

## **ORDINANCE NO. 2019- 5**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING TITLE 21 ENTITLED "LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN" OF THE NEWPORT BEACH MUNICIPAL CODE TO APPROVE LOCAL COASTAL PROGRAM AMENDMENT NO. LC2017-002, AS MODIFIED BY THE CALIFORNIA COASTAL COMMISSION (PA2017-047)**

**WHEREAS**, Section 30500 of the Public Resources Code requires each county and city to prepare a local coastal program ("LCP") for that portion of the coastal zone within its jurisdiction;

**WHEREAS**, the California Coastal Commission ("Coastal Commission") effectively certified the City of Newport Beach ("City") LCP on January 13, 2017, and the City assumed coastal development permit issuing authority on January 30, 2017;

**WHEREAS**, LCP Amendment No. LC2017-002 is necessary to correct and clarify LCP Implementation Plan regulations relating to shoreline protective devices, height limits and modifications and variances;

**WHEREAS**, a public hearing was held by the Planning Commission of the City of Newport Beach on May 4, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with California Government Code Section 54950 *et. seq.* ("Ralph M. Brown Act"), Newport Beach Municipal Code ("NBMC") and Title 14 of the California Code of Regulations ("CCR") Section 13515. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing. At the conclusion of the public hearing, the Planning Commission voted (5 ayes, 1 nay, 1 absent) to adopt Planning Commission Resolution No. 2055, recommending City Council approval of LCP Amendment No. LC2017-002;

**WHEREAS**, public hearings were held by the City Council of the City of Newport Beach ("City Council") on July 11, 2017, and September 12, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, NBMC and 14 CCR Section 13515. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing;

**WHEREAS**, pursuant to 14 CCR Section 13515, review drafts of LCP Amendment No. LC2017-002 were made available and a notice of the availability was distributed a minimum of six weeks prior to the City Council public hearing;

**WHEREAS**, on September 12, 2017, the City Council adopted Resolution No. 2017-56 authorizing the submittal of LCP Amendment No. LC2017-002 to the Coastal Commission;

**WHEREAS**, Resolution No. 2017-56 specified that LCP Amendment No. LC2017-002 shall not become effective until approval by the Coastal Commission and adoption, including any modifications suggested by the Coastal Commission, by resolution(s) and/or ordinance(s) of the City Council;

**WHEREAS**, at the July 11, 2018 Coastal Commission hearing in Scotts Valley, California, the Coastal Commission approved the first part of the LCP Amendment No. LC2017-002 with modifications;

**WHEREAS**, on November 13, 2018, the City Council adopted Ordinance No. 2018-16 approving the first part of LCP Amendment No. LC2017-002 with the Coastal Commission modifications;

**WHEREAS**, at the December 12, 2018, Coastal Commission hearing in Newport Beach, California, the Coastal Commission approved, with modifications, LCP Amendment Request No. 4-17 Part C (LCP-5-NPB-17-0084-1), which contained the remaining portions of LCP Amendment No. LC2017-002; and

**WHEREAS**, on February 12, 2019, the City Council held a public hearing in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Ralph M. Brown Act, NBMC and California Public Resources Code Section 30503. Evidence, both written and oral, was presented to, and considered by, the City Council at this hearing.

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

**Section 1:** The City Council of the City of Newport Beach, California, hereby amends Title 21 entitled "Local Coastal Implementation Plan" of the NBMC to adopt LCP Amendment No. LC2017-002 with Coastal Commission's suggested modifications, as attached in Exhibit A, and incorporated herein by reference.

**Section 2:** NBMC Section 21.30.015(E)(5) is hereby amended to read as follows:

5. **Waiver of Future Protection.** As a condition of approval of new development, the review authority shall require an agreement between an applicant, including its successors and assigns, and the City in favor of the City, in a form approved by the City Attorney, and recorded by the applicant, waiving any potential right to future protection to address situations in the future in which development is threatened with damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards. The applicant shall agree to:

- a. Never construct structures or features over the economic life of the development to protect the development; and
- b. Remove and relocate all portions of a development, including associated fallen debris at the base of a bluff or canyon and/or State tidelands, if a government agency determines that the development is hazardous or a threat to the public.

Bulkheads are subject to the requirements and limitations in Section 21.30.030(C)(3)(i).

**Section 3:** NBMC Section 21.30.60(C) is hereby amended to read as follows:

1. **Procedure.** The height limits established in Part 2 of this Implementation Plan (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards) may be increased within specified areas with approval of a coastal development permit when all applicable findings are met in compliance with subsection (C)(3) of this section (Required Findings).

2. **Height Limit Areas.** The height limit areas shall be as follows:

- a. **R-A, R-1, R-BI, and R-2 Coastal Zoning Districts Height Limit Area.** In this height limit area the base height limit for structures with flat roofs is twenty-four (24) feet (including guardrails and parapet walls) and the base height limit for structures with sloped roofs is twenty-nine (29) feet. The height of a structure may be increased up to a maximum of twenty-eight (28) feet with a flat roof or thirty-three (33) feet with a sloped roof through the approval of a coastal development permit as provided above. This height limit applies in all R-A, R-1, R-BI, and R-2 Coastal Zoning Districts as shown on the Coastal Zoning Map.
- b. **RM Coastal Zoning District Height Limit Area.** In this height limit area the base height limit for structures with flat roofs is twenty-eight (28) feet (including guardrails and parapet walls) and the base height limit for structures with sloped roofs is thirty-three (33) feet. The height of a structure may be increased up to a maximum of thirty-two (32) feet with a flat roof or thirty-seven (37) feet with a sloped roof through the approval of a coastal development permit as provided above. This height limit applies in the RM Coastal Zoning District as shown on the Coastal Zoning Map.

- c. Nonresidential, Shoreline Height Limit Area. In this height limit area the base height limit for nonresidential and mixed-use structures with flat roofs is twenty-six (26) feet and the base height limit for structures with sloped roofs is thirty-one (31) feet. The height of a structure may be increased up to a maximum of thirty-five (35) feet with a flat roof or forty (40) feet with a sloped roof through the approval of a coastal development permit application as provided above. The shoreline height limit shall apply to all nonresidential coastal zoning districts and mixed-use coastal zoning districts within the boundaries of the Shoreline Height Limit Area shown on the High Rise and Shoreline Height Limit Areas Map (See Map H-1 in Part 8 (Maps) of this Implementation Plan).
  - d. Nonresidential, Nonshoreline Height Limit Area. In this height limit area the base height limit for nonresidential and mixed-use structures with flat roofs is thirty-two (32) feet and the base height limit for structures with sloped roofs is thirty-seven (37) feet. The height of a structure may be increased up to a maximum of fifty (50) feet with a flat roof or fifty-five (55) feet with a sloped roof through the approval of a coastal development permit as provided above. This height limit shall apply to all nonresidential, nonshoreline coastal zoning districts and mixed-use coastal zoning districts within its boundaries. The nonresidential, nonshoreline height limit area is identified as all of the area outside the Shoreline Height Limit Area shown on the High Rise and Shoreline Height Limit Areas Map (See Map H-1 in Part 8 (Maps) of this Implementation Plan).
  - e. High Rise Height Area. In this height limit area, the maximum height limit shall be three hundred (300) feet and no further increase to the maximum allowed height is available. This height limit is applicable to all nonresidential coastal zoning districts within its boundaries as indicated on the High Rise and Shoreline Height Limit Areas Map (See Map H-1 in Part 8 (Maps) of this Implementation Plan).
  - f. Planned Communities Coastal Zoning District. Height limits established as part of an adopted planned community shall be as specified in Section 21.26.055 (Planned Community Coastal Zoning District Development Standards). If a PC District is located within the Shoreline Height Limit Area, per Map H-1, the height of a structure may be increased through the approval of a coastal development permit application as provided above, up to a maximum of thirty-five (35) feet with a flat roof or forty (40) feet with a sloped roof notwithstanding any other higher height limit identified in a PC District.
3. Required Findings. The review authority may approve a coastal development permit to allow an increase in the height of a structure above the base height limit only after first making all of the following findings in addition to the findings required in Section 21.52.015(F):

- a. The project is sited and designed to protect public views to and along the ocean and scenic coastal areas; and
- b. The project is sited and designed to minimize visual impacts and be visually compatible with the character of surrounding areas; and
- c. Where feasible, the project will restore and enhance visual quality in visually degraded areas.

**Section 4:** NBMC Section 21.30.60(D) is hereby amended to read as follows:

D. Exceptions to Height Limits. In cases where the exception to a height limit requires the approval of a coastal development permit, the review authority may approve a coastal development permit to allow an increase in the height of a structure above the base height limit as described below only after first making all of the findings in subsection C(3) of this section, in addition to the findings required in Section 21.52.015(F).

1. **Assembly and Meeting Facilities.** Structures used as places of worship may be allowed to exceed the height limit subject to the approval of a coastal development permit in compliance with Chapter 21.52 (Coastal Development Review Procedures). Where more than one structure exists or is proposed for the site, only the principal structure shall be eligible for approval to exceed the maximum height limit. No increase above seventy (70) feet may be authorized within the Shoreline Height Limit Area.
2. **Architectural Features.** Architectural features (e.g., cupolas, weathervanes, and other decorative rooftop features) of an open nature, but excluding guardrails, parapet walls, and similar features, may be allowed up to the height limit for a sloped roof. Architectural features with a height greater than that allowed for a sloped roof shall be subject to the approval of a coastal development permit in compliance with Chapter 21.52 (Coastal Development Review Procedures).
3. **Boat Cranes.** Boat cranes used in conjunction with an approved marine-oriented nonresidential use may be allowed to exceed the maximum height limit up to a maximum operating height of seventy (70) feet, subject to the approval of a coastal development permit in compliance with Chapter 21.52 (Coastal Development Review Procedures).
4. **Chimneys and Vents.** Chimneys and spark arrestors for fireplaces and roof-mounted vents shall be allowed to exceed the allowed height limits as follows:
  - a. Chimneys may extend above the allowed height limit a maximum of two feet or a greater height if required by the City's Building Code;

- b. Spark arrestors may extend above the top of a chimney a maximum of two feet, provided they do not exceed a width of two feet and a length of four feet; and
    - c. Roof-mounted vents may extend above the allowed height limit a maximum of twelve (12) inches or a greater height if required by the City's Building Code.
5. Dormers. Dormers may be allowed to exceed the maximum height; provided, that:
  - a. The total width of the dormer that exceeds the height limit shall not be greater than thirty-five (35) percent of the length of the side of the structure where the dormer is located;
  - b. The roof pitch of the dormer shall not be less than 2:12; and
  - c. The peak of the dormer shall not be higher than the peak of the roof on which it is located.
6. Elevator Shafts, Enclosed Stairwells. Elevator shafts and enclosed stairwell housings may exceed the allowed height limit by the minimum height required by the California Building Code, provided they do not exceed thirty (30) square feet in area, unless a larger elevator is required by the California Building Code and/or the Fire Department. In these instances, the area of the elevator or stair housing shall not exceed the minimum size required by the California Building Code and/or the Fire Department. Elevator shafts and enclosed stairwell housings that exceed thirty (30) square feet in area shall have sloped roofs with a minimum 3/12 pitch.
7. Fences, Hedges, and Walls. Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls) sets forth exceptions to height limits for these structures.
8. Flagpoles.
  - a. Ground-mounted flagpoles shall be allowed in residential coastal zoning districts to a maximum height of twenty-eight (28) feet and in nonresidential coastal zoning districts to a maximum height of thirty-five (35) feet.
  - b. Flagpoles mounted on tops of buildings located in nonresidential coastal zoning districts shall be allowed to exceed the maximum height limit by up to twenty (20) feet.

9. **Landmark Structure.** An alteration or addition to a landmark structure shall be exempt from height limits; provided, that structural alterations or additions that exceed the height of the existing structure shall require approval of a coastal development permit in compliance with Chapter 21.52 (Coastal Development Review Procedures) and shall not exceed a maximum of fifty-five (55) feet in height. The coastal development permit may be approved only if all of the following findings are first made in addition to those findings identified in Section 21.52.015(F):

- a. The portion of the structural alteration or addition that exceeds the height of the existing structure does not significantly impact public views from public rights-of-way.
- b. The portion of the structural alteration or addition that exceeds the height of the existing structure will not be used in a manner that increases the intensity of the use of the landmark building.
- c. The allowed height of the landmark building will not be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood of the landmark building.

10. **Light Standards.** Light standards may be allowed to exceed maximum height limits, subject to the approval of a coastal development permit in compliance with Chapter 21.52 (Coastal Development Review Procedures). All light fixtures and standards shall comply with the requirements of Section 21.30.070 (Outdoor Lighting).

11. **Mechanical Equipment.**

- a. **Nonresidential Coastal Zoning Districts.** In nonresidential coastal zoning districts, roof-mounted mechanical equipment, totaling not more than thirty (30) percent of the total roof area, including required screening devices, shall be allowed to exceed the maximum height limit by up to five feet.
- b. **Residential Coastal Zoning Districts.** In residential coastal zoning districts, roof-mounted equipment is not allowed to exceed the maximum height limit for the coastal zoning district.

12. **Solar Equipment.** The height limit regulations in this Implementation Plan do not apply to equipment and panels used for the production of solar energy, pursuant to State law.

13. **Skylights and Roof Windows.** Skylights or roof windows shall be allowed to exceed the maximum height limit by up to six inches on conforming roofs.

14. Marina Park Lighthouse Feature. A single, up to maximum seventy-three (73) foot tall, faux lighthouse architectural tower, that creates an iconic landmark for the public to identify the site (1600 West Balboa Boulevard) from land and water as a boating safety feature, may be allowed. No further exceptions to the height limit shall be allowed, including, but not limited to, exceptions for architectural features, solar equipment or flagpoles. Any architectural tower that exceeds the thirty-five (35) foot height limit shall not include floor area above the thirty-five (35) foot height limit, but shall house screened communications or emergency equipment, and shall be sited and designed to reduce adverse visual impacts and be compatible with the character of the area by, among other things, incorporating a tapered design with a maximum diameter of thirty-four (34) feet at the base of the tower. Public viewing opportunities shall be provided above the thirty-five (35) feet, as feasible.

15. Lido House Hotel. At the former City Hall, 3300 Newport Boulevard and 475 32<sup>nd</sup> Street:

- a. At least seventy-five (75) percent of the total area of the site shall be thirty-five (35) feet in height or lower.
- b. Buildings and structures up to fifty-five (55) feet in height with the peaks of sloping roofs and elevator towers up to sixty (60) feet in height provided it is demonstrated that development does not adversely materially impact public views.
- c. Architectural features such as domes, towers, cupolas, spires, and similar structures may be up to sixty-five (65) feet in height.
- d. Buildings and structures over thirty-five (35) feet in height, including architectural features, shall not occupy more than twenty-five (25) percent of the total area of the site.
- e. Buildings and structures over forty-five (45) feet in height, including architectural features, shall not occupy more than fifteen (15) percent of the total area of the site.
- f. With the exception of a fire station, all buildings and structures over thirty-five (35) feet in height, including architectural features, shall be set back a minimum of sixty (60) feet from the Newport Boulevard right-of-way and seventy (70) feet from the 32nd Street right-of-way.
- g. A fire station may be located in its current location and may be up to forty (40) feet in height.
- h. A fire station may include architectural features up to forty-five (45) feet in height to house and screen essential equipment.



16. Government Facilities. Structures owned, operated, or occupied by the City or other governmental agency to provide a governmental service to the public may be allowed to exceed the height limit subject to the approval of a coastal development permit in compliance with Chapter. 21.52 (Coastal Development Review Procedures) where the increase in height is necessary to accommodate design features required for the facility to function (e.g., lifeguard towers, tsunami warning sirens, architectural design features that accommodate emergency vehicles or essential equipment, etc.).

**Section 4:** NBMC Section 21.38.040(G) is hereby amended to read as follows:

G. Additions. Nonconforming structures may be expanded and the existing nonconforming elements of the structure shall not be required to be brought into compliance with the development standards of this Implementation Plan subject to the following limitations and the limitations provided in Section 21.38.060 (Nonconforming Parking):

1. The addition shall only be permitted if the nonconforming structure:
  - a. Does not block or impede public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs;
  - b. Does not block or impair public views to and along the sea or shoreline or to coastal bluffs and other scenic coastal areas;
  - c. Conforms to coastal resource protection development regulations of Section 21.28.040 (Bluff (B) Overlay District), Section 21.28.050 (Canyon (C) Overlay District), Section 21.30.030 (Natural Landform and Shoreline Protection), Chapter 21.30A (Public Access and Recreation), or Chapter 21.30B (Habitat Protection).
  - d. Is not located within an area identified as hazardous due to erosional factors or coastal hazards.
2. Expansion shall be limited to a maximum of fifty (50) percent of the gross floor area of the existing structure; expansion of residential structures may be permitted up to a maximum of seventy-five (75) percent with the approval of a coastal development permit. When reviewing an application for an expansion of a nonconforming residential structure, the review authority shall consider:
  - a. Whether the nonconforming structure can be modified to, or replaced with, a conforming structure that would restore or enhance visual quality in a visually degraded area:

- b. Whether the nonconforming structure, with or without the proposed addition, is visually compatible with the character of the surrounding area; and
  - c. Whether the nonconforming structure is architecturally or historically significant.
3. The floor area of any addition, together with the floor area of the existing structure, shall not exceed the allowed maximum floor area for the coastal zoning district;
4. The addition shall comply with all applicable development standards and use regulations of this Implementation Plan;
5. Additional parking shall be provided in compliance with Section 21.38.060 (Nonconforming Parking); and
6. The square footage of the required residential parking area additions identified below shall be excluded from the allowed expansion under subsection (G)(2) of this section, but shall be included as gross floor area.

<b>Required Parking</b>	<b>Maximum Excluded Area</b>
One-Car Garage	200 square feet, maximum
Two-Car Garage	400 square feet, maximum
Three-Car Garage	600 square feet, maximum

**Section 5:** The chapter titles and heading for NBMC Chapter 21.52 entitled "Coastal Development Review Procedures" are hereby amended to read:

**Chapter 21.52**  
**COASTAL DEVELOPMENT REVIEW PROCEDURES**

Sections:

- 21.52.010 Purpose.
- 21.52.015 Coastal Development Permits.
- 21.52.025 Emergency Coastal Development Permits.
- 21.52.035 Projects Exempt from Coastal Development Permit Requirements.

- 21.52.045 Categorical Exclusions.
- 21.52.055 Waiver for De Minimis Development.
- 21.52.075 Coastal Commission Review of Recorded Access Documents.
- 21.52.090 Relief from Implementation Plan Development Standards.

**Section 6:** NBMC Section 21.52.090 entitled "Relief from Implementation Plan Development Standards" is hereby added to Chapter 21.52 to read as follows:

21.52.090 Relief from Implementation Plan Development Standards.

A. Purpose. The purpose of this section is to provide relief from the development standards of this Implementation Plan when so doing is consistent with the purposes of the certified Local Coastal Program and will not have an adverse effect, either individually or cumulatively, on coastal resources.

B. Applicability. Any development standard of this Implementation Plan may be modified or waived through the approval of a coastal development permit, except: allowed and prohibited uses; residential density; nonresidential floor area ratios; specific prohibitions (for example, prohibitions intended to protect coastal resources, prohibited barriers to public access, limits on the use of protective structures, prohibited materials, prohibited plant species, prohibited signs, etc.); or procedural requirements.

1. Modifications. Minor deviations for the following development standards may be permitted when practical difficulties associated with the property and that the strict application of the Implementation Plan results in physical hardships:

- a. Height modifications from exceptions identified in Part 3 of this title (Site Planning and Development Standards). The following modifications are limited to not more than a ten (10) percent deviation from the standard being modified.
  - i. Chimneys, rooftop architectural features, and vents in excess of the exception to the allowed height limits identified in Part 3 of this title (Site Planning and Development Standards);
  - ii. Flag poles in excess of the exception to the allowed height limits; and
  - iii. Heights of fences, hedges, or walls (except retaining walls).
- b. Setback Modifications. The following modifications are limited to not more than a ten (10) percent deviation from the standard being modified.

- i. Encroachments in front, side, or rear setback areas while still maintaining the minimum clearances required by Section 21.30.110 (Setback Regulations and Exceptions). Exceptions include the following:
    - (A) Modifications shall not be allowed for encroachments into alley setbacks; and
    - (B) Modifications shall not be allowed for encroachments into bluff setback areas.
  - ii. Structural appurtenances or projections that encroach into front, side, or rear setback areas.
  - c. **Sign Modifications.** Modifications shall be allowed for an increase in allowed number and area of signs and an increase in allowed height modifications for pylon signs up to a maximum of 24 feet, and up to a maximum of 8 feet for monument signs.
  - d. **Retaining Wall Modifications.** Modifications shall be allowed for an increase in the allowed height of retaining walls up to a maximum of 10 feet.
  - e. **Other Modifications.** Except as otherwise provided, the following modifications are not limited in the amount of deviation from the standard being modified:
    - i. Distances between structures located on the same lot;
    - ii. Landscaping standards in compliance with Chapter 21.30.075 (Landscaping), except for subsection (B)(3);
    - iii. Size or location of parking spaces, access to parking spaces, and landscaping within parking areas, provided the modification does not result in an adverse impact to public on-street parking spaces;
    - iv. Increase in allowed floor area of additions for uses that have nonconforming parking; provided required parking for the additional square footage is provided and other requirements per Section 21.38.060 (Nonconforming Parking).
2. **Variances.** Waiver or modification of certain standards of this Implementation Plan may be permitted when, because of special circumstances applicable to the property, including location, shape, size, surroundings, topography, or other physical features, the strict application of the development

standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same coastal zoning district.

3. Modifications and Waivers Authorized Elsewhere. This section is not applicable when a modification or waiver to a development standard is specifically authorized elsewhere in this Implementation Plan.

C. Considerations. In reviewing a coastal development permit application for development requesting a modification or variance, the review authority shall consider the following:

1. Whether or not the development is consistent with the certified Local Coastal Program to the maximum extent feasible; and

2. Whether or not there are feasible alternatives that would provide greater consistency with the certified Local Coastal Program and/or that are more protective of coastal resources.

D. Findings and Decision. The review authority may approve or conditionally approve a modification or waiver to a development standard of this Implementation Plan only after first making all of the following findings:

1. The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Implementation Plan results in physical hardships; or

2. The granting of the variance is necessary due to special circumstances applicable to the property, including location, shape, size, surroundings, topography, and/or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same coastal zoning district; and

3. The modification or variance complies with the findings required to approve a coastal development permit in Section 21.52.015(F);

4. The modification or variance will not result in development that blocks or significantly impedes public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs;

5. The modification or variance will not result in development that blocks or significantly impairs public views to and along the sea or shoreline or to coastal bluffs and other scenic coastal areas;

6. The modification or variance will not result in development that has an adverse effect, either individually or cumulatively, on coastal resources; including wetlands, sensitive habitat, vegetation, or wildlife species; and

7. The granting of the modification or variance will not be contrary to, or in conflict with, the purpose of this Implementation Plan, nor to the applicable policies of the certified Local Coastal Program.

**Section 7:** The LCP, including LCP Amendment No. LC2017-002, will be carried out fully in conformity with the California Coastal Act.

**Section 8:** The City Council hereby authorizes City staff to submit this ordinance for determination by the Executive Director of the Coastal Commission that this action is legally adequate to satisfy the specific requirements of Coastal Commission's December 12, 2018 action on LCP Amendment Request No. 4-17 Part C (LCP-5-NPB-17-0084-1).

**Section 9:** This ordinance shall not become effective for thirty days and until the Executive Director of the Coastal Commission certifies that this ordinance complies with the Coastal Commission's December 12, 2018, action on LCP Amendment Request No. 4-17 Part C (LCP-5-NPB-17-0084-1).

**Section 10:** The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

**Section 11:** If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Section 12:** Pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA"), LCP Amendment No. LC2017-002 is statutorily exempt from CEQA pursuant to Section 15265(a)(1) of Title 14 of the California Code of Regulations, and Chapter 3 of the Coastal Act. Section 15265(a)(1), which exempts local governments from the requirements of preparing an environmental impact report or otherwise complying with CEQA in connection with the adoption of a Local Coastal Program.

**Section 13:** Except as expressly modified in this ordinance, all other Sections, Subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

**Section 14:** The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the ordinance, or a summary thereof, to be published pursuant to City Charter Section 414.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach, California, held on 12<sup>th</sup> day of February, 2019, and adopted on the 26<sup>th</sup> day of February, 2019, by the following vote to-wit:



AYES: \_\_\_\_\_  
\_\_\_\_\_  
NAYS: \_\_\_\_\_  
ABSENT: \_\_\_\_\_

\_\_\_\_\_  
DIANE B. DIXON, MAYOR

**ATTEST:**

\_\_\_\_\_  
LEILANI BROWN, CITY CLERK

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

   
AARON C. HARP, CITY ATTORNEY