

ORDINANCE NO. 2022- 2

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NEWPORT BEACH, CALIFORNIA, ADOPTING REVISIONS
TO ZONING CODE AMENDMENT NO. CA2019-006
AMENDING TITLE 20 (PLANNING AND ZONING) OF THE
CITY OF NEWPORT BEACH MUNICIPAL CODE RELATED
TO COTTAGE PRESERVATION FOR CONSISTENCY WITH
THE CALIFORNIA COASTAL COMMISSION'S
MODIFICATIONS (PA2019-181)**

WHEREAS, Section 200 of the Charter of the City of Newport Beach ("City") vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to the municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, on January 28, 2020, the City Council introduced Ordinance No. 2020-4 revising Title 20 (Planning and Zoning) related to the preservation of cottages ("Zoning Code Amendment No. CA2019-006") and adopted Resolution No. 2020-12 authorizing submittal of LCP Amendment No. LC2019-004 to the California Coastal Commission ("Coastal Commission") by a unanimous vote (7 ayes, 0 nays);

WHEREAS, on February 11, 2020, the City Council adopted Ordinance No. 2020-4 revising Title 20 (Planning and Zoning) in order to implement Zoning Code Amendment No. CA2019-006;

WHEREAS, at its November 19, 2021 hearing, the Coastal Commission approved and certified LCP Amendment No. LC2019-004 with modifications (LCP-5- NPB-20-0025-1 Part A) as being consistent with the California Coastal Act;

WHEREAS, revisions to Zoning Code Amendment No. CA2019-006 are necessary for consistency with Coastal Commission modifications to LCP Amendment. No. LC2019-004 (LCP-5- NPB-20-0025-1 Part A); and

WHEREAS, a public hearing was held by the City Council on January 11, 2022, 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, and Chapters 20.62 and 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

Section 1: Subsection A of Section 20.38.060 (Nonconforming Parking) of Title 20 (Planning and Zoning) of the NBMC is hereby amended to read as follows:

20.38.060 Nonconforming Parking.

A. Residential. Where a residential structure or use is nonconforming only because it does not conform to the off-street parking requirements of this Zoning Code, only the following alterations may be allowed:

1. Number of Spaces. A residential development having less than the required number of parking spaces per dwelling unit shall be allowed the following repairs, alterations, and additions:

- a. Repair and maintenance, interior alterations, and structural alterations, as provided for in Section 20.38.040(A) through (F); and
- b. Additions up to a maximum of ten (10) percent of the existing floor area of the structure within a ten (10) year period as provided in Section 20.38.040(G).

2. Dimensions or Type of Parking Spaces. Residential developments that are nonconforming because they do not have the required type of covered or enclosed parking spaces or because amendments to this Zoning Code have changed the dimensions of required parking spaces subsequent to the original construction of the structure may be altered or expanded as follows:

- a. All improvements and expansions allowed under subsection (A)(1) of this section;
- b. Additions larger than those allowed under subsection (A)(1) of this section may be allowed subject to the approval of a modification permit in compliance with Section [20.52.050](#) (Modification Permits).

3. Exception for Cottage Preservation. For the purposes of eligibility as a "cottage" for this section, the existing development prior to the addition shall consist of either a residential single-unit dwelling, duplex, or triplex, with individual unit sizes of 1,500 square feet or less, and does not exceed one story and sixteen (16) feet in height on the front half of the lot, and does not exceed two stories and twenty-four (24) feet in height on the rear half of the lot. Notwithstanding the provisions of subsections (A)(1)(b) and (2)(b) of this section, additions of up to fifty

(50) percent of the existing floor area of the structure, but no more than 750 square feet, are permitted for a cottage that complies with the following criteria:

- a. 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 zoning district where the property is located;
- b. The addition shall comply with all applicable development standards and use regulations of this Zoning Code;
- c. The square footage of residential parking area additions identified below shall be excluded from the allowed expansion under subsection (A)(3), but shall be included as gross floor area;

Required Parking	Maximum Excluded Area
One-car garage	200 square feet
Two-car garage	400 square feet
Three-car garage	600 square feet

- d. The height of the residential structure including the cottage addition shall not exceed the following, regardless of roof pitch:
 - i. Front half of lot: single story with a maximum height of sixteen (16) feet; and
 - ii. Rear half of lot: two story with a maximum height of twenty-four (24) feet.
- e. The residential structure shall not include a third floor deck;
- f. Outside the coastal zone, dwellings within the residential development shall not be rented for periods of less than thirty (30) days. Refer to Section 21.38.060(A)(4)(f) for short-term lodging allowances for developments within the coastal zone; and
- g. Deed Restriction and Recordation Required. Prior to the issuance of a building permit for a cottage preservation project, the property owner shall record a deed restriction with the Orange County Recorder's Office, the form and content of which is satisfactory to the City Attorney, agreeing to

maintain the property consistent with the limitations specified above for cottage preservation and the restrictions on short-term lodging. The deed restriction document shall notify future owners of the restriction. This deed restriction shall remain in effect so long as the cottage preservation project exists on the property.

Section 2: The recitals provided in this ordinance are true and correct and are incorporated into the substantive part of this ordinance.

Section 3: 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 4: The City Council finds this action is exempt from environmental review under California Environmental Quality Act ("CEQA") pursuant to Section 21065 of the California Public Resources Code and Sections 15060 (c)(2), 15060 (c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 ("CEQA Guidelines"). This action is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Lastly, pursuant to CEQA Guidelines Section 15265(a)(1), local governments are exempt from the requirements of CEQA in connection with the adoption of a Local Coastal Program. The Amendment itself does not authorize development that would directly result in physical change to the environment.

Section 5: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the NBMC shall remain unchanged and shall be in full force and effect.

Section 6: 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 shall become effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 11th day of January, 2022, and adopted on the 25th day of January, 2022, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

KEVIN MULDOON, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY