

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
(562) 590-5071



Th9c

LCP AMENDMENT NO. 4-19 (LCP-5-LGB-20-0004-3) (CDP PROCESS UPDATE) JUNE 11, 2020

EXHIBITS

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Exhibit 1 – City Council Resolution No. 19.093

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RESOLUTION NO. 19.093

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT 19-4969 REGARDING AMENDMENTS TO PORTIONS OF THE LAGUNA BEACH MUNICIPAL CODE PERTAINING TO CLARIFICATION OF COASTAL DEVELOPMENT PERMIT REQUIREMENTS, DE MINIMIS WAIVERS, MINOR DEVELOPMENT PUBLIC HEARINGS, AND REPAIR AND MAINTENANCE

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Planning Commission conducted a legally noticed public hearing to consider the adoption of Laguna Beach Local Coastal Program Amendment 19-4969 and an Ordinance to amend Chapters 25.05 and 25.07 of the Laguna Beach Municipal Code relating to clarification of coastal development permit requirements, de minimis waivers, minor development public hearings, and repair and maintenance; and

WHEREAS, the City Council, after giving notice as prescribed by law, held a public meeting on December 3, 2019 regarding proposed Laguna Beach Local Coastal Program Amendment 19-4969 and an Ordinance to amend provisions of the Laguna Beach Municipal Code relating to clarification of coastal development permit requirements, de minimis waivers, minor development public hearings, and repair and maintenance, and finds that the proposed amendment is consistent with the Certified Laguna Beach Coastal Land Use Plan and Chapter 6 of the California Coastal Act; and

WHEREAS, the City Council intends to implement the Local Coastal Program in a manner fully consistent with the California Coastal Act;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES RESOLVE AND ORDER as follows:

SECTION 1. Laguna Beach Local Coastal Program Amendment No 19-4969 is hereby

1 approved, consisting of amendments to Chapters 25.05 and 25.07 of the Laguna Beach Municipal
2 Code relating to clarification of coastal development permit requirements, de minimis waivers,
3 minor development public hearings, and repair and maintenance. A copy of Ordinance No.
4 1642 adopting such amendments is attached hereto as Exhibit "A" and is incorporated by
5 reference as though fully set forth herein.


6
7 **SECTION 2.** The California Coastal Commission is hereby requested to consider,
8 approve and certify Local Coastal Program Amendment 19-4969.

9 **SECTION 3.** Pursuant to Section 13551(b) of the California Coastal Commission
10 Regulations, Laguna Beach Local Coastal Program Amendment No. 19-4969 will take effect
11 automatically upon Coastal Commission certification, as provided in Public Resources Code
12 Sections 30512, 30513, and 30519.

13
14 ADOPTED this 17th day of December, 2019.

15
16 
17 _____
18 Bob Whalen, Mayor

19 ATTEST:

20
21 
22 _____
23 City Clerk

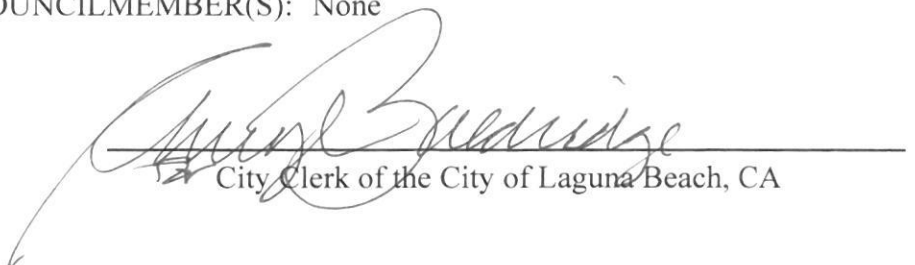
24 I, LISETTE CHEL, City Clerk of the City of Laguna Beach, California, do hereby
25 certify that the foregoing Resolution No. 19.093 was duly adopted at a Regular Meeting of
26 the City Council of said City held on December 17, 2019, by the following vote:

27 AYES: COUNCILMEMBER(S): Blake, Iseman, Kempf, Dictorow, Whalen

28 NOES: COUNCILMEMBER(S): None

ABSTAIN: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): None

29
30 

City Clerk of the City of Laguna Beach, CA

ORDINANCE NO. 1642**AN ORDINANCE OF THE CITY OF LAGUNA BEACH AMENDING CHAPTERS 25.05 AND 25.07 OF THE LAGUNA BEACH MUNICIPAL CODE RELATING TO CLARIFICATION ON CERTAIN COASTAL DEVELOPMENT PERMIT REQUIREMENTS, DE MINIMIS WAIVERS, MINOR DEVELOPMENT WAIVER OF PUBLIC HEARING PROCESS, AND REPAIR AND MAINTENANCE, AND ADOPTION OF CATEGORICAL EXEMPTIONS PURSUANT TO CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

WHEREAS, on November 20, 2019, the Planning Commission conducted a legally noticed public hearing, and after reviewing and considering all documents, testimony and other evidence presented, voted to recommend that the City Council adopt amendments to Laguna Beach Municipal Code Chapters 25.05 and 25.07 pertaining to the creation of a new section for a waiver for certain de minimis development, the creation of a new section for a waiver for certain minor development, clarifications to the existing repair and maintenance provisions, eliminating the need for all Coastal Development Permits to also require Design Review, and provide clarification of an entitlement's effective date when a project is appealed to, and approved by, the Coastal Commission; and

WHEREAS, on December 3, 2019 and December 17, 2019, the City Council conducted legally noticed public hearings and has reviewed and considered all documents, testimony and other evidence presented;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES ORDAIN as follows:

SECTION 1. Section 25.05.040(B)(1) ("Development Subject to Design Review") of the Laguna Beach Municipal Code is hereby amended to read in its entirety as

follows:

(B) Development Subject to Design Review.

(1) All new buildings, structures and physical improvements and relocations, additions, extensions and exterior changes of or to existing buildings, structural and non-structural improvements, including landscaping and grading, shall be subject to design review, except as otherwise provided in subsection (B)(2). Examples of physical improvements and site developments subject to design review include, but are not limited to, the following:

- (a) Commercial or industrial parking and loading areas;
- (b) New vehicular access to streets or alleys;
- (c) Retaining walls in excess of five feet in exposed height;
- (d) Signs, as specified in Chapter 25.54, Sign Regulations;
- (e) Permanent chain link or similar type metal fences;
- (f) Telecommunication facilities subject to the provisions of Chapter 25.55;
- (g) Trash enclosures associated with a commercial use;
- (h) Public street and sidewalk improvements;
- (i) Above-ground utility structures;
- (j) Additions that are fifty percent or more of the original gross floor area, additions that create a new upper story, additions that exceed a height of fifteen feet above the adjacent ground elevation or additions that exceed ten percent of the original gross floor area of an existing legal nonconforming structure;
- (k) Shore protective devices;
- (l) All buildings, structures and physical improvements in environmentally sensitive areas and on lots with a slope greater than thirty percent;

- (m) Grading in excess of twenty cubic yards, except as specified in Section 22.10.010(e);
- (n) Clearing of native vegetation on undeveloped parcels and undeveloped portions of developed parcels, and native vegetation restoration plans, except for city required annual weed abatement;
- (o) Fuel modification programs subject to the provisions of subsections (C)(3) and (4); provided, that once a program has received approval, subsequent approval for maintenance of the fuel modification will be granted by the director of community development, if that maintenance is in conformance with the intent and objectives of the originally approved program;
- (p) All city projects within the scope of this section, except if the city council waives the requirement of design review if it determines that there are special circumstances applicable to such project which require that the project proceed without delay;
- (q) Landscaping review for new development or additions that are fifty percent or more of the original gross floor area, additions that create a new upper story or additions that exceed a height of fifteen feet above the adjacent ground elevation, and for structural improvements within environmentally sensitive areas;
- (r) Exterior alterations or additions to structures listed on the historic register per Chapter 25.45, Historic Preservation;
- (s) Proposed demolition of structures listed on the historic resources list pursuant to Chapter 25.45, Historic Preservation;
- (t) Modifications of previously approved design review plans, including approved landscape plans, except that modifications to convert existing landscaping to drought-

tolerant landscaping may be approved administratively by the director of community development, provided that the existing landscaping is less than six feet in height and provided further that the existing landscaping was not required specifically to address a design-related issue, including, but not limited to, view, aesthetics or privacy;

- (u) Swimming pools, permanent spas and their associated pool or spa equipment;
- (v) Outlining of the outside of buildings or portions thereof with lights. (If such outlining with lights is proposed on a building listed on the city's Historic Resources Inventory and/or city's Historic Register, then the Heritage Committee shall make a recommendation to the approval authority prior to its design review); and
- (w) A hedge or hedges located within front, side and/or rear yards that is/are proposed to exceed the maximum allowable fence height, as set forth in Chapter 25.50.

SECTION 2. Section 25.07.008 ("Exemptions") of the Laguna Beach Municipal Code is hereby amended to read in its entirety as follows:

Certain types of development, described as follows, are considered to be without risk of adverse environmental effect on coastal resources, including public access, and therefore do not require a coastal development permit unless indicated otherwise.

(A) Improvements to Single-family Homes. Improvements to single-family dwellings and mobilehomes, including structures normally associated with a single-family residence such as garages, swimming pools, fences, storage sheds and landscaping, are exempt unless classified as one of the following:

- (1) Guest houses and self-contained accessory dwelling units;
- (2) Improvements to any structure located on a beach, wetland or stream, or where the structure or proposed improvements would encroach within fifty feet of a coastal bluff edge;

(3) Improvements to any structure between the sea and first public roadway paralleling the sea, or within three hundred feet of the inland extent of any beach, whichever is the greater distance when such improvements would constitute or result in any of the following:

- (a) An increase of ten percent or more of the internal floor area of the existing structure(s) on the building site or an additional increase in floor area bringing the aggregate increase to ten percent or more,
 - (b) An increase in building height of more than ten percent,
 - (c) The construction, placement or establishment of any significant detached structure such as a garage, or shoreline protective works or docks;
- (4) Expansion or construction of a water well or septic system;
- (5) Improvements in an area which the Coastal Commission has determined to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use including the construction of any 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;
- (6) Any improvement where the coastal development permit issued for the original structure indicates that future additions would require a coastal development permit;
- (7) Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within fifty feet of the edge of a coastal bluff or stream, or in areas of natural vegetation designated by resolution of the coastal commission as a significant natural habitat.

(B) Improvements to Structures Other Than Single-Family. Improvements to an existing

structure (including attached fixtures and landscaping) other than single-family dwellings or public works facilities are exempt unless classified under one of the following:

- (1) All nonexemption contained in subsections (A)(1) through (7) of this section;
- (2) Improvements to any structure which would result in a change in the intensity of use of the structure;
- (3) Improvements pursuant to conversion of an existing multiple-unit residential structure or visitor-serving commercial use to a condominium or stock cooperative;
- (4) Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland or sand dune within one hundred feet of the edge of a coastal bluff or stream or in areas of natural vegetation designated by resolution of the coastal commission as a significant natural habitat.
- (5) Any improvements to a structure where the development permit issued for the original structure by the coastal commission indicated that any future improvements would require a development permit.

(C) Repair and Maintenance. Repair and maintenance that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities, except the following types of development which are not exempt:

- (1) Repair or maintenance of a sea wall revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work which involves any of the following:
 - (a) Substantial alteration of the foundation including pilings and other surface and subsurface structures,
 - (b) 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,

(c) The replacement of twenty (20) percent or more of the materials of an existing structure with materials of a different kind,

(d) The presence, whether temporary or permanent, of mechanized construction equipment or materials on any sand area or bluff or within twenty feet of coastal waters or streams;

(2) The replacement of twenty (20) percent or more of a sea wall revetment, bluff retaining wall, breakwater, groin, or similar protective work under one ownership, unless destroyed by natural disaster;

(3) Any method of routine maintenance dredging that involves:

(a) The dredging of one hundred thousand (100,000) cubic yards or more within a twelve (12) month period; or in

(b) The placement of dredge spoils of any quantity within an environmentally sensitive habitat area, or any sand area, within fifty (50) feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within twenty (20) feet of coastal waters or streams; or

(c) The removal, sale, or disposal of dredge 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;

(4) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within fifty (50) feet of the edge of a coastal bluff or environmentally sensitive habitat area; or within twenty (20) feet of any

coastal waters and streams that include:

- (a) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials,
- (b) The presence, whether temporary or permanent, of mechanized equipment (excluding hand tools) 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;
- (D) 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 this chapter is exempt.
- (E) Destroyed Structures. The replacement of any structure, other than a public works facility, destroyed by natural disaster is exempt, provided such replacement structure is designed and intended for the same use as the destroyed structure and further, such replacement structure does not exceed the floor area, height or bulk of the destroyed structure by more than ten percent and is sited in the same location on the same building site as the destroyed structure.

SECTION 3. Section 25.07.009 (“Waiver for De Minimis Development”) is hereby added to the Laguna Beach Municipal Code to read in its entirety as follows:

- (A) Authority. The director of Community Development 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 within the coastal zone and not located within an appeal area, not within an area where the Coastal Commission retains permit jurisdiction, and no local public hearing is required.
 - (2) The proposed development will be consistent with the certified Local Coastal Program and involves no potential for any adverse effect, either individually or cumulatively, on coastal resources. The determination shall be made in writing and based upon factual evidence.
- (C) Applicability. The director may consider the following types of development for possible permit waivers:
- (1) Projects fully consistent with the certified LCP and for which all applicable policies of the LCP are objective in nature, such that staff does not have to exercise its judgment as to satisfaction of subjective criteria; and
 - (2) Projects located in areas where similar projects have been approved as a routine matter without conditions or opposition.
- (D) The following projects will not be considered for possible waivers:
- (1) Projects that involve questions as to conformity with the certified LCP, or that may result in potential impacts on coastal resources and public access;
 - (2) Projects with known opposition or probable public controversy; and
 - (3) Projects that involve divisions of land, including creation of condominiums.
- (E) Public Notice. If, upon review of the coastal development permit application, the Director determines that the development is de minimis, the applicant shall post public notice of the de minimis waiver on the property for at least seven calendar days prior to the director's final decision granting the waiver. Notice of intent to issue a de minimis waiver shall also be provided to the Coastal Commission and to persons known to be interested in the proposed development within ten (10) calendar days of accepting an application for a de minimis waiver or at least seven

(7) calendar days prior to the decision on the application. The director shall provide notice, by first class mail, of pending waiver of permit requirements. This notice shall be provided to all persons who have requested to be on the mailing list for that development project or site or for coastal decisions within the local jurisdiction, to all property owners within three hundred (300) feet and residents within one hundred (100) feet of the perimeters of the parcel on which the development is proposed, and to the Coastal Commission.

(1) Content of Public Notice. The notice shall contain the following information:

- (a) A general description of the proposed project and location;
- (b) A statement that the development is within the coastal zone;
- (c) The date of filing of the application and the name of the applicant;
- (d) The number assigned to the application;
- (e) The date on which the waiver may become effective;
- (f) The general procedure concerning the submission of public comments either in writing or orally prior to the decision; and
- (g) A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the decision.

(F) Report to the City Council. The director shall report to the City Council at its next available public hearing those projects for which waivers are proposed, with sufficient description to give notice of the proposed development to the City Council. A list of waivers issued by the director shall be available for public inspection at the public counter of the Community Development Department and at the City Council meeting during which any waivers are reported. A waiver shall not take effect until after the director makes his/her report to the City Council. If a majority of the members of the City Council so request, such issuance shall not be effective and, instead, the application for a coastal development permit shall be processed in accordance with the coastal development permit provisions of this chapter.

SECTION 4. Section 25.07.012(D) of the Laguna Beach Municipal Code is hereby amended to read in its entirety as follows:

(D) Approval Authority. An application for a coastal development permit shall be reviewed in conjunction with whatever other permits are required for the project in the underlying zone; all such permits shall be processed concurrently and the approving body for the coastal permit shall be the same as that for the permit required by the underlying zoning district or other city regulation. Coastal development permit review shall be provided in accordance with the requirements of this chapter.

SECTION 5. Section 25.07.012(I)(1) of the Laguna Beach Municipal Code is hereby amended to read in its entirety as follows:

(I) Effective Date of Coastal Development Permits.

(1) Appeal Projects. The coastal development permit is not effective until adequate notice of final local action has been received in the appropriate district office of the Coastal Commission and the ten (10) working day commission appeal period has expired and no valid appeal has been filed. For projects appealed to the Coastal Commission the effective date of the approval is the final Coastal Commission approval date of the coastal development permit. The City Manager shall have the ability to extend the effective date of the approval for good cause for a period not to exceed six months, which decision may be appealed to the City Council. In the event of such an appeal, the effective date of the approval shall be further extended by the period of time from the date of the appeal to the date of the City Council's determination of the appeal.

SECTION 6. Section 25.07.013 ("Public Hearing Waiver for Minor Development") is hereby added to the Laguna Beach Municipal Code to read in its entirety as follows:

Waiver of Public Hearing for Minor Development. In accordance with Public Resources Code Section 30624.9, the following is the process by which the public hearing requirement may be waived for certain minor developments that require coastal development permits.

(A) Minor Development Defined. For purposes of this section, "minor development" means a development that the Director determines satisfies all of the following requirements:

- (1) Is consistent with the certified Local Coastal Program;
- (2) Requires no discretionary approvals other than a coastal development permit; and
- (3) Has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.

(B) Procedure. The Director may waive the requirement for a public hearing on a coastal development permit application for a minor development, if all of the following occur:

- (1) Notice is mailed or delivered to all persons and agencies required to be notified under Section 25.07.14. The notice shall contain all of the information required in Section 25.07.14. In addition, the notice of waiver of public hearing for the pending application shall contain all the following:

- (a) A statement that a public hearing will be held upon the written request of any person provided that such request is received by the Department within fifteen (15) working days from the date of sending the notice; and
- (2) If no written request for public hearing is received by the community development department within fifteen (15) working days from the date of sending the notice pursuant to subsection (C)(1) of this section, the permit is deemed approved.
- (3) Upon receipt of a request for a hearing, the community development department shall schedule the matter for a public hearing and issue notice of such hearing consistent with the provisions of this chapter.

(4) Appeals. Approvals are subject to the appeal provisions of Section 25.05.070, and Section 25.07.016 when a coastal development permit is required.

SECTION 7. The City Council finds that this Ordinance is exempt from further review under the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3) in that the proposed amendments are not anticipated to result in a direct or reasonable foreseeable indirect physical change in the environment, nor will the proposed changes have the potential for causing significant effect on the environment. In addition, pursuant to State CEQA Guidelines Section 15382, “Significant effect on the environment” means *“a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.”* The proposed amendments will not substantially affect or potential substantially affect the City’s land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic resources as all potential changes have been thoroughly considered. Additionally, Public Resources Code Section 21080.5, a provision of CEQA, and Section 15265(c) of the State CEQA Guidelines shift the burden of CEQA compliance to the California Coastal Commission in connection with the preparation of or amendment to a Local Coastal Program (LCP). The Coastal Commission’s LCP review and approval procedures have been found to be functionally equivalent to the environmental review process.

SECTION 8. If any portion of this Ordinance, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, of the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

SECTION 9. This Ordinance is intended to be of Citywide effect and application. All ordinances and provisions of the Laguna Beach Municipal Code and Sections thereof inconsistent shall be and the same are hereby repealed to the extent of such inconsistency and no further.

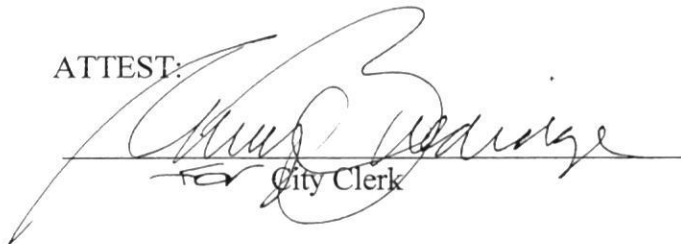
SECTION 10. The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published in the manner required by law in the City of Laguna Beach. This Ordinance shall become effective upon certification of a corresponding Local Coastal Program Amendment by the California Coastal Commission.

ADOPTED this 17th day of December, 2019.



Mayor

ATTEST:



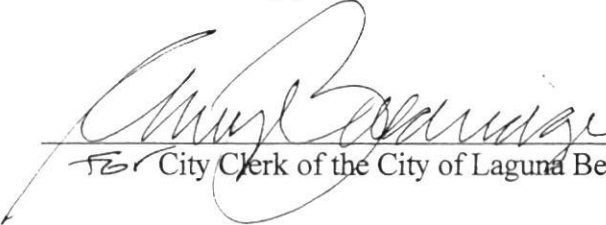
City Clerk

I, Lisette Chel-Walker, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council on December 3, 2019, and was finally adopted at a regular meeting of the City Council of said City held on December 17, 2019, by the following vote:

AYES: COUNCILMEMBER(S): Blake, Iseman, Kempf, Dicterow, Whalen

NOES: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): None



City Clerk of the City of Laguna Beach, CA

City additions are underlined.

City deletions are struckthrough.

LCPA-Waiver, Minor Development & Repair and Maintenance

The following Sections are proposed to be added or amended consistent with the Coastal Act:

25.07.008 Exemptions.

Certain types of development, described as follows, are considered to be without risk of adverse environmental effect on coastal resources, including public access, and therefore do not require a coastal development permit unless indicated otherwise.

(A) Improvements to Single-family Homes. Improvements to single-family dwellings and mobilehomes, including structures normally associated with a single-family residence such as garages, swimming pools, fences, storage sheds and landscaping, are exempt unless classified as one of the following:

- (1) Guest houses and self-contained ~~second residential~~ accessory dwelling units;
- (2) Improvements to any structure located on a beach, wetland or stream, or where the structure or proposed improvements would encroach within fifty feet of a coastal bluff edge;
- (3) Improvements to any structure between the sea and first public roadway paralleling the sea, or within three hundred feet of the inland extent of any beach, whichever is the greater distance when such improvements would constitute or result in any of the following:
 - (a) An increase of ten percent or more of the internal floor area of the existing structure(s) on the building site or an additional increase in floor area bringing the aggregate increase to ten percent or more,
 - (b) ~~The construction of an additional story or loft or~~ An increase in building height of more than ten percent,
 - (c) The construction, placement or establishment of any significant detached structure such as a garage, ~~fence,~~ or shoreline protective works or docks;
- (4) Expansion or construction of a water well or septic system;
- (5) Improvements in an area which the Coastal Commission has determined to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use including the construction of any 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;
- (6) Any improvement where the coastal development permit issued for the original structure indicates that future additions would require a coastal development permit;
- (7) Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within fifty feet of the edge of a coastal bluff or stream, or in areas of natural vegetation designated by resolution of the coastal commission as a significant natural habitat.

(B) Improvements to Structures Other Than Single-Family. Improvements to an existing structure (including attached fixtures and landscaping) other than single-family dwellings or public works facilities are exempt unless classified under one of the following:

- (1) All nonexemption contained in subsections (A)(1) through (7) of this section;
- (2) Improvements to any structure which would result in a change in the intensity of use of the structure;
- (3) Improvements pursuant to conversion of an existing multiple-unit residential structure or visitor-serving commercial use to a condominium or stock cooperative;
- (4) Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland or sand dune within one hundred feet of the edge of a coastal bluff or stream or in areas of natural vegetation designated by resolution of the coastal commission as a significant natural habitat.
- (5) Any improvements to a structure where the development permit issued for the original structure by the coastal commission indicated that any future improvements would require a development permit.

(C) Repair and Maintenance Activities. Repair and maintenance activities of shoreline protective works that do not result in an addition to, or enlargement or expansion of, ~~unless classified under one of the following~~ the object of those repair or maintenance activities, except the following types of development which are not exempt:

- (1) Repair or maintenance of a sea wall revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work which involves any of the following:
 - (a) Substantial alteration of the foundation including pilings and other surface and subsurface structures,
 - (b) 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,
 - (c) The replacement of twenty (20) percent or more of the materials of an existing structure with materials of a different kind,
 - (d) The presence, whether temporary or permanent, of mechanized construction equipment or materials on any sand area or bluff or within twenty feet of coastal waters or streams;
- (2) The replacement of twenty (20) percent or more of a sea wall revetment, bluff retaining wall, breakwater, groin, or similar protective work under one ownership, unless destroyed by natural disaster;
- (3) Any method of routine maintenance dredging that involves:
 - (a) ~~†~~The dredging of one hundred thousand (100,000) cubic yards or more within a twelve (12) month period; or ~~in~~
 - (b) ~~†~~The placement of dredge spoils of any quantity within an environmentally sensitive habitat area, or any sand area, within fifty (50) feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within twenty (20) feet of coastal waters or streams;or

(c) ~~_____~~ The removal, sale, or disposal of dredge 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;

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

(a) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials,

(b) The presence, whether temporary or permanent, of mechanized equipment (excluding hand tools) 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;

(D) 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 this chapter is exempt.

(E) Destroyed Structures. The replacement of any structure, other than a public works facility, destroyed by natural disaster is exempt, provided such replacement structure is designed and intended for the same use as the destroyed structure and further, such replacement structure does not exceed the floor area, height or bulk of the destroyed structure by more than ten percent and is sited in the same location on the same building site as the destroyed structure. (Ord. 1253 § 1, 1992).

25.07.009 Waiver for De Minimis Development.

(A) Authority. The director of Community Development 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 within the coastal zone and not located within an appeal area, not within an area where the Coastal Commission retains permit jurisdiction, and no local public hearing is required.

(2) The proposed development will be consistent with the certified Local Coastal Program and involves no potential for any adverse effect, either individually or cumulatively, on coastal resources. The determination shall be made in writing and based upon factual evidence.

(C) Applicability. The director may consider the following types of development for possible permit waivers:

(1) Projects fully consistent with the certified LCP and for which all applicable policies of the LCP are objective in nature, such that staff does not have to exercise its judgment as to satisfaction of subjective criteria; and

(2) Projects located in areas where similar projects have been approved as a routine matter without conditions or opposition.

(D) The following projects will not be considered for possible waivers:

- (1) Projects that involve questions as to conformity with the certified LCP, or that may result in potential impacts on coastal resources and public access;
 - (2) Projects with known opposition or probable public controversy; and
 - (3) Projects that involve divisions of land, including creation of condominiums.
- (E) Public Notice. If, upon review of the coastal development permit application, the Director determines that the development is de minimis, the applicant shall post public notice of the de minimis waiver on the property for at least seven calendar days prior to the director's final decision granting the waiver. Notice of intent to issue a de minimis waiver shall also be provided to the Coastal Commission and to persons known to be interested in the proposed development within ten (10) calendar days of accepting an application for a de minimis waiver or at least seven (7) calendar days prior to the decision on the application. The director shall provide notice, by first class mail, of pending waiver of permit requirements. This notice shall be provided to all persons who have requested to be on the mailing list for that development project or site or for coastal decisions within the local jurisdiction, to all property owners within three hundred (300) feet and residents within one hundred (100) feet of the perimeters of the parcel on which the development is proposed, and to the Coastal Commission.
- (1) Content of Public Notice. The notice shall contain the following information:
 - (a) A general description of the proposed project and location;
 - (b) A statement that the development is within the coastal zone;
 - (c) The date of filing of the application and the name of the applicant;
 - (d) The number assigned to the application;
 - (e) The date on which the waiver may become effective;
 - (f) The general procedure concerning the submission of public comments either in writing or orally prior to the decision; and
 - (g) A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the decision.
- (F) Report to the City Council. The director shall report to the City Council at its next available public hearing those projects for which waivers are proposed, with sufficient description to give notice of the proposed development to the City Council. A list of waivers issued by the director shall be available for public inspection at the public counter of the Community Development Department and at the City Council meeting during which any waivers are reported. A waiver shall not take effect until after the director makes his/her report to the City Council. If a majority of the members of the City Council so request, such issuance shall not be effective and, instead, the application for a coastal development permit shall be processed in accordance with the coastal development permit provisions of this chapter.

25.07.012 Procedures.

Each coastal development permit application shall be processed in accordance with the following requirements.

- (A) Determination of Applicable Category. At the time an application for development is submitted, the community development director or his/her designee shall determine, based on the provisions of this chapter, and all applicable maps, zoning regulations and specific plan regulations, that the development project is one of the following:

- (1) Within an area where the coastal commission continues to exercise original permit jurisdiction an applicant must obtain a coastal development permit directly from the coastal commission;
 - (2) Appealable to the coastal commission and requires a coastal development permit;
 - (3) Nonappealable to the coastal commission and requires a coastal development permit;
 - (4) Categorically excluded or exempt and does not require a coastal development permit.
- (B) Where an applicant, interested person, or a local government has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is exempt, categorically excluded, nonappealable or appealable:
- (1) The local government shall make its determination as to what type of development is being proposed and shall inform the applicant of the notice and hearing requirements for that particular development. The local determination may be made by any designated local government employee(s) or any local body as provided in local government procedures;
 - (2) If the determination of the local government is challenged by the applicant or an interested person, or if the local government wishes to have a coastal commission determination as to the appropriate designation, the local government shall notify the commission by telephone of the dispute/question and shall request the executive director's opinion;
 - (3) The executive director shall, within two working days of the local government request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is exempt, categorically excluded, nonappealable or appealable;
 - (4) Where, after the executive director's investigation, the executive director's determination is not in accordance with the local government determination, the coastal commission shall hold a hearing for purposes of determining the appropriate designation for the area. The commission shall schedule the hearing on the determination for the next commission meeting (in the appropriate geographic region of the state) following the local government request.
- (C) Application Requirements. Each coastal development permit application shall be submitted in the form and number prescribed by the community development department and shall be accompanied by:
- (1) Payment of a fee set by resolution of the city council;
 - (2) A location map showing the area to be developed in relation to nearby lots, streets, highways, and major natural features such as the ocean, beaches, wetlands, and other major landforms;
 - (3) A site plan, drawn to scale, showing:
 - (a) Existing and proposed property lines of the site to be developed, including all easements over or adjacent to the lot,
 - (b) Existing and proposed topography,
 - (c) All existing and proposed structures, roads, utility lines, signs, fences, access ways and other improvements,

- (d) Major natural and manmade landscape features, including location, type and size of any trees or other vegetation to be removed or planted;
- (4) Any additional information determined, within thirty days of the coastal development permit application submittal, to be necessary for evaluation of the proposed development.
- (D) Approval Authority. An application for a coastal development permit shall be reviewed in conjunction with whatever other permits are required for the project in the underlying zone; all such permits shall be processed concurrently and the approving body for the coastal permit shall be the same as that for the permit required by the underlying zoning district or other city regulation. Coastal development permit review shall be provided in accordance with the requirements of this chapter. ~~All approving bodies shall refer all coastal development permit applications either to the design review board or the planning commission.~~
 - (1) In the case where a project requires only a coastal development permit, such permit may be approved or denied by the director of community development. The department of community development shall set a public hearing date before the director of community development and noticing shall be provided in accordance with the requirements of Section 25.07.014. Findings shall be made in accordance with the requirements of this chapter and written notice of the decision shall be provided as required in Section 25.07.014(D). All such development projects shall also be subject to the coastal development permit requirements defined in this chapter.
- (E) Public Hearing Requirements. At least one public hearing shall be held on each application for an appealable development. Nonappealable, exempt and categorically excluded projects will be subject to public hearings required by local ordinance as specified in the Laguna Beach Municipal Code.
 - (1) If a decision on a development permit is continued by the local government to a time which is neither (a) previously stated in the notice provided pursuant to Section 25.07.014, nor (b) announced at the hearing as being continued to a time certain, the local government shall provide notice of the further hearings (or action on the proposed development) in the same manner and within the same time limits as established in Section 25.07.014.
- (F) Review Criteria. To ensure compliance with the certified local coastal program, the following criteria shall be incorporated into the review of all applications for coastal development permits:
 - (1) The proposed development will not encroach upon any existing physical accessway legally utilized by the public or any proposed public accessway identified in the adopted local coastal program land use plan;
 - (2) The proposed development will not adversely affect marine resources, environmentally sensitive areas, or archaeological or paleontological resources;
 - (3) The proposed development will not adversely affect recreational or visitor-serving facilities or coastal scenic resources;
 - (4) The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas, and will provide adequate buffer areas to protect such resources;

- (5) The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards;
 - (6) The proposed development will be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas;
 - (7) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource;
 - (8) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
 - (9) Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
- (G) Findings. A coastal development permit application may be approved or conditionally approved only after the approving authority has reviewed the development project and made all of the following findings:
- (1) The project is in conformity with all the applicable provisions of the general plan, including the certified local coastal program and any applicable specific plans;
 - (2) Any development located between the sea and the first public road paralleling the sea is in conformity with the certified local coastal program and with the public access and public recreation policies of Chapter 3 of the Coastal Act;
 - (3) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.
- (H) Conditions. In approving an application for a coastal development permit, the approving body may impose conditions necessary to enable the required findings to be made. When conditions pertaining to public access and/or open space or conservation easements are imposed, notification of such action shall be submitted to the executive director of the coastal commission in accordance with Section 25.07.018.
- (I) Effective Date of Coastal Permits.
- (1) Appeal Projects. The coastal permit is not effective until adequate notice of final local action has been received in the appropriate district office of the eCoastal eCommission and the ten (10) working day commission appeal period has expired and no valid appeal has been filed. For projects appealed to the Coastal Commission the effective date of the approval is the final Coastal Commission approval date of the coastal permit. The City Manager shall have the ability to extend the effective date of the approval for good cause for a period not to exceed six months, which decision may be appealed to the City Council. In the event of such an appeal, the effective date of the approval shall be further extended by the period of time from the date of the appeal to the date of the City Council's determination of the appeal.
 - (2) Nonappealable Projects. The coastal permit is not effective until adequate notice of final local action has been received in the appropriate district office of the coastal commission.
 - (3) Coastal development permit approval shall lapse and become void two (2) years following the effective date if the privileges authorized by the permit are not executed or

utilized, or, if construction work is involved, such work is not commenced within such two-year period and diligently prosecuted to completion.

(4) The approving authority may grant a reasonable extension of time for due cause. Such time extension shall be requested in writing by the applicant or authorized agent prior to expiration of the two-year period. (Ord. 1253 § 1(part), 1992).

25.07.013 Public Hearing Waiver for Minor Development (New Section)

Waiver of Public Hearing for Minor Development. In accordance with Public Resources Code Section 30624.9, the following is the process by which the public hearing requirement may be waived for certain minor developments that require coastal development permits.

(A) Minor Development Defined. For purposes of this section, "minor development" means a development that the Director determines satisfies all of the following requirements:

- (1) Is consistent with the certified Local Coastal Program;
- (2) Requires no discretionary approvals other than a coastal development permit; and
- (3) Has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.

(B) Procedure. The Director may waive the requirement for a public hearing on a coastal development permit application for a minor development, if all of the following occur:

(1) Notice is mailed or delivered to all persons and agencies required to be notified under Section 25.07.14. The notice shall contain all of the information required in Section 25.07.14. In addition, the notice of waiver of public hearing for the pending application shall contain all the following:

- (a) A statement that a public hearing will be held upon the written request of any person provided that such request is received by the Department within fifteen (15) working days from the date of sending the notice; and
- (2) If no written request for public hearing is received by the community development department within fifteen (15) working days from the date of sending the notice pursuant to subsection (C)(1) of this section, the permit is deemed approved.
- (3) Upon receipt of a request for a hearing, the community development department shall schedule the matter for a public hearing and issue notice of such hearing consistent with the provisions of this chapter.
- (4) Appeals. Approvals are subject to the appeal provisions of Section 25.05.070, and Section 25.07.016 when a coastal development permit is required.

ZOA –Modification to Design Review

The following Section is proposed to be amended to remove item (B)(1)(q) :

25.05.040 Design review.

(B) Development Subject to Design Review.

(1) All new buildings, structures and physical improvements and relocations, additions, extensions and exterior changes of or to existing buildings, structural and non-structural improvements, including landscaping and grading, shall be subject to design review, except as otherwise provided in subsection (B)(2). Examples of physical improvements and site developments subject to design review include, but are not limited to, the following:

- (a) Commercial or industrial parking and loading areas;
- (b) New vehicular access to streets or alleys;
- (c) Retaining walls in excess of five feet in exposed height;
- (d) Signs, as specified in Chapter 25.54, Sign Regulations;
- (e) Permanent chain link or similar type metal fences;
- (f) Telecommunication facilities subject to the provisions of Chapter 25.55;
- (g) Trash enclosures associated with a commercial use;
- (h) Public street and sidewalk improvements;
- (i) Above-ground utility structures;
- (j) Additions that are fifty percent or more of the original gross floor area, additions that create a new upper story, additions that exceed a height of fifteen feet above the adjacent ground elevation or additions that exceed ten percent of the original gross floor area of an existing legal nonconforming structure;
- (k) Shore protective devices;
- (l) All buildings, structures and physical improvements in environmentally sensitive areas and on lots with a slope greater than thirty percent;
- (m) Grading in excess of twenty cubic yards, except as specified in Section 22.10.010(e);
- (n) Clearing of native vegetation on undeveloped parcels and undeveloped portions of developed parcels, and native vegetation restoration plans, except for city required annual weed abatement;
- (o) Fuel modification programs subject to the provisions of subsections (C)(3) and (4); provided, that once a program has received approval, subsequent approval for maintenance of the fuel modification will be granted by the director of community development, if that maintenance is in conformance with the intent and objectives of the originally approved program;
- (p) All city projects within the scope of this section, except if the city council waives the requirement of design review if it determines that there are special circumstances applicable to such project which require that the project proceed without delay;

~~(q) Any instance where a coastal development permit is required to be issued by the city;~~

(r) Landscaping review for new development or additions that are fifty percent or more of the original gross floor area, additions that create a new upper story or additions that exceed a height of fifteen feet above the adjacent ground elevation, and for structural improvements within environmentally sensitive areas;

(s) Exterior alterations or additions to structures listed on the historic register per Chapter 25.45, Historic Preservation;

(t) Proposed demolition of structures listed on the historic resources list pursuant to Chapter 25.45, Historic Preservation;

(u) Modifications of previously approved design review plans, including approved landscape plans, except that modifications to convert existing landscaping to drought-tolerant landscaping may be approved administratively by the director of community development, provided that the existing landscaping is less than six feet in height and provided further that the existing landscaping was not required specifically to address a design-related issue, including, but not limited to, view, aesthetics or privacy;

(v) Swimming pools, permanent spas and their associated pool or spa equipment;

(w) Outlining of the outside of buildings or portions thereof with lights. (If such outlining with lights is proposed on a building listed on the city's Historic Resources Inventory and/or city's Historic Register, then the Heritage Committee shall make a recommendation to the approval authority prior to its design review); and

(x) A hedge or hedges located within front, side and/or rear yards that is/are proposed to exceed the maximum allowable fence height, as set forth in Chapter 25.50.