LAND USES

#### 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 and junior accessory dwelling units, as defined in Part 7 (Definitions) of this title and in ~~California Government~~[Cal. Gov.](#) Code Sections 65852.2 and 65852.22, ~~or any successor statute,~~ in areas designated for residential use, including 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. 4 Required to correct a legally established nonconforming zoning condition. This does not prevent the City from enforcing compliance with applicable building standards in accordance with ~~California~~[Cal.](#) Health ~~and~~[&](#) ~~Saf~~[ety](#) Code Section 17980.12.

J. Historic Resources. Accessory dwelling units and/or junior accessory dwelling units proposed on residential or mixed-use properties that are determined to be historic shall be approved ministerially, in conformance with ~~California Government~~[Cal. Gov.](#) Code Sections 65852.2 and 65852.22. However, any accessory dwelling unit or junior accessory dwelling unit that is listed on the California Register of Historic Resources shall meet all Secretary of the Interior standards, as applicable. (Ord. 2022-6 § 5, 2022)

## Chapter 21.49

### WIRELESS TELECOMMUNICATIONS FACILITIES

#### 21.49.030 Definitions.

R. Wireless Tower. "Wireless tower" means any structure built for the sole or primary purpose of supporting antennas used to provide wireless services authorized by the FCC. A distributed antenna system (DAS) installed pursuant to a Certificate of Public Convenience and Necessity (CPCN) issued by the California Public Utilities Commission on a water tower, utility tower, streetlight, or other structures built or rebuilt or replaced primarily for a purpose other than supporting wireless services authorized by the FCC, including any structure installed pursuant to [California Cal. Public Utility Code Section 7901](#), is not a wireless tower for purposes of this definition. For an example only, a prior-existing streetlight standard which is replaced with a new streetlight standard to permit the addition of antennas shall not be considered a wireless tower, but rather a replacement streetlight standard.

#### 21.49.050 General Development and Design Standards.

F 3 b. New or replacement vertical structures may be allowed when authorized by [the Municipal Code](#) and approved by the Public Works Department. Replacement poles or streetlights shall be consistent with the size, shape, style, and design of the existing pole, including any attached light arms. New poles or streetlights may be installed, provided they match existing or planned poles within the area.

F 6 b i. Where existing utilities services (e.g., telephone, power, cable TV) are located underground, the support equipment shall be placed underground if required by other provisions of [the Municipal Code](#). Flush-to-grade underground vault enclosures, including flush-to-grade vents, or vents that extend no more than twenty-four (24) inches above the finished grade and are screened from public view, may be incorporated. Electrical meters required for the purpose of providing power for the proposed telecom facility may be installed above ground on a pedestal in a public right-of-way provided they meet applicable standards of Title 13 unless otherwise precluded by [the Municipal Code](#).

J 2. All graffiti on any components of the telecom facility shall be removed promptly in accordance with [the Municipal Code](#).

## Chapter 21.50

### PERMIT APPLICATION FILING AND PROCESSING

#### TABLE 21.50-1 Notes

(7) All development on tidelands, submerged lands, and public trust lands as described in [California Public Cal. Pub.](#) Resources Code Section 30519(b) and in deferred certification areas designated by the Local Coastal Program shall require a permit issued by the Coastal Commission in accordance with procedures specified by the Coastal Commission, in addition to other permits or approvals required by the City.

#### **21.50.025 Projects Bisected by Jurisdictional Boundaries.**

B. Projects Bisected by City and Coastal Commission Jurisdiction. Where a proposed development is located within both the Coastal Commission's and City's coastal development permit jurisdictions, coastal development permits are required by both the City and the Coastal Commission. Alternatively, if the applicant, the City and the Coastal Commission agree, the Coastal Commission can process a consolidated coastal development permit application pursuant to the procedures in [Cal. Pub. Resources Code](#), Section 30601.3.

C. Projects Bisected by Different Local Government Jurisdictions. If a project straddles the boundaries of the City and another local government, the applicant must obtain separate coastal permits from each jurisdiction. An exception is possible for public agencies that, pursuant to [California Cal. Pub. Resources Code](#) Section 30605, may obtain one "Public Works Plan" approval from the Coastal Commission, in lieu of locally issued coastal permits.

## Chapter 21.52

### COASTAL DEVELOPMENT REVIEW PROCEDURES

#### 21.52.010 Purpose.

This chapter provides procedures to ensure that all public and private development in the coastal zone is consistent with the California Coastal Act of 1976 (Division 20 of the [Cal. Pub. Resources Code](#)) as amended, in accordance with the City's Local Coastal Land Use Plan and the City's Local Coastal Program. The provisions of this chapter shall apply in the coastal zone, as defined by the Coastal Act. Furthermore, the provisions of this chapter, and as applicable the Coastal Act and regulations, shall be utilized to determine whether or not a proposal in the City's permitting jurisdiction constitutes development and whether or not that development requires a coastal development permit or is exempt. No provision contained in any other chapter of the Implementation Plan, nor in any other City policy or regulations, shall be used in such determinations.

#### 21.52.015 Coastal Development Permits.

B 1. Coastal Development Permit Issued by the Coastal Commission. Developments on tidelands, submerged lands, and public trust lands as described in [Cal. Pub. Resources Code Section 30519\(b\)](#) and in deferred certification areas designated by the certified Local Coastal Program require a permit or exemption issued by the Coastal Commission in accordance with the procedure as specified by the Coastal Act. Areas of Coastal Commission permit jurisdiction and deferred certification areas are generally depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map.

H. Notice of Final Action. Within seven calendar days of the date of the City's final local action on an exemption or coastal development permit application and meeting the requirements of ~~Title 14 California CCR Cal. Code of Regulations~~ Section 13570, a notice of its final action shall be sent, by first class mail, to the applicant, the Coastal Commission, and any persons who specifically request such notice by submitting a self-addressed, stamped envelope to the City. Such notice shall be accompanied by a copy of the exemption, denial, or coastal development permit approval with conditions of approval and written findings and the procedures for appeal of the action to the Coastal Commission.

#### 21.52.035 Projects Exempt from Coastal Development Permit Requirements.

C. Coastal Act Exemptions. Developments not located within the Coastal Commission's permit jurisdiction determined to be exempt from the coastal development permit requirements pursuant to [California Cal. Pub. Resources Code Section 30610](#). The following types of projects shall be so exempted unless they involve a risk of adverse environmental effects:

C 1 d i. An increase of ten (10) percent or more of the floor area of existing structure(s) on the building site or an additional improvement of ten (10) percent or less where an improvement to the structure has previously been undertaken pursuant to ~~California Public~~ [Cal. Pub. Resources Code Section 30610\(a\)](#) and/or this subsection.

C 2 d i. An increase of ten (10) percent or more of the internal floor area of existing structure(s) on the building site or an additional improvement of ten (10) percent or less where an improvement to the structure has previously been undertaken pursuant to ~~California Public~~ [Cal. Pub. Resources Code Section 30610\(a\)](#) and/or this subsection.

C 4 d. Unless destroyed by disaster, the replacement of fifty (50) percent or more of a single-family residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under ~~California Public~~ [Cal. Pub. Resources Code Section 30610\(d\)](#) but instead constitutes a replacement structure requiring a coastal development permit.

C 7. Time-Share Conversions. Any activity anywhere in the coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11003.5 of the ~~Cal. Business and Professions~~ [Code](#). If any improvement to an existing structure is otherwise exempt from the permit requirements of this part, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subsection. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the ~~Cal. Civil~~ [Code](#), shall not be considered a time-share project, estate, or use for purposes of this subsection.

[C 8. Tentative Parcel Maps for Condominium Purposes. Tentative parcel maps involving the subdivision of airspace within multi-unit dwellings for condominium purposes.](#)

#### **21.52.045 Categorical Exclusions.**

A. Post-Certification Categorical Exclusions. The Coastal Commission may adopt a categorical exclusion after certification of this Implementation Plan pursuant to [Cal. Pub. Resources Code Sections 30610\(e\) or 30610.5](#) ~~of the Public Resources Code~~ and [14 CCR Cal. Code of Regs. Title 14, Division 5.5, Chapter 6, Subchapter 4 or 5 of Chapter 6 of Division 5.5 of Title 14 of the California Code of Regulations \(Sections 13215 et seq. 235 and 14 CCR Section 240 et seq 249\)](#). Records of such categorical exclusions shall be kept on file with the Department.

B. Notice of Exclusion. A notice of exclusion shall be provided to the Coastal Commission and to any person who has requested such notice within five ~~(5) business~~ [working](#) days of issuance. The notice of exclusion may be issued at the time of project application but shall not become effective until all other approvals and permits required for the project are obtained. A copy of all terms and conditions imposed by the City shall be provided to the Coastal Commission, per [14 CCR Cal. Code of Regs. Section 13315 of the California Code of Regulations](#).

#### **21.52.075 Coastal Commission Review of Recorded Access Documents.**

A. Standards and Procedures. Upon final approval of a coastal development permit or other authorization for development, and where issuance of the permit or authorization is conditioned upon the applicant recording a legal document which restricts the use of real property or which offers to dedicate or grant an interest or easement in land for public use, a copy of the permit conditions, findings of approval, and drafts of any legal documents proposed to implement the conditions shall be forwarded to the Coastal Commission for review and approval prior to the issuance of the permit consistent with the following procedures and [14 CCR California Code of Regulations Cal. Code of Regs. Section 13574](#):

## Chapter 21.54

### PERMIT IMPLEMENTATION, TIME LIMITES, AND EXTENSIONS

#### 21.54.030 Effective Date of Permits—Notice of Final Action.

B. Notice of Final Action. Final City action on permits for sites located within the City's coastal zone shall be documented by the notice of final local action which the City sends to the Coastal Commission within seven days of the City's final action on a CDP application and compliance with ~~Title 14 California Code of Regulations~~CCR Cal. Code of Regs. Section 13570.

## Chapter 21.64

### APPEALS AND CALLS FOR REVIEW

#### 21.64.035 Appeal to the Coastal Commission.

A final action taken by the City on a coastal development permit application for appealable development as defined in subsection (A) of this section may be appealed to the Coastal Commission in compliance with this section and ~~Title 14 California Code of Regulations~~ CCR Cal. Code of Regs. Sections 13111 through 13120 and ~~Section 30603 of the~~ Coastal Act Section 30603. If there is any conflict between the provisions of this section or ~~Title 14 California Code of Regulations~~ CCR Cal. Code of Regs. Sections 13111 through 13120 and Section 30603 of the Coastal Act, ~~Title 14 California Code of Regulations~~ CCR Cal. Code of Regs. Sections 13111 through 13120 and Section 30603 of the Coastal Act shall control.

A. Appealable Development—~~Cal. Pub. Lic~~ Resources Code Section 30603(a). A decision by the City on a coastal development permit application within the appeal areas identified in ~~Cal. Pub. Lic~~ Resources Code Section 30603(a) as generally depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map or on any development approved or denied by the City on a coastal development permit application for a project that constitutes a major public works project or energy facility may be appealed to the Coastal Commission.

B 1. Who May Appeal. An appeal may be filed by an applicant, an aggrieved person, or two members of the Coastal Commission in compliance with ~~Cal. Pub. Lic~~ Resources Code Section 30625.

2. Aggrieved Person Defined. As provided by ~~Cal. Pub. Lic~~ Resources Code Section 30801, an aggrieved person is any who, in person or through a representative, appeared at a public hearing held before the Zoning Administrator, Planning Commission, or Council in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the City of the nature of their concerns or who for good cause was unable to do either.

C. Exhaustion of City Appeals Required. An applicant or other aggrieved person may appeal a City decision on a coastal development permit application to the Coastal Commission only after exhausting all appeals to the Planning Commission and Council in compliance with this chapter. Exhaustion of all local appeals shall not apply to any circumstance identified in ~~Cal. Code of Regulations~~ 14 CCR Section 13573(a), including, but not limited to, the following circumstances:

1. An appellant was denied the right of the initial local appeal under this chapter because City notice and hearing procedures did not comply with ~~Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 17 of the California Code of Regulations~~ CCR Section 13573 Cal. Code of Regs.; or

In addition, in accordance with ~~14 CCR Cal. Code of Regulations~~ Section 13573(b), there shall be no requirement of exhaustion of local appeals when an appeal of a City decision is filed by two members of the Coastal Commission in compliance with ~~Cal. Pub. Lic~~ Resources Code Section 30625. Notice of a Coastal Commissioners' appeal shall be transmitted to the City in compliance with ~~Title 14 California Cal. Code of Regs~~ CCR.ulations Section 13111(d). The Director may transmit the Commissioners' appeal to the local appellate body (which considers appeals from the local body that rendered the final decisions subject to the Commissioner appeal), and the Commissioners' appeal may be suspended pending a decision on the



merits by that local appellate body. If the final action by an appellate body modifies or reverses the previous decision, the Coastal Commissioners shall be required to file a new appeal from that decision.

D. Grounds for Appeal to Coastal Commission—[Cal. Pub. Resources Code Section 30603](#). The grounds for an appeal to the Coastal Commission of a City final action on a coastal development permit application are as follows:

## Chapter 21.68

### ENFORCEMENT

#### 21.68.050 Legal Remedies.

C. Enforcement Pursuant to the Coastal Act. In addition to the enforcement provisions contained in this chapter, the provisions of [Cal. Pub. Resources Code Division 20](#), Chapter 9 ~~of Division 20 of the Public Resources Code~~ shall also apply with respect to violations and enforcement and the City and the Commission shall have the enforcement powers described therein.

## Chapter 21.70

### DEFINITIONS

#### 21.70.010 Purpose of Part.

This part provides definitions of terms and phrases used in this Implementation Plan that are technical or specialized, or that may not reflect common usage. If the definitions in this part conflict with definitions in other provisions of ~~the Municipal~~this Code, these definitions shall control for the purposes of this Implementation Plan. If a word is not defined in this part, or elsewhere in this Implementation Plan, the most common dictionary definition is presumed to be correct.

#### 21.70.020 Definitions of Specialized Terms and Phrases.

“Aggrieved person” means any person who, in person or through a representative, appeared at a public hearing held before the Zoning Administrator, Planning Commission, or Council in connection with the decision or action appealed, or who, by other appropriate means prior to a hearing, informed the City of the nature of their concerns or who for good cause was unable to do either (~~Cal. Pub. Lic.~~ Resources Code Section 30801).

“Review authority” means the individual or official City or State body identified by this Implementation Plan as having the responsibility and authority to review and approve or disapprove ministerial and discretionary permit applications described in this Implementation Plan. Includes the Newport Beach City Council (“Council”), the Planning Commission (“Commission”), the ~~Planning Director~~Community Development Director (“Director”), the Zoning Administrator (“Zoning Administrator”), the Community Development Department (“Department”), the City Traffic Engineer, the Public Works Director and the California Coastal Commission (“Coastal Commission”).

Animal-Keeping (Land Use).

3. “Animal, wild” means an animal that is not customarily confined or cultivated by man for domestic or commercial purposes but kept for display. Includes an animal that may be imported, transported, or possessed only by first obtaining a California Department of Fish and Game Permit, as required in 14 CCR California Code of Regulations Cal. Code of Regs. Title 14, Section 671 (Importation, Transportation and Possession of Live Restricted Animals).

“Area median income” means the median income, adjusted for family size, applicable to Orange County, established by the U.S. Department of Housing and Urban Development, and published annually by the California Department of Community Development in the 25 CCR Cal. California Code of Regulations, Title 25, Section 6932 ~~(or its successor provision)~~.

“California Environmental Quality Act (CEQA)” means a State law (~~California~~Cal. Pub. Lic. Resources Code Section 21000 et seq.).

“Categorical exclusion area” means that portion of the coastal zone within an exclusion area boundary adopted in compliance with the California Coastal Act (~~Cal. Pub. Lic.~~ Resources Code Section 30000 et seq.).

“Categorical exclusion order” means a decision issued by the California Coastal Commission in compliance with the Coastal Act (~~Cal. Pub. Lic.~~ Resources Code Section 30610(e)), in which the Coastal Commission excludes certain categories of development from requirements to obtain coastal development permits

from the Coastal Commission. A categorical exclusion order automatically terminates upon the effective date of the delegation of development review authority to a local government in compliance with [14 California CCR Cal. Code of Regulations](#) Section 13249(b).

“Categorical exemption” means, as defined by [14 CCR](#) Section 15354 of the State CEQA Guidelines (~~Title 14, California Cal. Code of Regulations~~), an exemption from CEQA for a class of projects based on a finding by the Secretary of Resources that the class of projects does not have a significant effect on the environment.

“Coastal Commission” means the California Coastal Commission, the State agency established by State law responsible for carrying out the provisions of the California Coastal Act of 1976, as amended ([Cal. Pub. Resources Code](#) Section 30000 et seq.) and for appellate review of decisions rendered by a City review authority.

“Coastal Commission exclusion areas” means the boundaries of the areas where a category of development, or a category of development within a specifically defined geographic area, is excluded from the coastal development permit requirements pursuant to [Cal. Pub. Resources Code](#) Section 30610, which shall be established by the terms and conditions applied to each categorical exclusion order by the Coastal Commission.

“Coastal Commission permit jurisdiction” means the boundaries of tidelands, submerged lands, and public trust lands described in Section 30519(b) of the [Cal. Pub. Resources Code](#) where the Coastal Commission retains permit jurisdiction.

“Coastal-dependent development or use” means any development or use which requires a site on, or adjacent to, the sea to be able to function at all (from ~~California Cal. Pub. Resources Code~~ Section 30101).

“Coastal development permit (CDP)” means a permit for any development within the coastal zone that is required pursuant to subdivision (a) of [Cal. Pub. Resources Code](#) Section 30600.

“Coastal-related development or use” means any development or use that is dependent on a coastal-dependent development or use (from ~~California Cal. Pub. Resources Code~~ Section 30101.3).

“Coastal zone” means the geographic zone adjacent to the shoreline, the land and water area boundaries of which are determined by the California Coastal Act of 1976, as amended ([Cal. Pub. Resources Code](#) Section 30000 et seq.).

“Condominium” means a form of property ownership providing for individual ownership of space in a structure together with an individual interest in the land or other parts of the structure in common with other owners. Includes a condominium project, community apartment project, or stock cooperative, as defined in ~~California Cal. Civ. Code~~ Section 1351.

“Density bonus” means, as defined by [Cal. Gov. Government Code](#) Section 65915 et seq., an increase over the maximum density otherwise allowed by the applicable zoning district that is granted to the owner/developer of a housing project who agrees to construct a prescribed percentage of dwelling units that are affordable to very low- and low-income households. See “Very low-income household” and “Low-income household.”

“Development” means on land, in or under water, the placement or erection of solid material or a structure; discharge or disposal of dredged material or of gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of materials; change in the density or intensity of use of land, including, but not limited to, subdivision in compliance with the Subdivision Map Act (commencing with [Government Cal. Gov. Code Section 66410](#)), and another division of land, including lot splits, except where the land division is brought about in connection with the purchase of the land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of a structure, including a facility of a private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes and kelp harvesting.

“Dwelling unit, accessory (land use)” means a dwelling unit accessory to and attached to, detached from, or contained within the principal dwelling unit on a site zoned for residential use. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in [Section 17958.1 of the California Cal. Health and Safety Code Section 17958.1](#), ~~or any successor statute.~~
2. A manufactured home, as defined in [Section 18007 of the California Cal. Health and Safety Code Section 18007](#), ~~or any successor statute.~~

“Emergency” means any sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss of or damage to life, health, property or essential public services as used in [Cal. Public Resources Code Section 30624](#).

“Emergency shelter (land use)” means, as defined in [Cal. Health and Safety Code Section 50801\(e\)](#), a facility with minimal supportive services for homeless persons.

“Environmentally sensitive habitat area (ESHA)” as defined in [Cal. Public Resources Code Section 30107.5](#) means an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

“Explosives” means a substance defined as an explosive by [Cal. Health and Safety Code Section 12000 et seq.](#), and for which a permit is required by the [Cal. Health and Safety Code](#). See also “Hazardous materials.”

“General Plan” means the City of Newport Beach General Plan, and all amendments thereto, as adopted by the City Council under the provisions of [Cal. Government Code Section 65300 et seq.](#), and referred to in this Implementation Plan as the “General Plan.”

“Final map” means a subdivision map prepared in compliance with Subdivision Map Act, Article 2, Chapter 2, and approved in compliance with Subdivision Map Act, Article 4, Chapter 3 ([Cal. Government Code Section 66410 et seq.](#)), that is used to complete the subdivision of five (5) or more lots. See also “Parcel map” and “Tentative map.”

“Lot line adjustment” means, as provided in the Subdivision Map Act ([Cal. Government Code Section 66412\(d\)](#)), a lot line adjustment that relocates one or more lot lines between two or more existing adjacent

lots, where land taken from one lot is added to an adjacent lot and where no more lots are created than originally existed.

“Major energy facility” means any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal or other source of energy which exceeds one hundred thousand dollars (\$100,000) in its estimated cost of construction with an automatic increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of Cal. California Public-Pub. Resources Code Section 30610, 30610.5, 30611 or 30624.

“~~Municipal Code~~” means the Newport Beach Municipal Code ~~of the City of Newport Beach, as amended.~~

“Parcel map” means the subdivision map described by the Subdivision Map Act, Article 3, Chapter 2 (Cal. Government Gov. Code Section 66410 et seq.), which is required to complete a subdivision of four (4) or fewer lots. See also “Final map” and “Tentative map.”

Parks and Recreational Facilities (Land Use).

2. “Recreation, passive” means a type of outdoor recreation or activity that can be carried out with little alteration or improvement to existing topography of a site, with the use of existing natural resources, and with a minimal impact (e.g., bicycling, hiking, jogging, walking, bird-watching, picnicking, etc.).

Parolee-Probationer. A parolee-probationer includes: (1) any individual who has been convicted of a fFederal crime, sentenced to a United States prison, and received conditional and revocable release in the community under the supervision of a fFederal parole officer; (2) any individual who has served a term of imprisonment in a State prison and who is serving a period of supervised community custody, as defined in Cal. Pen. Code Section 3000, and is under the jurisdiction of the California Department of Corrections, Parole and Community Services Division; (3) an adult or juvenile sentenced to a term in the California Youth Authority and who has received conditional and revocable release in the community under the supervision of a Youth Authority Parole Officer; or (4) any individual who has been convicted of a felony, sentenced to any correctional facility, including County correctional facilities, and is under the jurisdiction of any fFederal, State, or County parole or probation officer. For the purposes of this definition, “felony” means a felony as defined by any California or United States statute.

“Public trust lands” means all lands subject to the Common Law Public Trust for commerce, navigation, fisheries, recreation, and other public purposes. Public trust lands include tidelands, submerged lands, the beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed and which were subject to the public trust at any time (14 California-CCR Cal. Code of Regulations Regs. Section 13577). See “Submerged lands” and “Tidelands.”

“Senior citizen housing development” means a residential development developed, substantially rehabilitated, or substantially renovated for senior citizens (i.e., persons fifty-five (55) years of age or older) that has at least thirty-five (35) dwelling units and that conforms to Cal. Civ. Code Section 51.3(b)(4).

“Specific plan” means, under Cal. Government Gov. Code Section 65450 et seq., a policy statement and implementation tool adopted by the City Council that addresses a single project or planning problem. A specific plan may include detailed regulations, conditions, programs, and/or proposed legislation that may be necessary or convenient for the systematic implementation of a General Plan element(s).

“Subdivision” means the division by any subdivider of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units even if it is separated by roads, streets, utility easement or railroad rights-of-way. Subdivision includes a condominium project, as defined in ~~subdivision (F) of Section 1351 of the Cal. Civ. Code Section 1351 (f)~~, a community apartment project, as defined in ~~subdivision (D) of Section 1351 of the Cal. Civ. Code Section 1351 (D)~~, or the conversion of five (5) or more existing dwelling units to a stock cooperative, as defined in ~~subdivision (M) of Section 1351 of the Cal. Civ. Code Section 1351 (M)~~. [Note: same meaning as in the Subdivision Map Act.]

“Subdivision Map Act” means Division 2, Title 7 of the ~~California Cal. Government Gov. Code~~, commencing with Section 66410, ~~as amended~~, regarding the subdivision of real property.

“Submerged lands” means lands that lie below the line of mean low tide (~~14 CCR from California Cal. Code of Regulations Regs. Section 13577~~). See “Public trust lands.”

“Supportive housing” means housing with no limit on length of stay, that is occupied by the target population, as defined by ~~Section 53260(d) of the California Cal. Health and Safety Saf. Code Section 53260 (d)~~, and that is linked to on-site or off-site services that assist the tenant to retain the housing, improve his or her health status, maximize their ability to live and, when possible, to work in the community. Supportive housing that is provided in single-, two-, or multi-family dwelling units, group residential, parolee-probationer home, residential care facilities, or boarding house uses shall be permitted, conditionally permitted or prohibited in the same manner as the other single-, two- or multi-family dwelling units, group residential, parolee-probationer home, residential care facilities, or boarding house uses under this Code.

“Tentative map” means a subdivision map prepared in compliance with the Subdivision Map Act (~~Cal. Government Gov. Code Section 66410 et seq.~~) that specifies the conditions that must be satisfied and the details that must be provided before approval of a final map. See also “Final map” and “Parcel map.”

“Tidelands” means lands that are located between the lines of mean high tide and mean low tide (~~14 CCR from California Cal. Code of Regulations Regs. Section 13577~~). See “Public trust lands.”

Visitor Accommodations (Land Use).

4. “Hotel” means an establishment that provides guest rooms or suites for a fee to transient guests for sleeping purposes. Access to units is primarily from interior lobbies, courts, or halls. Related accessory uses may include conference and meeting rooms, restaurants, bars, and recreational facilities. Guest rooms may or may not contain kitchen facilities for food preparation (i.e., refrigerators, sinks, stoves, and ovens). Hotels with kitchen facilities are commonly known as extended stay hotels. A hotel operates subject to taxation under ~~Cal. Revenue and Taxation Rev. & Tax. Code Section 7280~~.

5. “Motel” means an establishment that provides guest rooms for a fee to transient guests for sleeping purposes. Guest rooms do not contain kitchen facilities. A motel is distinguished from a hotel primarily by direct independent access to, and adjoining parking for, each guest room. A motel operates subject to taxation under ~~Cal. Revenue and Taxation Rev. & Tax. Code Section 7280~~.