



# City of Newport Beach

## General Plan/LCP Implementation Committee Agenda

Newport Beach Civic Center – Corona del Mar Meeting Room  
100 Civic Center Drive  
Wednesday, May 29, 2013 - 3:30 p.m. to 5:30 p.m.

### **Committee Members:**

Edward Selich, Council Member (Chair)  
Nancy Gardner, Council Member  
Rush Hill, Mayor Pro Tem  
Michael Toerge – Planning Commission Chair  
Bradley Hillgren – Planning Commissioner Vice Chair  
Fred Ameri – Planning Commissioner

### **Staff Members:**

Kimberly Brandt, Community Development Director  
Brenda Wisneski, Deputy Community Development Director  
Patrick Alford, Planning Manager

- 
- I. **Call Meeting to Order**
  - II. **Declaration of Posting of the Agenda**
  - III. **Public Comment on Non-Agendized Items** (comments limited to 3 minutes)
  - IV. **Approval of Minutes** (Attachment 1)  
*Recommended Action: Approve April 24, 2013 Minutes*
  - V. **Draft Implementation Plan Administrative Chapters** (Attachment 2)  
*Recommended Action: Provide direction to staff.*
  - VI. **Update on discussions with Coastal Commission staff**  
*Recommended Action: Informational Item. No action required*
  - VII. **Public Comment**
  - VIII. **Adjournment** *Next Meeting Date: Wednesday, June 26, 2013 3:30 p.m. to 5:30 p.m.*

Please refer to the City Website, <http://www.newportbeachca.gov/index.aspx?page=791>, for additional information regarding the GP/LCP Implementation Certification Committee.

AN AGENDA FOR THIS MEETING HAS BEEN POSTED AT LEAST 72 HOURS IN ADVANCE OF THE MEETING AND THE PUBLIC IS ALLOWED TO COMMENT ON AGENDA ITEMS.

IT IS THE INTENTION OF THE CITY OF NEWPORT BEACH TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT (ADA) IN ALL RESPECTS. IF, AS AN ATTENDEE OR A PARTICIPANT AT THIS MEETING, YOU WILL NEED SPECIAL ASSISTANCE BEYOND WHAT IS NORMALLY PROVIDED, THE CITY OF NEWPORT BEACH WILL ATTEMPT TO ACCOMMODATE YOU IN EVERY REASONABLE MANNER. PLEASE CONTACT LEILANI BROWN, CITY CLERK, AT LEAST 72 HOURS PRIOR TO THE MEETING TO INFORM US OF YOUR PARTICULAR NEEDS AND TO DETERMINE IF ACCOMMODATION IS FEASIBLE (949-644-3005 OR [CITYCLERK@NEWPORTBEACHCA.GOV](mailto:CITYCLERK@NEWPORTBEACHCA.GOV)).

INTENTIONALLY LEFT BLANK

**Attachment No. 1**  
Draft 04/24/13 Minutes

City of Newport Beach  
**General Plan/LCP Implementation Committee Minutes**

Date: April 24, 2013

Location: Newport Beach Civic Center – 100 Civic Center Drive  
Corona del Mar Meeting Room – Bay E - Room 1016

Members Present: Edward Selich, Council Member (Chair)  
Nancy Gardner, Council Member  
Michael Toerge, Planning Commission Chair  
Fred Ameri, Planning Commission Secretary

Members Absent: Rush Hill, Mayor Pro Tem  
Bradley Hillgren, Planning Commission Vice Chair

Staff: Kimberly Brandt, Community Development Director  
Brenda Wisneski, Deputy Community Development Director  
Patrick Alford, Planning Manager  
Leonie Mulvihill, Assistant City Attorney

Public: Steve Ray  
Thomas Mathews  
Dorothy Kraus  
James Mosher

---

**I. Call Meeting to Order**

The meeting was called to order at 3:30 p.m.

**II. Introductions**

Chair Selich presented background on the Committee and the tasks completed to date. He noted that the LCP certification was postponed until after the Zoning Code was adopted.

Members of the Committee, staff, and members of the public introduced themselves.

**III. Public Comment on Non-Agendized Items**

None

**IV. Local Coastal Program Certification**

i. Introduction by staff

Community Development Director Brandt summarized the work staff had completed since the Zoning Code was adopted, freeing staff to again work on LCP certification. She stated that staff had already started discussions with Coastal Commission staff, but were still waiting for responses to staff's initial inquiries.

ii. Implementation Plan

*Proposed incorporation into the Zoning Code*

Planning Manager Alford summarized the previous LCP certification efforts. He then explained staff's recommendation to incorporate the LCP Implementation Plan into the Zoning Code.

Chair Selich questioned this approach, noting that the Committee had previously rejected it. He expressed concern about the level of involvement by Coastal Commission staff in non-coastal issues. He recognized problems associated with redundancies in having two codes, but stated that it would be prudent to develop an implementation plan for only coastal zone properties.

Responding to a question from Council Member Gardner about the experience of other cities, Deputy Community Development Director Wisneski summarized internal staff discussions and those with the Coastal Commission staff on the various approaches. A general discussion ensued regarding the level of ongoing Coastal Commission involvement after certification, how to differentiate between coastal regulations and non-coastal regulations, and the pros and cons of two separate documents.

Chair Selich reiterated his objections to the prospect of all Zoning Code amendments requiring Coastal Commission approval, even if they are deemed *de minimus*. He suggested that the Committee consider the separate document approach, and return to a single document if need be.

Community Development Director Brandt stated that staff had received their direction and would proceed with drafting a separate document.

1. Proposed segmentation of selected areas of the City

Planning Manager Alford explained staff's proposal to create a LCP segment for those areas of the City with issues that might delay certification for the rest of the City.

A brief discussion ensued regarding a future Newport Coast segment.

Community Development Deputy Director Wisneski described the proposed segment, which includes the bluff and canyons areas of Irvine Terrace and Corona del Mar.

Planning Manager Alford explained that Phase I would allow the bulk of the City to be certified relatively quickly; afterward, staff could focus on resolving the more difficult issues, such as Phase II.

Council Member Gardner asked if the segment was intended to address bluff and canyon issues, why all the other areas were included. Planning Manager Alford responded that staff wanted to define a unified geographic area and included all of the problem areas.

In response to questions by the Committee, staff presented an overview of the current Categorical Exclusion Order, current procedures, and how it may be extended and administered following certification. Staff also answered questions regarding post-certification appeals to the Coastal Commission.

Chair Selich directed staff to use segmentation as a fallback option.

At the request of Council Member Gardner, Assistant City Attorney Mulvihill gave an update on the work she is doing with the League of California Cities' Coastal Cities Group.

iii. Review of key issues/update on discussions with Coastal Commission staff

Staff reported that the City's bluff development regulations had been submitted to Coastal Commission staff for a formal review, but no comments had been received. Staff commented on the Coastal Commission recommendations on projects approved by the City using the Bluff Overlay and how there are no lack of examples of Coastal Commission action on canyon properties due to the Categorical Exclusion Order.

A general discussion ensued regarding the previous attempt at drafting a canyon overlay, recent examples of applying canyon policies, erosion hazards, methods of establishing canyon development limits, and issues

associated with the Irvine Terrace bluffs. Staff was directed to prepare canyon development standards that are as clear and objective as possible.

iv. Preliminary project schedule

Planning Manager Alford stated that the drafting of the implementation plan as directed could still proceed under the project schedule, but that additional time may be necessary for the coastal resource projection section since the coastal bluff and canyon issues would have to be addressed in Phase I.

**V. Schedule Future Meetings**

The Committee agreed to meet at 3:30 p.m. on Wednesdays following the second City Council meeting.

**VI. Public Comment**

Jim Mosher inquired about meeting minutes and commented on bluff protection.

Steve Ray commented on the Committee's discussions, segmentation, categorical exclusions, and consistency with the land use plan.

**VII. Adjournment** *Next Meeting Date: May 29, 2013, at 3:30 p.m.*

The agenda for the Regular Meeting was posted on April 19, 2013, at 2:30 p.m., on the City Hall Bulletin Board located in the entrance of the Council Chambers at 100 Civic Center Drive.

## Chapter 21.10 – Purpose and Applicability of the Implementation Plan

### Sections:

21.10.010	Title
21.10.020	Purpose
21.10.030	Authority, Relationship to General Plan and Coastal Land Use Plan
21.10.040	Applicability of Implementation Plan
21.10.050	Responsibility for Administration

### 21.10.010 – Title

This title shall be known as the “City of Newport Beach Local Coastal Program Implementation Plan” and referred to as the “Implementation Plan”

### 21.10.020 – Purpose

The purposes of the Implementation Plan are to:

- A. Implement the certified Local Coastal Program and the California Coastal Act of 1976;
- B. Protect, maintain, enhance and restore the overall quality of the Coastal Zone and its natural and artificial resources;
- C. Assure orderly, balanced use and conservation of resources within the Coastal Zone taking into account social and economic needs;
- D. Maximize public access to and along the coast and maximize public recreational opportunities in the Coastal Zone consistent with sound resource conservation principals and constitutionally protected rights of private property owners;
- E. Assure priority for coastal-dependent and coastal-related development over other types of development in the Coastal Zone; and
- F. Encourage state and local cooperation in planning and development of mutually beneficial uses in the Coastal Zone.

### 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 Government Code, Division 20 of the Public Resources Code (California Coastal Act), and Title 14, Division 5.5 of the California Code of Regulations (California Coastal Commission Regulations).
- B. **Relationship to General Plan, Coastal Land Use Plan.** This Implementation Plan is the primary tool used by the City to carry out the goals, objectives, and policies of the General Plan and certified Coastal Plan Use Plan. It is intended that all provisions of this Implementation Plan be consistent with the General Plan and certified Coastal Land Use Plan and that any development, land use, or subdivision approved in compliance with

these regulations will also be consistent with the General Plan and certified Coastal Land Use Plan.

#### **21.10.040 – Applicability of Implementation Plan**

The regulations of this Implementation Plan shall apply to all land and water in the Coastal Zone within the City of Newport Beach and its sphere of influence, with the exception of Newport Coast and deferred certification areas established by the certified Coastal Land Use Plan. The Newport Coast segment is governed by the certified Newport Coast Local Coastal Program and is subject only to the administrative regulations relating to the review of coastal development permits.

#### **21.10.050 Responsibility for Administration.**

- A. **Responsible Authority.** This Implementation Plan shall be administered by: Newport Beach City Council, hereafter referred to as the “Council”; the Planning Commission, hereafter referred to as the “Commission”; the Community Development Director, hereafter referred to as the “Director”; the Zoning Administrator; and the Community Development Department hereafter referred to as the “Department,” and any other City official or body as specifically identified.
- B. **Exercise of Discretion.** In the event that a provision of this Implementation Plan or a condition of approval allows the review authority to exercise judgment in the application of a specific development standard or condition of approval, the review shall include an analysis as to whether:
1. The proposed project complies with all applicable provisions of this Implementation Plan;
  2. The exercise of authority will act to ensure the compatibility of the proposed project with its site and surrounding properties;
  3. The manner in which authority is exercised will result in a more practical application of the provisions of this Implementation Plan given specific characteristics of the site and its surroundings; and
  4. The decision is consistent with the General Plan, certified Coastal Land Use Plan, any applicable specific plan, or any other applicable regulation or standard.

INTENTIONALLY LEFT BLANK

**Attachment No. 2**  
Draft IP Administrative Chapters

## Chapter 21.12 – Interpretation of Implementation Plan Provisions

### Sections:

- 21.12.010 Purpose
- 21.12.020 Rules of Interpretation

### 21.12.010 – Purpose

This chapter provides rules for resolving questions about the meaning or applicability of any part of this Implementation Plan. The provisions of this chapter are intended to ensure the consistent interpretation and application of the requirements of this Implementation Plan.

### 21.12.020 – Rules of Interpretation

- A. **Authority.** The Director has the authority to interpret the meaning of provisions of this Implementation Plan, including maps, and to apply and/or enforce the Implementation Plan. The Director may also refer any interpretation to the Commission for input or a determination. An interpretation made by the Director may be appealed to the Commission in compliance with Chapter 21.64 (Appeals).
- B. **Language.** When used in this Implementation Plan, the words “shall,” “must,” “will,” “is to,” and “are to” are always mandatory. “Should” is not mandatory, but is strongly recommended, and “may” is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the common meaning of the word indicates otherwise. The words “includes” and “including” shall mean “including, but not limited to.”
- C. **Calculations.**
  1. **Residential Density.** When the number of dwelling units allowed on a site is calculated based on the minimum site area per dwelling unit, any fraction of a unit shall be rounded down to the next lowest whole number. For example, where a residential zoning district requires a minimum site area per dwelling unit of one thousand five hundred (1,500) square feet; a site of ten thousand (10,000) square feet would be allowed six dwelling units.
    - Example: Ten thousand (10,000) sq. ft. site area/one thousand five hundred (1,500) sq. ft. per unit = 6.66 dwelling units. This would be rounded down to six dwelling units.
  2. **Other Calculations.** For calculations other than residential density, the fractional/decimal results of calculations shall be rounded to the next highest whole number unless otherwise specified.
  3. **Time Limits.** Whenever a number of days is specified in this Implementation Plan, or in a permit, condition of approval, or notice provided in compliance with this Implementation Plan, the number of days shall be construed as calendar days unless otherwise specified. Where the last of the specified number of days falls on

a weekend, holiday, or other day the City is not open for business, the time limit shall extend to 5:00 p.m. on the following business day.

- D. **Conflicting Requirements.** Where conflict occurs between the provisions of this Implementation Plan and any other City Code, title, chapter, resolution, guideline, or regulation, the more restrictive provision shall control unless otherwise specified in this Implementation Plan or unless the more restrictive provision is less protective of coastal resources.
- E. **Unlisted Uses of Land.** If a proposed use of land is not specifically listed in Part 2 of this title (Zoning Districts, Allowable Land Uses, and Zoning District Standards), the use shall not be allowed, except as provided below.
1. **Director's Interpretation.** The Director may determine that a proposed land use that is not listed in Part 2 of this title (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards) may be allowed if the following findings can be made:
    - a. The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the uses listed in the zoning district as allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the zoning district;
    - b. The proposed use will meet the purpose/intent of the zoning district that is applied to the location of the use;
    - c. The proposed use will be consistent with the goals, objectives, and policies of the General Plan, certified Coastal Land Use Plan, or any applicable specific plan;
    - d. The proposed use is not listed as allowable in another zoning district; and
    - e. The proposed use is not a prohibited or illegal use.
  2. **Applicable Standards and Permit Requirements.** When the Director determines that a proposed but unlisted land use is equivalent to a listed use, the proposed use will be treated in the same manner as the listed use in determining where the use is allowed, what permits are required, and what other standards and requirements of this Implementation Plan apply.
- F. **Coastal Zoning Map Boundaries.** If there is uncertainty about the location of a zoning district boundary shown on the official Coastal Zoning Map, the Director shall determine the location of the boundary in the following manner:
1. Where a district or area boundary approximately follows a lot line, street or alley line, the lot line, street centerline, or alley centerline shall be construed as the district boundary;

2. Where a district or area boundary divides a lot and the boundary line location is not specified by distances indicated on the subject map, the location of the boundary shall be determined by using the scale appearing on the map;
  3. Where a public street or alley, or a portion thereof, is officially vacated or abandoned, the property that was formerly in the street or alley shall be included within the zoning district of the adjoining property on either side of the centerline of the vacated or abandoned street or alley;
  4. Where a district or area boundary approximately follows the shoreline of the Pacific Ocean, the boundary shall be construed to follow the mean high tide line; or
  5. Where a district or area boundary approximately follows the waterfront of Newport Bay, the boundary shall be construed to follow the bulkhead line.
- G. **Coastal Zone Permit and Appeal Jurisdiction Map boundaries.** If there is uncertainty about the location of a boundary shown on the Coastal Zone Permit and Appeal Jurisdiction Map, or if the boundary bisects a lot, the Director shall proceed as follows:
1. If the uncertainty involves the specific location of a boundary line, the Director shall use any of the methods provided in Subsection F, above, provided the determination would not adjust the boundary line onto or out of any portion of an existing lot;
  2. If a boundary line bisects any portion of a lot, the entire lot shall be determined to be within the boundary of the mapped area; or
  3. In order to avoid bisecting a lot or to conform a boundary to readily identifiable natural or manmade features, the City may request the Coastal Commission to adjust the boundary of the Coastal Zone up to a maximum of 100 yards inland, or a maximum of 200 yards seaward. Where an inland adjustment is requested by the City and agreed to by the property owner, the maximum distance shall be 200 yards.
- H. **Illustrations.** In case of a conflict between the Implementation Plan text and any diagram, illustration, or image contained in the Implementation Plan, the text shall control.
- I. **Guidelines.** Guidelines augment and expand on the policies and regulations of the certified Local Coastal Program. Guidelines are not quantitative standards and are therefore subject to interpretation.
- J. **Use of Headings.** The headings of the chapters, sections, and subsections of this Implementation Plan, together with the accompanying examples and explanatory notes, are inserted as a matter of convenience and are not intended to define, limit, or enlarge the scope or meaning of this Implementation Plan or its provisions.

INTENTIONALLY LEFT BLANK

## Chapter 21.14 – Coastal Maps

### Sections:

21.14.010	Coastal Zoning Map Adopted by Reference
21.14.020	Coastal Zoning Districts Established
21.14.030	Coastal Zoning District Symbols
21.14.040	Permit and Appeal Jurisdiction Map

### 21.14.010 – Coastal Zoning Map Adopted by Reference

The boundaries, designations, and locations of the coastal zoning districts established by this Implementation Plan shall be shown upon the map(s) entitled “Coastal Zoning Map for the City of Newport Beach, California” and referred to as the “Coastal Zoning Map.” Any additional maps as may be subsequently adopted or amended shall also be a part of this Implementation Plan by reference.

### 21.14.020 – Coastal Zoning Districts Established

The City of Newport Beach shall be divided into coastal zoning districts that implement the Coastal Land Use Plan. The coastal zoning districts shown in Table 1-1 are hereby established, and shall be shown on the Coastal Zoning Map.

**TABLE 1-1  
COASTAL ZONING DISTRICTS**

Coastal Zoning Map Symbol	Coastal Zoning Districts	Coastal Land Use Plan Designations Implemented by Zoning Districts	
Residential Coastal Zoning Districts			
R-A R-1 R-1-6,000	Single-Unit Residential Detached	RS-D	Single-Unit Residential Detached
R-BI R-2 R-2-6,000	Two-Unit Residential	RT	Two-Unit Residential
RM RM-6,000	Multi-Unit Residential	RM RMD	Multiple-Unit Residential Multiple-Unit Residential Detached
Commercial Coastal Zoning Districts			
OG	Office—General Commercial	CO-G	General Commercial Office
CC	Commercial Corridor	CC	Corridor Commercial
CG	Commercial General	CG	General Commercial
CM	Commercial Recreational and Marine	CM	Recreational and Marine Commercial

Coastal Zoning Map Symbol	Coastal Zoning Districts	Coastal Land Use Plan Designations Implemented by Zoning Districts	
CN	Commercial Neighborhood	CN	Neighborhood Commercial
CV	Commercial Visitor-Serving	CV	Visitor-Serving Commercial
Mixed-Use Coastal Zoning Districts			
MU-V	Mixed-Use Vertical	MU-V	Mixed-Use Vertical
MU-MM MU-CV/15th Street	Mixed-Use	MU-H	Mixed-Use
MU-W1 MU-W2	Mixed-Use Water	MU-W	Mixed-Use Water-Related
IG	Industrial	IG	Industrial
Special Purpose Coastal Zoning Districts			
OS	Open Space	OS	Open Space
PC	Planned Community	All designations	
PF	Public Facilities	PF	Public Facilities
PI	Private Institutions	PI	Private Institutions
PR	Parks and Recreation	PR	Parks and Recreation
Overlay Coastal Zoning Districts			
MHP	Mobile Home Park	RM	Multiple-Unit Residential
PM	Parking Management	All designations	
B	Bluff	All designations	

### 21.14.030 – Coastal Zoning District Symbols

In addition to the coastal zoning district designations established under Section 21.14.020 (Coastal Zoning Districts Established) and the related development standards established in Part 2 of this title (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards), symbols are established on the Coastal Zoning Map for the purpose of designating floor area ratio limits for nonresidential uses and density limits or the actual number of allowed units for residential uses. When these symbols are placed on the Coastal Zoning Map, the floor area ratios, dwelling unit limits or residential densities (minimums and maximums) as indicated shall apply. In addition, individual locations/sites/lots are identified on the Coastal Zoning Map by a number symbol where specific development limits and restrictions apply. These development limits/restrictions shall apply in addition to those provided in Part 2 of this title (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards). The symbols and limits shall be shown in the following manner:

- A. **Nonresidential Districts.** A number following the district symbol shall designate the maximum floor area ratio allowed for the nonresidential area designated.

Example: CG 0.5

**B. Residential Districts.**

1. A number following the district symbol designates the minimum site area required per dwelling unit if the requirement differs from the district standard minimum.

Example: RM (2178)

2. Two numbers following the district symbol indicates that both the minimum and maximum number of dwelling units are regulated. The first number designates the site area used to calculate the minimum number of units required. The second number designates the site area to be used to calculate the maximum number of dwelling units allowed.

Example: RM (3100/2420)

3. A number followed by the DU symbol indicates the maximum number of dwelling units allowed for the area designated. Where two numbers are shown, the first represents the maximum number of units allowed, the second represents the minimum number of units required.

Examples: RM 50 DU

RM 388/300 DU

- C. Mixed-Use Districts.** Allowed residential densities and floor area ratios for nonresidential structures in mixed-use districts are not indicated on the Coastal Zoning Map, but are provided in the development standards tables for mixed-use districts in Part 2 of this title (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards).

- D. Anomaly Locations.** Anomaly locations shall be designated on the Coastal Zoning Map with a reference number that coincides with an anomaly table included on the Coastal Zoning Map.

- E. Planned Communities (PC).** Each PC District shall be shown on the Coastal Zoning Map with a “PC” designator along with a sequential reference number.

**21.14.040 – Permit and Appeal Jurisdiction Map**

The boundaries of the Coastal Zone, appeals areas, exclusion areas, deferred certification areas, and other coastal-related areas within the Coastal Zone in the City of Newport Beach shall be shown upon the map(s) entitled “Permit and Appeal Jurisdiction Map.”

1. **Coastal Zone.** The Coastal Zone boundary shall be as established by the Coastal Act, including any adjustments to the boundary made by the Coastal Commission pursuant to California Public Resources Code Section 30103(b).

2. **Appeal Area.** The boundary of the area where actions by the City on coastal development permit applications may be appealed to the Coastal Commission shall be established pursuant to California Public Resources Code Section 30603, including any adjustments to the boundary made by the Coastal Commission pursuant to California Public Resources Code Section 30603.1.
3. **Exclusion Areas.** 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 Public Resources Code Section 30610 shall be established by the terms and conditions applied to each categorical exclusion order by the Coastal Commission.
4. **Deferred Certification Areas.** The boundaries of deferred certification areas shall be established by the certified Coastal Land Use Plan.
5. **Public Trust Lands Delegated to the City.** The boundaries tidelands, submerged lands, and public trust lands where permit authority has been be delegated to the City pursuant to Coastal Act Section 30613.

## Chapter 21.16 – Development and Land Use Approval Requirements

### Sections:

21.16.010	Purpose
21.16.020	General Requirements for Development and New Land Uses
21.16.030	Allowable Land Uses and Planning Permit Requirements
21.16.040	Short-Term Uses and Structures
21.16.050	Special Events
21.16.060	Additional Permits and Approvals May Be Required

### 21.16.010 – Purpose

The purpose of this part is to provide the general requirements of this Implementation Plan for the approval of proposed development and land use activities. Land use requirements for specific land uses are established by this Part 2 and Part 3 (Site Planning and Development Standards) and Part 4 of this title (Standards for Specific Land Uses). Land use and development approval and administrative provisions are established by Part 5 (Planning Permit Procedures) and Part 6 of this title (Implementation Plan Administration).

### 21.16.020 – General Requirements for Development and New Land Uses

No use of land or structures shall be allowed, altered, constructed, established, expanded, reconstructed, or replaced unless the use of land or structures comply with this Implementation Plan and the requirements of this chapter.

- A. **Allowable Use.** The land use shall be identified by Chapter 21.18 (Residential Zoning Districts), 21.20 (Commercial Zoning Districts), 21.22 (Mixed-Use Zoning Districts), 21.24 (Industrial Zoning Districts), 21.26 (Special Purpose Zoning Districts), or 21.28 (Overlay Zoning Districts) as being allowable in the zoning district applied to a site.
- B. **Permit Requirements.** Permits required by this Implementation Plan shall be obtained before the proposed use is commenced or the project is constructed and any activities associated with the use are commenced, or otherwise established or put into operation.
- C. **Development Standards.** Uses and/or structures shall comply with all applicable development standards of this part, the provisions of Part 3 (Site Planning and General Development Standards) and Part 4 of this title (Standards for Specific Land Uses), and other adopted criteria, guidelines, and policies adopted by the City related to the use and development of land.
- D. **Conditions of Approval.** Uses and/or structures shall comply with all conditions imposed by a previous permit and other regulatory approvals. Failure to comply with imposed conditions shall be grounds for revocation of the permit in compliance with Chapter 21.68 (Enforcement).
- E. **Other Development Criteria, Guidelines, and Policies.** The City may adopt criteria, guidelines, and policies separate from this Implementation Plan that may affect the use and development of land. All applicable standards, criteria, guidelines, policies, and

procedures related to development on file with the Department shall apply when appropriate as determined by the applicable review authority.

- F. **Reasonable Accommodations.** The review authority may grant reasonable accommodations (adjustments) to the City's zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling in compliance with Section 21.52.070 (Reasonable Accommodations).
- G. **Nonconforming Uses and Structures.** Uses and structures that are determined to be nonconforming as to the requirements of this Implementation Plan shall be subject to the requirements and limitations of Chapter 21.38 (Nonconforming Uses and Structures).

### 21.16.030 – Allowable Land Uses and Planning Permit Requirements

#### A. **Allowed Land Uses.**

1. **Permitted Uses.** Permitted subject to compliance with all applicable provisions of this Implementation Plan, issuance of a zoning clearance (Section 21.52.100), and any building permit or other permit required by the Municipal Code. These are shown as "P" uses in the tables.
  2. **Conditional Use Permit Required.** Allowed subject to the approval of a conditional use permit (Section 21.52.020) and shown as "CUP" uses in the tables.
  3. **Conditional Use Permit – Hearing Officer Required.** Allowed subject to the approval of a conditional use permit in residential zoning districts (Section 21.52.030) and shown as "CUP-HO" uses in the tables.
  4. **Minor Use Permit Required.** Allowed subject to the approval of a minor use permit (Section 21.52.020), and shown as "MUP" uses in the tables.
  5. **Limited Term Permit.** Allowed subject to the approval of a limited term permit (Section 21.52.040), and shown as "LTP" uses in the tables.
  6. **Site Development Review.** Allowed subject to the approval of a site development review (Section 21.52.080) for the types of projects listed in Table 5-2 (Review Authority for Site Development Reviews).
  7. **Zoning Clearance.** A zoning clearance is required before the commencement of a use, a change of use, or before the City issues a building permit, grading permit, or other construction-related permit in compliance with Section 21.52.100.
- B. **Multiple Uses on a Single Site.** Where a proposed multi-tenant project includes multiple land uses that require different permits, the project shall be authorized through the approval of the permit requiring the highest level of review. This provision shall not apply to a new single use when locating in an existing multi-tenant project.

### 21.16.040 – Short-Term Uses and Structures

Requirements for establishing a short-term use or structure (e.g., construction yards, seasonal sales lots, temporary office trailers, etc.) are identified in Section 21.52.040 (Limited Term Permits).

### 21.16.050 – Special Events

- A. **Applicability.** Special events are events or organized activities conducted on a one-time basis, or may recur but which are scheduled individually, with duration of thirty (30) days or less.
- B. **Coastal Development Permit Required.** A coastal development permit shall be required pursuant to Article 9 for any special event held in the Coastal Zone that meets all of the following criteria:
1. Held between the Memorial Day weekend and Labor Day;
  2. Occupy any portion of a public sandy beach area; and
  3. Involve a charge for general public admission where no fee is currently charged for use of the same area.

A coastal development permit shall also be required for temporary events that do not meet all of these criteria, but have the potential to result in significant adverse impacts to public access, recreation and/or coastal resources.

- C. **Conditions.** Special events in the Coastal Zone shall be conditioned to minimize impacts to public access, recreation and coastal resources.

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

- A. **Other Permits Required.** An allowed land use or structure that is exempt from a permit, or has been granted a permit, may still be required to obtain other permits before the use is commenced or the structure is constructed and any activities associated with the use are commenced, or otherwise established or put into operation. Nothing in this section shall eliminate the need to obtain any permits or approvals required by:
1. Other provisions of the Municipal Code (e.g., building permits, grading permits, other construction permits, live entertainment permit, or a business license); or
  2. Orange County, a special district, or any regional, State, or Federal agency.
- B. **Timing of Other Permits.** No land shall be used, no new use shall be established, and no structure shall be commenced until all necessary permits have been obtained.

INTENTIONALLY LEFT BLANK

## Chapter 21.50 – Permit Application Filing and Processing

### Sections:

21.50.010	Purpose
21.50.020	Authority for Decisions
21.50.030	Application Preparation and Filing
21.50.040	Application Fees
21.50.050	Initial Application Review
21.50.060	Project Evaluation and Staff Reports
21.50.070	Environmental Review

### 21.50.010 – Purpose

This chapter provides procedures and requirements for the preparation, filing, and processing of permit applications required by this Implementation Plan.

### 21.50.020 – Authority for Decisions

- A. **Review Authority.** Table 5-1 (Review Authority) identifies the review authority responsible for reviewing and making decisions on each type of application required by this Implementation Plan.

**Table 5-1  
Review Authority**

Type of Action	Applicable Code Chapter/Section	Role of Review Authority (1)					
		Director	Zoning Administrator	Harbor Resources Manager	Commission	Council (2)	Coastal Commission
Administrative and Legislative							
Interpretations	Section 21.12.020	Determination (3)			Appeal	Appeal	
LCP Amendments	Chapter 21.66				Recommend	Decision (4)	Decision (4)
Approvals in Concept	Section 21.52.040		Determination (3)	Determination (5)	Appeal	Appeal	
Waiver for De Minimis Development	Section 20.52.060		Determination (3)		Appeal	Appeal	
Permits and Approvals							
Coastal Development Permits (See Table 5-2 [Review Authority for Coastal Development Permits])	Section 21.52.040		Decision (6)		Appeal	Appeal	Decision (7) Appeal (2)

Type of Action	Applicable Code Chapter/Section	Role of Review Authority (1)					
		Director	Zoning Administrator	Harbor Resources Manager	Commission	Council (2)	Coastal Commission
Emergency Coastal Development Permits	Section 21.52.070	Decision (3)			Appeal	Appeal	
<p>Notes:</p> <p>(1) "Recommend" means that the Commission makes a recommendation to the Council; "Determination" and "Decision" mean that the review authority makes the final determination or decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of a previous decision-making body, in compliance with Chapter 21.64 (Appeals).</p> <p>(2) The Council is the final review authority for all applications in the City. A decision by the City on a Coastal Development Permit application within the appeal areas depicted on the Permit and Appeal Jurisdiction Map or a project that constitutes a major public works project or energy facility may be appealed to the Coastal Commission in compliance with Chapter 21.64 (Appeals).</p> <p>(3) The Director or Zoning Administrator may defer action and refer the request to the Commission for consideration and final action.</p> <p>(4) The Californian Coastal Commission is the final decision making authority on amendments to the certified Local Coastal Program. See Chapter 21.80 (Amendments).</p> <p>(5) For development located on tidelands or submerged lands that did not involve a discretionary action authorized by this Implementation Plan where the authority is specifically assigned to the Council, Commission, Director, or Zoning Administrator</p> <p>(6) If the project also requires another discretionary approval (e.g., conditional use permit, variance, etc.), then the applicable review authority shall be the authority for the other discretionary approval.</p> <p>(7) All development on tidelands, submerged lands, and public trust lands as described in California Public Resources Code Section 30519(b) and in deferred certification areas designated by the certified 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. Pursuant to Coastal Act Section 30613, permit authority on tidelands, submerged lands, and public trust lands that are determined by the Coastal Commission to be filled and developed and located within an area committed to urban uses shall be delegated to the City.</p>							

**B. Projects Bisected By Appeal Jurisdiction.** If a portion of the approved development is of the type or in a location that makes the action by the City subject to appeal, the approval of the coastal development permit is subject to appeal to the Coastal Commission.

**C. 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. The following procedures apply:

1. For divisions of land, a coastal development permit issued by the Coastal Commission shall be required only for lots or parcels created that contain new lot lines or portions of new lot lines within the area subject to the Coastal Commission's retained jurisdiction.
2. For any development involving a structure or similar integrated physical construction, a coastal development permit issued by the Coastal Commission shall be required for any structure partially in the retained jurisdiction area.

- D. **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 Public Resources Code Section 30605, may obtain one "Public Works Plan" approval from the Coastal Commission, in lieu of locally-issued coastal permits.

### 21.50.030 – Application Preparation and Filing

#### A. **Preapplication Conference.**

1. Any applicant is strongly encouraged to request a preapplication conference with the Department before completing and filing a permit application.
2. The purpose of this preapplication conference is to:
  - a. Inform the applicant of City requirements as they apply to the proposed project;
  - b. Review the City's review process, possible project alternatives or revisions; and
  - c. Identify information and materials the City will require with the application, and any necessary technical studies and information relating to the environmental review of the project.
3. Neither the preapplication review nor the provision of information and/or pertinent policies shall be construed as either a recommendation for approval or denial of the permit application by any City staff. Failure by City staff to identify any required studies or any applicable requirements shall not constitute a waiver of those studies or requirements.

- B. **Application Contents.** Each permit application required by this Implementation Plan shall be filed with the Department on the appropriate City application form, together with all required fees and/or deposits and all other information and materials specified by the Director for the specific type of application.

- C. **Eligibility for Filing.** An application may only be filed by the owner of the subject property or authorized agent of the owner with the written consent of the property owner. The application shall be signed by the owner of record or by an authorized agent, if written authorization from the owner of record is filed concurrently with the application.

- D. **Rejection of Application.** If the Director determines that an application cannot lawfully be approved by the City, the Director shall not accept the application for processing.

### 21.50.040 – Application Fees

- A. **Fee Schedule.** The Council shall establish a schedule of fees for the processing of the applications required by this Implementation Plan, hereafter referred to as the City's fee schedule adopted by resolution.

- B. **Timing of Payment.** Applications shall not be deemed complete, and processing shall not commence on any application, until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for suspension of processing or issuance of any permit.
- C. **Refunds and Withdrawals.** Application fees cover City costs for public hearings, mailings, staff time and the other activities involved in processing applications. No refund for an application that is denied shall be allowed. In the case of a withdrawal by the applicant, the Director shall have the discretion to authorize a partial refund based upon the pro-rated costs to date and the status of the application at the time of withdrawal.

#### **21.50.050 – Initial Application Review.**

- A. **Review for Completeness.** The Director shall review each application for completeness and accuracy before it is accepted as being complete. The determination of completeness shall be based on the City's applicable list of required application contents and any additional written instructions provided to the applicant in any preapplication conference, and/or during the initial application review period.
1. **Notification of Applicant or Authorized Agent.** Within thirty (30) calendar days of application filing, the applicant or authorized agent shall be informed in writing, either that the application is complete and has been accepted for processing or that the application is incomplete and that additional specified information shall be provided before the application is deemed complete.
  2. **Appeal of Determination.** Where the Director has determined that an application is incomplete, and the applicant believes that the application is complete and/or that any additional information requested by the Director is not required, the applicant may appeal the determination to the appropriate review authority in compliance with Chapter 21.64 (Appeals).
  3. **Additional Information.**
    - a. When the Director determines that an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur.
    - b. The time available to an applicant for submittal of additional information is limited by subsection (A)(4) of this section.
    - c. The additional specified information shall be submitted in writing.
    - d. The Director's review of any information resubmitted by the applicant shall be accomplished in compliance with subsection (A)(1) of this section along with another thirty (30) day period of review for completeness.
  4. **Expiration of Application.**

- a. If an applicant fails to provide any additional information requested by the Director within sixty (60) days following the date the application was deemed incomplete, the application shall be deemed withdrawn without any further action by the City.
- b. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated filing fees.

**5. Submittal of Additional Information.**

- a. During the course of the review process, the review authority may require the applicant to submit additional information or revised plans.
- b. The Director shall notify the applicant in writing of any revisions or additional information required and the applicant shall submit the requested information to the Department within thirty (30) days after the date of the notice or within the period of time designated by the review authority.
- c. Failure to submit the required information within the thirty (30) day period or within the period of time designated by the review authority may be cause for denial.

**6. Additional Environmental Information.** After an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project in compliance with the California Environmental Quality Act (CEQA), the City's CEQA guidelines, and Section 21.50.080 (Environmental review).

- B. Referral of Application.** At the discretion of the Director, or where otherwise required by this Implementation Plan or State or Federal law, an application may be referred to any public agency that may be affected by or have an interest in the proposed project for their review and comment.

**21.50.060 – Project Evaluation and Staff Reports**

- A. **Director Evaluation.** The Director shall review all applications to determine whether they comply and are consistent with the provisions of this Implementation Plan, the General Plan, and other applicable provisions identified in Section 21.10.040 (Applicability of Implementation Plan).
- B. **Staff Report.** The Department shall provide a written recommendation for discretionary applications to the applicable review authority recommending that the application be approved, conditionally approved, or denied.
- C. **Staff Report to Include Findings.** Whenever this Implementation Plan requires a set of findings to be made before granting approval of an application by the applicable review authority, it shall be the responsibility of the Department to present all relevant facts to support the findings.

- D. **Report Distribution.** Each staff report shall be furnished to the applicant at the same time as it is provided to the review authority before the review authority's action on the application.

#### 21.50.070 – Environmental Review

- A. **CEQA Review.** After acceptance of a complete application, the project shall be reviewed in compliance with the California Environmental Quality Act (CEQA) to determine whether:

1. The project is not a project as defined by CEQA;
2. The project is exempt from the requirements of CEQA;
3. A negative declaration may be issued;
4. A mitigated negative declaration may be issued; or
5. An Environmental Impact Report (EIR) shall be required.

- B. **Review and Reports.**

1. **Review of Documents.** All environmental documents submitted as part of a development application shall be reviewed by a qualified City staff member, advisory committee designated by the City, or consultant approved by and under the supervision of the City. Site-specific surveys and analyses shall be reviewed by a City staff member, advisory committee, or contracted employee with technical expertise as appropriate for the environmental issues of concern and be knowledgeable about the City.
2. **Report.** A qualified City staff member, advisory committee, or contracted employee shall prepare a written report with recommendations to the appropriate decision-making official or body.

- C. **Compliance with CEQA.** These determinations and, where required, the preparation of appropriate environmental documents shall be in compliance with CEQA and applicable Council policies.

## Chapter 21.52 – Coastal Development Review Procedures

### Sections:

21.52.010	Purpose
21.52.020	Applicability
21.52.030	Projects Bisected by Jurisdictional Boundaries
21.52.040	Coastal Development Permits
21.50.050	Projects exempt from Coastal Permit requirements
21.50.060	Exclusion Areas
21.50.070	Emergency Coastal Development Permits
21.50.080	Waiver for De Minimis Development

### 21.52.010 – Purpose

This chapter provides procedures to ensure that all public and private development in the Coastal Zone is consistent with the certified Coastal Land Use Plan.

### 21.52.020 – Applicability

- A. **Coastal Development Permit Required.** Except as otherwise provided in Section 21.50.050, any person wishing to perform or undertake any development in the Coastal Zone, other than a facility subject to California Public Resources Code Section 25500, shall obtain a coastal development permit in accordance with the provisions of this chapter. Development undertaken pursuant to a coastal development permit shall conform to the plans, specification, terms and conditions of the permit. The requirements for obtaining a coastal development permit shall be in addition to requirements to obtain any other permits or approvals required by other articles of this Ordinance, other city ordinances or codes or from any state, regional or local agency.
- B. **Projects Bisected By Coastal Zone.** Where a proposed project site is physically located both within and outside the Coastal Zone, the following procedures apply:
1. For divisions of land, a coastal development permit shall be required only for lots or parcels created that contain new lot lines or portions of new lot lines within the Coastal Zone and such review will be confined to those lots or portions of lots within the Coastal Zone.
  2. For any development involving a structure or similar integrated physical construction partially in the Coastal Zone, a coastal development permit shall be required.
  3. Pursuant to California Public Resources Code Section 30103 (b), the Coastal Commission may adjust the boundary of the Coastal Zone to avoid bisecting any single lot or parcel to conform it to readily identifiable natural or manmade features, as provided by Section 21.12.020 (Coastal Zone Permit and Appeal Jurisdiction Map boundaries).

## 20.52.040 – Coastal Development Permits

- A. **Review Authority.** The review authority identified in Table 5-1 (Section 20.51.020) is designated to approve, conditionally approve, or deny applications for coastal development permits and the modification or revocation thereof, in compliance with the procedures provided in this section.
- B. **Emergency Coastal Development Permits.** The provisions of Section 21.50.070 shall apply where the Community Development Director determines that an emergency coastal development permit is necessary as an urgency measure to protect life and property from imminent danger or to restore, repair or maintain public works, utilities or services during and immediately following a disaster or serious accident within the Coastal Zone. The decision to issue an emergency permit may be made solely at the discretion of the Community Development Director.
- C. **Approval in Concept.** All development in areas where the Coastal Commission retains coastal development permit authority shall require conceptual approval from the City prior to application to the Coastal Commission. An approval in concept indicates that the proposed development conforms in concept to all City land use and development regulations, including any applicable discretionary actions, and therefore entitles the applicant to apply to the Coastal Commission for a coastal development permit.
- D. **Application filing, processing, and review.** An application for a coastal development permit shall be filed and processed in compliance with Chapter 21.50 (Permit Application Filing and Processing). The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's fee schedule adopted by resolution. It is the responsibility of the applicant to provide evidence in support of the findings required by subsection (F) of this section (Findings and Decision).
- E. **Public Notice and Hearing Provisions.**
1. **Public Hearing Required.** A public hearing shall be required before the decision on any site development review application.
  2. **Notice.** Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 21.62 (Public Hearings).
- F. **Findings and Decision.** The review authority may approve or conditionally approve a coastal development permit application, only after first finding that the proposed development is:
1. The project is in accord with the objectives of this Implementation Plan;
  2. The project conforms to all applicable sections of the certified Local Coastal Program;
  3. The project will not negatively impact public access to coastal resources.
  4. The project will not negatively impact public coastal views.

5. The project will not negatively impact sensitive coastal resources and environmentally sensitive areas.
- G. **Conditions of Approval.** The review authority may impose such conditions in connection with the granting of a coastal development permit as they deem necessary to secure the purposes of this Implementation Plan and the certified Local Coastal Program and may require guarantees and evidence that such conditions are being or will be complied with.
- H. **Notice of Final Action.** Within 7 days of the date of the final local action on a coastal development permit, a notice shall be sent to the applicant, to the Coastal Commission, and to any persons who specifically request such notice by submitting a self addressed, stamped envelope. Such notice shall be accompanied by a copy of the conditions of approval and written findings and the procedures for appeal of the action to the Coastal Commission.
- G. **Minor Changes by Director.**
1. Minor changes to an approved site development review that do not involve an increase in structure area or height, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with Section 21.54.070 (Changes to an approved project).
  2. Proposed changes that are not deemed minor shall be subject to review and approval by the original review authority.
- H. **Post-Decision Procedures.** The procedures and requirements in Chapter 21.54 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 of this title (Implementation Plan Administration) shall apply following the decision on a site development review application.

#### **21.50.050 – Projects exempt from Coastal Permit requirements**

The following projects are exempt from the requirement to obtain a coastal development permit:

- A. **Pre-Certification.** Any development authorized by a coastal development permit approved by the Coastal Commission before effective date of certification of the Local Coastal Program.
- B. **Deferred Certification.** For developments in deferred certification areas, the Coastal Commission retains permit jurisdiction.
- C. **Categorical Exclusions.** Developments determined to be categorically excluded (see Section 21.52.050 (Exclusion Areas), as depicted on the Permit and Appeal Jurisdiction Map.
- D. **Coastal Act Exemptions.** Developments determined to be excluded from the coastal development permit requirements pursuant to California Public Resources Code Section 30610. The following types of projects shall be so excluded:

1. **Existing Single Family Dwellings.** Improvements to existing single-family dwellings, including all fixtures and other exterior structures directly attached to the dwelling; ancillary structures normally associated with single family dwellings, such as garages, swimming pools, fences, storage sheds; and landscaping, with the exception of the following classes of development that involve a risk of adverse environmental effects:
  - a. Improvements to any structure where either the structure or the improvement is located on a beach, in a wetland or stream, seaward of the mean high tide line, within an environmentally sensitive habitat area, or in an area designated as highly scenic in the Certified Coastal Land Use Plan, or within 50 feet of the edge of a coastal bluff.
  - b. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within 50 feet of the edge of a coastal bluff or stream, or in an environmentally sensitive habitat area.
  - c. Expansion or construction of a water well or septic system.
  - d. Improvements on property that is located between the sea and first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated by the Coastal Commission, when such improvements would constitute or result in any of the following:
    - (1) An increase of 10 percent or more within any 12-month period of the floor area of existing structure(s) on the building site or an additional improvement of 10 percent or less within any 12-month period where an improvement to the structure has previously been undertaken pursuant to California Public Resources Code Section 30610(a) and/or this subsection.
    - (2) The construction of an additional story or loft or increase in building height of more than 10 percent within any 12-month period.
    - (3) The construction, placement or establishment of any significant detached structure such as a garage, fence, shoreline protective works or docks.
  - e. In areas that the Coastal Commission has declared by resolution after a public hearing to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use such as, but not limited to, swimming pools or the construction or extension of any landscaping irrigation system.
  - f. Any improvement where the coastal development permit issued for the original structure indicates that future additions would require a coastal development permit.

2. **Other Existing Structures.** Improvements to existing structures, other than single family dwellings and public works facilities, including all fixtures and other structures directly attached to the structure and landscaping, with the exception of the following classes of development that involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use contrary to the Coastal Act:
- a. Improvements to any structure where either the structure or the improvement is located on a beach, in a wetland or stream, or seaward of the mean high tide line, in an area designated as highly scenic in the certified Coastal Land Use Plan, or within 50 feet of the edge of a coastal bluff.
  - b. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within 100 feet of the edge of a coastal bluff or stream, in an area designated as highly scenic in the Certified Coastal Land Use Plan, or in an environmentally sensitive habitat area.
  - c. Expansion or construction of a water well or septic system.
  - d. Improvements on property that is located between the sea and first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated by the Coastal Commission, when such improvements would constitute or result in any of the following:
    - (1) An increase of 10 percent or more within any 12-month period of the floor area of existing structure(s) on the building site or an additional improvement of 10 percent or less within any 12-month period where an improvement to the structure has previously been undertaken pursuant to California Public Resources Code Section 30610(a) and/or this subsection.
    - (2) The construction of an additional story or loft or increase in building height of more than 10 percent within any 12-month period.
    - (3) The construction, placement or establishment of any significant detached structure such as a garage, fence, shoreline protective works or docks.
  - e. In areas that the Coastal Commission has declared by resolution after a public hearing to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use such as, but not limited to, swimming pools or the construction or extension of any landscaping irrigation system.
  - f. Any improvement where the coastal development permit issued for the

original structure indicates that future additions would require a coastal development permit.

- g. Any improvement to a structure that changes the intensity of use of the structure.
  - h. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including but not limited to a condominium conversion, stock cooperative conversion or motel/hotel timesharing conversion.
3. **Maintenance Dredging.** Maintenance dredging of existing navigation channels or moving dredged materials from those channels to a disposal area outside of the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.
4. **Repair and Maintenance.** Repair or maintenance activities, with the exception of the following activities that involve a risk of adverse environmental effects:
- a. Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:
    - (1) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures; or
    - (2) The placement, whether temporary or permanent, of rip rap, or artificial berms of sand, or any other form of solid material, on a beach or in coastal waters, streams, wetlands, estuaries, or on shoreline protective works; or
    - (3) The replacement of 20 percent or more within any 12-month period of the materials of an existing structure with materials of a different kind; or
    - (4) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within 20 feet of coastal waters or streams.
  - b. Any method of routine maintenance dredging that involves:
    - (1) The dredging of 100,000 cubic yards or more within a 12 month period; or
    - (2) The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, or any sand area, or within 50 feet of the edge of a coastal bluff or environmentally sensitive

habitat area, or within 20 feet of coastal waters or streams; or

- (3) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.

c. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area; or within 20 feet of any coastal waters and streams that include:

- (1) The placement or removal, whether temporary or permanent, of rip rap, rocks, sand or other beach materials or any other forms of solid materials;
- (2) The presence, whether temporary or permanent, of mechanized equipment or construction materials, except that the use of such equipment solely for routine beach cleaning and park maintenance shall not require a coastal development permit;

All repair and maintenance activities governed by subsection (D) (4) shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of subsection (D)(4) shall not be applicable to those activities specifically in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean.

Unless destroyed by disaster, the replacement of 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 Resources Code Section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.

5. **Utility Connections.** The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the Coastal Act.

6. **Replacement of Structures Destroyed By Disaster.** The replacement of any structure, other than a public works facility, destroyed by a disaster, provided the following requirements are met:

- a. The use of the replacement structure is the same as the destroyed structure;

- b. The replacement structure does not exceed either floor area, height, or bulk of the destroyed structure by more than 10 percent; and
  - c. The replacement structure is sited in the same location on the affected property as the destroyed structure.
- 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 Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, 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 Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subsection.
- E. **Temporary Events.** Temporary events held in the Coastal Zone, unless the event meets all of the following criteria:
  - 1. Held during the period between the day before the Memorial Day weekend (Friday) and the day after the Labor Day weekend (Tuesday);
  - 2. Occupy any portion of a public sandy beach area; and
  - 3. Involve a charge for general public admission where no fee is currently charged for use of the same area.

A coastal development permit shall also be required for temporary events that do not meet all of the above criteria, but which, in the opinion of the Zoning Administrator, have the potential to result in significant adverse impacts to public access, recreation and/or coastal resources.
- F. **Emergency Coastal Development Permits.** Emergency coastal development authorized under the provisions of Section 21.52.070 (Emergency Coastal Development Permits).
- G. **De Minimis Development.** Development determined to be de minimis by the Zoning Administrator pursuant to Section 21.50.080 (Waiver for De Minimis Development).
- H. **Ongoing Routine Repair and Maintenance.** Pursuant to California Code of Regulations Section 13252 (c), the following on-going routine repair and maintenance activities conducted by the City:
  - 1. **Beaches.** Periodic maintenance of public beaches landward of the mean high tide line and outside of dune habitat areas, including the cleaning and redistributing of sand using mechanized equipment.

2. **Storm Berms.** The use of temporary sand dunes in shoreline areas to protect buildings and infrastructure from wave uprush during storm events in a manner that minimizes significant impacts to coastal access and resources.
3. **Piers.** The repair and maintenance of existing public recreational piers, including, but not limited to, resurfacing of pedestrian decks and the removal and replacement of existing pilings.
4. **Storm Drains.** Periodic inspection, cleaning, maintenance, and replacement of existing storm drain lines required under National Pollutant Discharge Elimination System (NPDES).

#### 21.52.060 – Exclusion Areas

RESERVED

#### 21.50.070 – Emergency Coastal Development Permits

- A. **Applicability.** The provisions of this section shall apply where the Director determines that an emergency coastal development permit is necessary as an urgency measure to protect life and property from imminent danger or to restore, repair or maintain public works, utilities or services during and immediately following a disaster or serious accident within the Coastal Zone. The decision to issue an emergency permit may be made solely at the discretion of the Director, consistent with the provisions of this section.
- B. **Limitations.** The Director shall not grant an emergency permit for any development that lies within the Coastal Commission's continuing permit jurisdiction pursuant to the California Public Resources Code Section 30519. In such area and for such developments, a request for an emergency permit must be made directly to the Coastal Commission.
- C. **Application.** An emergency coastal development permit application shall be made to the Director in writing, or if, in the opinion of the director, time does not allow written application, the application may be made orally in person or by telephone within 3 days of the emergency and shall include the following:
  1. Describe the nature or cause of the emergency;
  2. Identify the location of the protective or preventative work either needed or accomplished to deal with the emergency;
  3. Explain the circumstances of the emergency that justify the action to be taken, including the probable consequences of failing to take action.
- D. **Application Review.** The Director shall submit a report explaining the granting of an emergency permit to the Coastal Commission and the Planning Commission at each body's next scheduled meeting after the issuance of the emergency permit.
- E. **Expiration.** An emergency coastal development permit is valid for 60 days from the date of issuance by the Director. The Director may extend an emergency permit for an additional 60 days if a coastal development permit application is on file but has not been processed.

- F. **Coastal Development Permit Required.** Prior to the expiration of the emergency permit, if the Director requests, the applicant shall submit a coastal development permit application for the proposed development as set forth in this Article. The Director may determine that the emergency coastal development shall be removed, replaced or modified.
- G. **Compliance.** Failure to comply with the provisions of this section to properly notice and report by the applicant may result in the removal of the development undertaken pursuant to the emergency permit in its entirety and restoration of the site to its previous condition at the applicant's expense.

#### **21.50.080 – Waiver for De Minimis Development**

- A. **Authority.** The Director may issue a written waiver from the coastal development permit requirements of this Chapter for any development that is de minimis.
- B. **Determination of Applicability.** A proposed development is de minimis if the Director determines, based on a review of an application for a coastal development permit, that the development satisfies all of the following requirements:
  - 1. The proposed development is not located within an appeal area or within an area where the Coastal Commission retains permit jurisdiction.
  - 2. The proposed development is consistent with the certified Local Coastal Program.

## Chapter 21.54 – Permit Implementation, Time Limits, and Extensions

### Sections:

21.54.010	Purpose
21.54.020	Use of Property
21.54.030	Effective Date of Permits; Notice of Final Action
21.54.040	Applications Deemed Approved
21.54.050	Performance Guarantees
21.54.060	Time Limits and Extensions
21.54.070	Changes to an Approved Project
21.54.080	Resubmittals
21.54.090	Covenants

### 21.54.010 – Purpose

This chapter provides requirements for the implementation or “exercising” of permits listed in Table 5-1 and other approvals that are granted or issued in compliance with this Implementation Plan, including time limits and procedures for granting extensions of time.

### 21.54.020 Use of Property

Required construction permits (e.g., building, grading, and other construction permits) may be issued following the effective date of the permit in compliance with Section 21.54.030.

- A. **Compliance Required.** Grading shall not be commenced and no structure shall be altered, enlarged, erected, moved, or rebuilt subject to the provisions of this part, except in compliance with the approved permit and associated conditions.
- B. **Director’s Determination.** Conformity shall be determined by the Director or, in the case of disagreement with the applicant, by the applicable review authority.

### 21.54.030 – Effective Date of Permits; Notice of Final Action

- A. **Effective Date.** The approval of any permit for a project that is appealable to the Coastal Commission shall become effective upon the expiration of the Coastal Commission's 10-working-day appeal period that begins the day after the receipt by the office of the California Coastal Commission of the City's Notice of Final Local Action, and where no appeal of the review authority's action has been filed by 2 Coastal Commissioners, the applicant, or any aggrieved person in compliance with the Coastal Act.
- 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.

#### **21.54.040 Applications Deemed Approved**

A permit application that is deemed approved by operation of law shall be subject to all applicable provisions of this Implementation Plan, which shall be satisfied by the applicant before a building or grading permit is issued or a use not requiring a building permit is established.

#### **21.54.050 Performance Guarantees**

##### **A. Deposit of Security.**

1. If the review authority finds that the issuance of a permit or other approval is reasonably likely to have a direct adverse impact on the health, safety, or welfare of the public if the condition(s) is not performed, the review authority may impose, as a condition of approval, a requirement that the applicant deposit security in an amount sufficient to ensure the faithful performance of the condition(s).
2. The security shall be in the form of cash, a certified or cashier's check, or a performance bond. If the applicant elects to fulfill the condition by providing a performance bond, the performance bond shall be issued by a surety currently authorized by the Insurance Commissioner to transact business in the State of California. The surety shall be of a financial size and have a financial rating acceptable to the City's Risk Manager. The form of the performance bond shall be subject to approval by the City Attorney.
3. The security shall remain in effect until all of the secured conditions have been performed to the satisfaction of the Director.
4. Security required in compliance with this section shall be payable to the City.

**B. Release of Security.** Upon satisfactory compliance with all applicable provisions of this section, the security deposit shall be released.

##### **C. Failure to Comply.**

1. Upon failure to perform any secured condition in a timely manner, the City may execute the condition, or cause it to be done, and may collect from the applicant, and surety in case of a bond, all costs incurred, including administrative, engineering, legal, and inspection costs.
2. The unused portion of the security, if any, shall be refunded to the applicant after deduction of the costs recoverable by the City.

**D. Appeal.** The Director's determinations under this section may be appealed to the Council by the applicant by filing an appeal with the City Clerk within fourteen (14) days after the decision in compliance with Chapter 21.64 (Appeals).

#### **21.54.060 – Time Limits and Extensions**

##### **A. Time Limits.**

1. Unless a condition of approval or other provision of this Implementation Plan establishes a different time limit, any permit or approval not exercised within twenty-four (24) months from the actual date of review authority approval shall expire and become void, except where an extension of time is approved in compliance with subsection (B) of this section.
  2. The permit shall not be deemed “exercised” until at least one of the following has first occurred:
    - a. A grading permit has been issued and grading has been substantially completed;
    - b. A building permit has been issued and construction has commenced, and has continued to maintain a valid building permit by making satisfactory progress as determined by the Building Official;
    - c. A certificate of occupancy has been issued;
    - d. The use is established; or
    - e. A time extension has been granted in compliance with subsection (B) of this section.
  3. In cases where a coastal development permit is required, the twenty-four (24) month time limit shall not begin until the effective date of approval of the coastal development permit.
  4. If a project is to be developed in preapproved phases, each subsequent phase shall be exercised within twenty-four (24) months from the date that the previous phase was exercised, unless otherwise specified in the permit, or the permit shall expire and become void, except where an extension of time is approved in compliance with subsection (B) of this section.
  5. If the project also involves the approval of a tentative map, the phasing shall be consistent with the tentative map and the permit shall be exercised before the expiration of the tentative map, or the permit shall expire and become void and of no further effect.
  6. Once exercised, any use that has been abandoned for at least one hundred eighty (180) days or changed shall be deemed void.
- B. Extensions of Time.** Upon written request by the applicant, the Director, or the Commission under a referral or appeal, may extend the time for an approved permit or approval to be exercised.
1. **Filing and Review of Request.** The applicant shall file a written request for an extension of time with the Department no less than thirty (30) days or more than ninety (90) days before the expiration date of the permit, together with the filing fee required by the City’s fee schedule adopted by resolution.

2. **Action on Extension Request.** A permit or approval may be extended for no more than three additional twelve (12) month periods beyond the expiration of the original approval; provided, the Director, or the Commission under a referral or appeal, first finds that there have been no changes in the conditions or circumstances of the site or project so that there would have been grounds for denial of the original project.
- C. **Effect of Expiration.** After the expiration of a permit or approval in compliance with subsection (A) of this section (Time Limits), no further work shall be done on the site and no further use of the site shall occur until a new permit or approval and any required building permit or other City permits or approvals are first obtained.

#### **21.54.070 – Changes to an Approved Project**

Development or a new use authorized through a permit granted in compliance with this Implementation Plan shall be established only as approved by the review authority, and in compliance with any conditions of approval, except where a change to the project is approved in compliance with this section.

- A. **Application.** An applicant shall request a proposed change in writing, and shall also furnish appropriate supporting information and materials explaining the reasons for the request.
- B. **Minor Changes Approved by the Director Without a Public Hearing.**
1. The Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, without a public hearing, where the Director first finds that the changes:
    - a. Are consistent with all applicable provisions of this Implementation Plan;
    - b. Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project;
    - c. Do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval; and
    - d. Do not result in an expansion or change in operational characteristics of the use.
  2. The Director may choose to refer any requested change to the original review authority for review and final action.
- C. **Changes Approved by Original Review Authority.** A proposed change that does not comply with the criteria identified in subsection (B) of this section (Minor Changes Approved by the Director Without a Public Hearing) may only be approved by the original review authority for the project through a new permit application filed and processed in

compliance with Chapter 21.50 (Permit Application Filing and Processing) and the applicable provisions of Chapter 21.52 (Permit Review Procedures).

#### **21.54.080 – Resubmittals**

- A. **Resubmittal after Denial with Prejudice.** For a period of twelve (12) months following the actual date of denial with prejudice by the applicable review authority, or, if appealed, the actual date of denial by the applicable review authority considering the appeal, of a discretionary permit or amendment, no application for the same or substantially similar permit or amendment shall be filed for the same site, or any portion thereof.
- B. **Exception to Subsection (A) of this Section.** The Director may allow exception to subsection (A) of this section based on one or more of the following findings:
1. New evidence material to a revised decision will be presented that was unavailable or unknown to the applicant at the previous hearing(s) and that could not have been discovered in the exercise of reasonable diligence by the applicant.
  2. There has been a substantial and permanent change of circumstances since the previous hearing(s), that materially affects the applicant's real property.
  3. A mistake was made at the previous hearing(s) that was a material factor in the denial(s) of the previous application.
- C. **Resubmittal after Denial without Prejudice.** There shall be no limitation on subsequent applications for a site where a project was denied without prejudice.
- D. **Director's Determination—Appeal.**
1. The Director shall determine whether a new application is for a permit or amendment that is the same or substantially similar to a previously approved or denied permit or amendment, and shall either process or reject the application in compliance with this section.
  2. The Director's determination may be appealed to the Commission, in compliance with Chapter 21.64 (Appeals).

#### **21.54.090 – Covenants**

- A. **Applicability.** When necessary to achieve the land use goals and policies of the General Plan, the City may require a property owner to record a covenant and/or other limitation(s) in favor of the City. A covenant:
1. May be required to provide for necessary emergency access, landscaping, light and air access, open space, parking, public view protection, shoreline and bluff-top access, solar access, resource protection, etc., or limitation(s) or restriction(s) on the use of property as a result of a project approval; and
  2. Shall be imposed as a condition of approval by the review authority.

- B. **Form of Covenant.** The form of the covenant shall be approved by the City Attorney, and the covenant shall:
1. Describe the real property to be benefited by the covenant;
  2. Identify the City permit or approval that relied on or required the covenant; and
  3. Identify the purposes of the covenant.
- C. **Recordation.** A covenant shall be recorded in the County Recorder's Office.
- D. **Effect of Covenant.**
1. From and after the time of its recordation, a covenant shall provide notice to all persons to the extent afforded by the recording laws of the State.
  2. The burdens of the covenant shall be binding on, and the covenant shall benefit all successors-in-interest to the real property.
- E. **Enforceability.** A covenant shall be enforceable by the successors-in-interest to the real property affected by the covenant, and the City. This section shall not create standing in any person, other than the City, and any owner of the real property affected by the covenant, to enforce or to challenge the covenant or any requested amendment or release.
- F. **Release of Covenant.** A covenant may be released by the Director, or by another appropriate review authority in the event of an appeal, at the request of any affected person, including the City.
1. **Process for Release.** The release of a covenant shall require that the review authority first:
    - a. Conduct a noticed public hearing in compliance with Chapter 21.62 (Public Hearings); and
    - b. Find that the covenant on the site is no longer necessary to achieve the land use goals of the City.
  2. **Recordation.** A notice of the release of the covenant shall be recorded by the Director in the County Recorder's Office.
  3. **Fees.** The applicant for a release of a covenant shall pay the fee for the processing of the release in compliance with the City's fee schedule adopted by resolution.

## Chapter 21.62 – Public Hearings

### Sections:

21.62.010	Purpose
21.62.020	Notice of Public Hearing for Appealable Coastal Development
21.62.030	Notice of Public Hearing for Non-Appealable Coastal Development
21.62.040	Hearing Procedure
21.62.050	Decision

### **21.62.010 – Purpose**

This chapter provides procedures for public hearings required by this Implementation Plan. When a public hearing is required, advance notice of the hearing shall be given and the hearing shall be conducted in compliance with this chapter.

### **21.62.020 – Notice of Public Hearing for Appealable Coastal Development**

This Section provides notice requirements for project applications requiring a public hearing for coastal development projects that are appealable to the Coastal Commission in compliance with Public Resources Code Section 30603.

- A. **Content of Notice.** Notice of a public hearing shall include all of the following applicable information.
1. **Hearing Information.**
    - a. The date, time, and place of the hearing and the name of the review authority;
    - b. A brief description of the City's general procedure concerning the conduct of hearings and decisions (e.g., the public's right to appear and be heard);
    - c. The phone number, street address, and website of the City, where an interested person could call or visit to obtain additional information;
    - d. A statement that an interested person or authorized agent may appear and be heard at the public hearing and the procedures for appeal; and
    - e. A statement that if a person challenges the subject project in court, that person may be limited to raising only those issues that the person, or someone else speaking on their behalf, raised at the public hearing (described in the notice) or in written correspondence delivered to the City at, or before, the public hearing.
  2. **Project Information.**
    - a. The name of the applicant;

- b. The City's file number(s) assigned to the application;
  - c. A general explanation of the matter to be considered;
  - d. A general description, in text and/or by diagram, of the location of the property that is the subject of the hearing; and
  - e. If a negative declaration or Environmental Impact Report has been prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the local CEQA guidelines, the hearing notice shall include a statement that the review authority will also consider approval or recommend approval of the negative declaration or certification of the Environmental Impact Report.
3. **Coastal Zone information.** The notice shall also include a statement, if applicable, that the project is located within the City's Coastal Zone.
- B. **Method of Notice Distribution.** Notice of a public hearing required by this Implementation Plan shall be given as specified below.
1. **Publication.**
    - a. **Notice.** Notice for all matters, except for a Local Coastal Program amendment, shall be published at least once in a newspaper of general circulation in the City at least ten (10) calendar days before the scheduled hearing.
    - b. **Local Coastal Program amendment notice.** Notice for a Local Coastal Program amendment shall be published at least once in a newspaper of general circulation in the City at least 10 working days before the scheduled hearing.
  2. **Mailing.** Notice shall be mailed or delivered at least ten (10) days before the scheduled hearing to all of the following:
    - a. **Project Site Owners and Applicant.** The owners of the property being considered in the application, or the owners' agent, and the applicant or the applicant's agent;
    - b. **Local Agencies.** Each local agency expected to provide schools, water, or other essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected;
    - c. **Nearby Property Owners.** All owners of property located within a three hundred (300) foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject lot, as shown on the last equalized assessment roll or, alternatively, from other records that contain more recent addresses. It shall be the responsibility of the applicant to obtain and provide to the Department the names and addresses of all owners required by this section;

- d. **Nearby residents.** For projects located within the Coastal Zone, notice shall also be mailed or delivered to each dwelling unit located within a 100-foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject lot. It shall be the responsibility of the applicant to obtain and provide to the Department the addresses of all dwelling units required by this Section;
  - e. **Persons Requesting Notice.** A person who has filed a written request for notice with the Director and has paid the required fee for the notice; and
  - f. **Coastal Commission.** The Coastal Commission.
3. **Posting of a Sign and Notice.** Notice shall be posted on or close to the subject property in a prominent location at least ten (10) days before the scheduled public hearing in the following manner:
- a. One or more signs shall be posted as determined by the Director.
  - b. The size and location of the sign(s) shall be as determined by the Director.
  - c. The project applicant shall be responsible for maintaining the sign(s) in a satisfactory condition.
  - d. The project applicant shall remove all sign(s) at the end of the appeal period.
4. **Alternative to Mailing.** If the number of property owners to whom notice would be mailed in compliance with subsection (B)(2)(c) of this section is more than one thousand (1,000), the Director may choose to provide the alternative notice specified by State law.
5. **Failure to Receive Notice.** The failure of any person or entity to receive notice given in compliance with this section shall not invalidate the actions of the applicable review authority.

#### **21.64.030 - Notice of Public Hearing for Non-Appealable Coastal Development**

This Section provides notice requirements for Coastal Development Permits that are not appealable to the Coastal Commission in compliance with Public Resources Code Section 30603 and that are not categorically excluded in compliance with Subsection 21.50.050 (Project exempt from Coastal Permit requirements).

- A. **Public notice required.** Code of Regulations, Title 14, Section 13568(b), requires that public notice shall be given for all development located within the Coastal Zone (except that which is categorically excluded). The public notice shall be given regardless of whether this Zoning Code requires a public hearing before the development can be approved, conditionally approved, or denied. Public notice requirements for projects requiring a public hearing are provided in Subsection 21.64.020.A. (Content of notice), above.
- B. **Distribution of notice.** At least 10 days before the City's scheduled hearing on the

application, the City shall provide notice to:

1. All persons who have requested to be on the mailing list for the particular project or for decisions by the City within the Coastal Zone;
  2. All property owners and residents located within a 100-foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject lot, as shown on the last equalized assessment roll or, alternatively, from other records that contain more recent addresses. It shall be the responsibility of the applicant to obtain and provide to the Department the names and addresses of owners and residents required by this Section; and
  3. The Coastal Commission.
- C. **Content of notice.** The notice shall contain the information required for public notices in compliance with Subsection 21.64.020.A. (Contents of notice), above, and the following:
1. The date the application will be acted upon by the City's review authority;
  2. The City's general procedure concerning the submission of public comments either in writing or orally before the decision is rendered; and
  3. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held before the decision is rendered.

#### **21.62.040 – Hearing Procedure**

- A. **Time and Place of Hearing.** A hearing shall be held at the date, time, and place for which notice was given.
- B. **Continued Hearing.** A hearing may be continued without further notice, provided the official or chair of the review authority announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.
- C. **Deferral of Final Decision.** The review authority may announce a tentative decision and defer their action on a final decision until appropriate findings and/or conditions of approval have been prepared.

#### **21.62.050 – Decision**

- A. **Decision.**
  1. The review authority may announce and record their decision on the matter being considered at the conclusion of a scheduled hearing, or defer action and continue the matter to a later meeting in compliance with Section 21.62.030 (Hearing Procedure).

2. The Director or Zoning Administrator, as applicable, may instead refer the matter to the Commission for a decision.

**B. Effective Date of Decision.**

1. The decision of the applicable review authority is final and effective at the end of the appeal period.
2. The decision of the Council shall be final on any matter except for a Local Coastal Program amendment or an appealable coastal development project specified in 21.62.020 (Notice of Public Hearing for Appealable Coastal Development), above.

INTENTIONALLY LEFT BLANK

## Chapter 21.64 – Appeals

### Sections:

21.64.010	Purpose
21.64.020	Appeals
21.64.030	Filing and Processing of Appeals
21.64.040	Appeals to the Coastal Commission
21.64.050	Judicial Review of City Decision

### 21.64.010 – Purpose

The purpose of this chapter is to provide procedures for the appeal of determinations and decisions of the Director, Zoning Administrator, and Planning Commission, and to establish provisions for appeals to the California Coastal Commission..

### 21.64.020 – Appeals

- A. **Director.** Interpretations of the Director may be appealed to the Planning Commission.
- B. **Zoning Administrator.** Decisions of the Zoning Administrator may be appealed to the Planning Commission.
- C. **Planning Commission.** Decisions of the Commission may be appealed to the Council.
- D. **Coastal Development Permits.** Coastal Development Permits approved by the City may be appealed to the Coastal Commission in compliance with Section 21.64.040 (Appeals to the Coastal Commission), below.

### 21.64.030 – Filing and Processing of Appeals

- A. **Eligibility.** Appeals may be initiated by any interested party.
- B. **Timing and Form of Appeal.** An appeal shall be submitted in writing and shall state the facts and basis for the appeal.
  - 1. **General Appeals.**
    - a. **Filing an Appeal.** An appeal shall be filed with the Director or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers).
      - (1) Appeals addressed to the Commission shall be filed with the Director on forms provided by the Department; and
      - (2) Appeals addressed to the Council shall be filed with the City Clerk on forms provided by the Clerk.



- c. Deny the permit approved by the previous review authority, even where the appellant only requested a change or elimination of one or more conditions of approval.
2. If new or different evidence is presented on appeal, the Commission or Council may refer the matter to the previous review authority for further consideration.
3. In the event of a tie vote by the review authority on an appeal, the decision being appealed shall stand.

#### **21.66.040 - 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., below, may be appealed to the Coastal Commission in compliance with this Section.

- A. **Appealable development - Public Resources Code Section 30603(a).** A decision by the City on a Coastal Development Permit application within the appeal areas depicted on the Permit and Appeal Jurisdiction Map or a project that constitutes a major public works project or energy facility may be appealed to the Coastal Commission.
- B. **Status of appellant.**
  1. **Who may appeal.** An appeal may be filed by an applicant, an aggrieved person, or two (2) members of the Coastal Commission in compliance with Public Resources Code Section 30625.
  2. **Aggrieved person defined.** As provided by Public Resources Code Section 30801, an aggrieved person is anyone who, in person or through an explicitly identified representative, appeared at a public hearing held before the Director, Zoning Administrator, Hearing Officer, Planning Commission, or Council in connection with the decision or appeal of any project, or who by other appropriate means before a hearing, informed the City of the nature of their concerns, unless 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. This limitation shall not apply to any circumstance identified in Code of Regulations Section 13573, including:
  1. An appellant was denied the right of appeal under this Chapter because City notice and hearing procedures did not comply with Title 14, Division 5.5, Chapter 8, Subdivision 2 of the Code of Regulations; or
  2. An appeal of a City decision was filed by two (2) members of the Coastal Commission in compliance with Public Resources Code Section 30625. (Notice of a Coastal Commissioners' appeal shall be transmitted to the City in compliance with Code of Regulations Section 13573(b). The appeal shall be suspended where the City decision has been appealed. 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 of that decision if deemed appropriate and necessary.)

- D. **Grounds for appeal to Coastal Commission - Public Resources Code Section 30603.** The grounds for an appeal to the Coastal Commission of a City decision on a Coastal Development Permit application are as follows:
1. For approval of a Coastal Development Permit as described in Subsection A., above, an allegation that the project does not conform to the standards of the City's certified Coastal Land Use Plan or the public access policies of the Coastal Act;
  2. For elimination or modification of a condition(s) of approval for a Coastal Development Permit, an allegation that the condition(s) was not needed or should be adjusted; or
  3. For denial of a development described in Subsection A., above, an allegation that the project conforms to the standards of the City's certified Coastal Land Use Plan and the public access policies of the Coastal Act.
- E. **Notice of final action on appeals within the Coastal Zone.** Where an appeal has been filed and decided on a project that is appealable to the Coastal Commission in compliance with this Section, the City shall provide notice of the final action.
- F. **Time limit for filing an appeal to the Coastal Commission.** An appeal of a Council decision on an appealable development shall be filed with the Coastal Commission within ten (10) working days of the receipt by the Coastal Commission of adequate notice of final City action, in compliance with this Chapter and the Coastal Act.
- G. **Notice to City of appeal to Coastal Commission.** An appellant shall notify the City when appealing to the Coastal Commission by providing the City a copy of the appeal within five (5) days of filing the appeal.

#### **21.64.050 – Judicial Review of City Decision**

A person shall not seek judicial review of a City decision on a permit or other matter until all appeals to the Commission and Council have been first exhausted in compliance with this chapter.

## Chapter 21.66 – Amendments

### Sections:

21.66.010	Purpose
21.66.020	Initiation of Amendment
21.66.030	Processing, Notice, and Hearing
21.66.040	Required Findings
21.66.050	Commission Recommendation
21.66.060	Council Decision
21.66.070	Submittal to the Coastal Commission
21.66.080	Effective Dates

### 21.66.010 – Purpose

This chapter provides procedures for the amendment of the certified Local Coastal Program.

### 21.66.020 – Initiation of Amendment

An amendment may be initiated in the following manner:

- A. **Council.** By the Council, with or without a recommendation from the Commission;
- B. **Commission.** By the Commission;
- C. **Property Owner(s).** An amendment to the Coastal Land Use Plan Map or Coastal Zoning Map may also be initiated by the filing of an amendment application with the Department by the owner(s) or authorized agent(s) of property for which the amendment is sought. All owners or their authorized agents shall join in filing the application; or
- C. **Public Works/Energy Facilities.** Pursuant to California Public Resources Code Section 30515, any person or agency authorized to undertake a public works project or proposing an energy facility development may apply for an amendment to the certified Local Coastal Program if the purpose of the proposed amendment is to meet public needs of an area greater than that included within the certified Local Coastal Program that had not been anticipated by the person or agency making the request at the time the Local Coastal Program was before the Coastal Commission for certification. If, after review pursuant to the requirements of this Article, the City Council does not amend the certified Local Coastal Program, such person or agency may file a request for amendment to the certified Local Coastal Program with the Coastal Commission.

### 21.66.030 – Processing, Notice, and Hearing

If initiated by the filing of an amendment application:

- A. **Process.** The application shall be processed in compliance with Chapter 21.50 (Permit Application Filing and Processing).

- B. **Notice.** Notice of the public hearings shall be provided in compliance with Chapter 21.64 (Public Hearings).
- C. **Hearing.**
  - 1. The applicable review authority shall conduct one or more public hearings regarding the amendment.
  - 2. The public hearings shall be conducted in compliance with Chapter 21.62 (Public Hearings).

#### **20.66.040 – Required Findings**

An amendment to the certified Local Coastal Program may be approved by the City only if all of the following findings are first made.

- A. The proposed amendment is consistent with the General Plan, certified Coastal Land Use Plan, Coastal Act, and any applicable specific plan; and
- B. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

#### **21.66.050 – Commission Recommendation**

The Commission shall recommend approval, approval with modifications, or denial of the amendment to the Council.

- A. **Action by the Commission.**
  - 1. If approved or approved with changes, the Commission shall make and file a report of its findings and recommendations with the Council.
  - 2. Failure of the Commission to take action on the proposed amendment shall be deemed to be denial of the proposed amendment by the Commission.
- B. **Denial by the Commission.** If the proposed amendment is denied by the Commission, no further action shall be taken, unless appealed to the Council in compliance with Chapter 21.64 (Appeals).

#### **21.66.060 – Council Decision**

- A. **Time of Hearing.** The decision of the Council shall be rendered within sixty (60) days after the receipt of a report and recommendation of approval from the Commission or within sixty (60) days after the filing of an appeal of the Commission's action to deny the amendment.
- B. **Notice of Appeal.** Notice shall be given to the Commission of the appeal, and the Commission shall submit a report of its findings and recommendations to the Council specifying the reasons for the Commission's decision.

- C. **Council's Decision.** Upon receipt of the Commission's recommendation, the Council shall conduct a public hearing and either approve, approve in modified form, or deny the proposed amendment.
- D. **Referral.**
  - 1. If the Council proposes to adopt a substantial change to the amendment not previously considered by the Commission, the proposed change shall be first referred to the Commission for its recommendation.
  - 2. Failure of the Commission to take action on the proposed change within forty-five (45) days shall be deemed to be approval of the proposed change by the Commission.

#### **20.66.070 – Submittal to the Coastal Commission**

- A. Compliance with Coastal Act required. An amendment to the certified Local Coastal Program approved by the Council in compliance with this Chapter shall be prepared for submittal, filed with the Coastal Commission, and processed and decided by the Coastal Commission in compliance with the Coastal Act.
- B. **Submittal to the Coastal Commission.**
  - 1. **Frequency of submittals.** Only three submittals of proposed Local Coastal Program amendments shall be allowed in any single calendar year. However, there are no limitations on the number of amendments included in each of the three submittals.
  - 2. **Submittal.** Submittal of a Local Coastal Program amendment shall be made in compliance with the resolution adopted by the Council and submitted by the City to the Coastal Commission in compliance with Code of Regulations Section 13551.
  - c. **Contents.** The contents of the Local Coastal Program amendment application shall be in compliance with Code of Regulations Section 13552.
  - 3. **Notice of availability.** Notice of the availability of the review draft of the Local Coastal Program amendment shall be made as soon as the draft is available, but at a minimum of at least six (6) weeks before final City action on the document in compliance with Code of Regulations Section 13515(c).
- D. **Following action by Coastal Commission.**
  - 1. **Action by Coastal Commission.** After certification of a Local Coastal Program amendment, the Coastal Commission shall transmit copies of the resolution of certification and any suggested modifications and findings to the City in compliance with Code of Regulations Section 13544.5 (Effective Date of Certification of a Land Use Plan).
  - 2. **Action by the City.** The City shall then:
    - a. Acknowledge receipt of the Coastal Commission's resolution of

certification including any terms or modifications which may have been required for final certification;

- b. Consider the terms and modifications; and
- c. Take appropriate action regarding the terms and modifications.

**21.66.080 – Effective Dates**

An amendment to the certified Local Coastal Program shall not become effective until final certification by the Coastal Commission, in compliance with the Public Resources Code and the Coastal Commission Administrative Regulations, and final approval by the Council.