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ATTACHMENT 1

9.69.040 Exemptions.

The types of development listed below are exempt from the requirement to obtain a Coastal Development Permit. A current record of all projects which are exempt from Coastal Development Permits shall be available for review by the public and shall be sent to the Coastal Commission and shall include the following information: name of applicant, location of the project, and brief description of the project.

(a) Development projects included in any categorical exclusion list adopted pursuant to Sections 30610(e) and 30610.5 of the Public Resources Code and Subchapter 5 of Title 14 of the California Code of Regulations (Sections 13240 et. seq.) after certification of the Local Coastal Program.

(b) Improvements to an existing structure which do not changed the use of the structure are exempt, except the types of improvements listed below, which are not exempt:

For purposes of this subsection, structures on the property normally associated with a single-family residence, such as garages, swimming pools, fences, and storage sheds, but not including guest houses or self-contained residential units, shall be considered part of an existing single-family residence. Further, for purposes of this subsection, landscaping on the lot, and all structures directly attached to the structure being subjected to improvements, shall be considered part of the subject structure, whether the existing structure is residential or not.

(1) Improvements to any structure located on a beach, wetland, or seaward of the mean high tide line or where the structure or proposed improvement would encroach within fifty (50) feet of the edge of a coastal bluff as described in Chapters 9.27 and 9.75.

(2) Improvements to any structure located between the sea and the first public road paralleling the sea or within three hundred (300) feet of the inland extent of a beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, or within significant scenic resources areas as designated by the certified Local Coastal Program or the Coastal Commission when such improvements would constitute or result in any of the following:

(A) An increase of ten percent (10%) or more of the internal floor area of the structure;

(B) An increase in the floor area in any amount when improvements to the structure have previously been exempted in compliance with this subsection;

(C) The construction of an additional story or a loft or any increase in height of more than ten (10) percent of the existing height of the

structure (for single-family residential improvements, increases in the height of significant non-attached structures such as garages, fences, shoreline protective devices or docks are subject to this provision also);

(D) The construction, placement, or establishment of any detached structure; or

(E) The demolition of more than 50 percent of the exterior walls of an existing structure.

(3) Any significant alteration of land forms including removal or placement of vegetation in the following areas; on a beach, wetland, or sand dune; in an area of natural vegetation designated by the City of Dana Point by resolution as significant natural habitat; within one hundred (100) feet or, for a single family dwelling, within fifty (50) feet of the edge of a coastal bluff, as described in Chapter 9.27; or, for structures other than single-family residences, within one hundred (100) feet of streams.

(4) Expansion or construction of a water well or septic system.

(5) Improvements in an area which the Coastal Commission has determined to have critically short water supply that must be maintained for the protection of coastal resources or public recreational use, when such improvement would be a major water using development (not essential to residential use if for a single-family or multiple-family residence) including, but not limited to, swimming pools or the construction or extension of landscape irrigation systems.

(6) Any improvement when the Coastal Development Permit issued for the original structure indicated that future additions/improvements would require a Coastal Development Permit.

(7) Improvements to any structure or change in occupancy which would result in a change in the intensity of the uses on the building site.

(8) Improvements pursuant to a conversion of existing structures (other than single-family residences and their associated structures) from a multiple unit rental use or visitor serving commercial use to a condominium, stock cooperative, or time share project.

(9) Improvements made to a public works facility. (Coastal Act/30333, 30610(a) and 30610(b); 14 Cal. Code of Regulations/13250 and 13253).

The improvements listed above which are not exempt require a the coastal development permit in accordance with the requirements of this Chapter.

(c) Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers, or to a disposal facility, area or site within the Coastal Zone for which an approved coastal development permit has been issued or for which a federal consistency determination has been approved by the Coastal Commission. However, Section

9.69.040(d)(2) of this Zoning Code below specifies certain types of dredging which are not exempt. (Coastal Act/30333; 30610(c)).

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

- (1) Repair or maintenance of a seawall, revetment, bluff retaining wall, breakwater, groin, culvert, outfall or similar shoreline work which involves one or more of the following;
- (2) The placement, whether temporary or permanent, of rip rap, or artificial berms of sand, or any other form of solid material, on a beach or in coastal waters, streams, wetlands, estuaries, or on shoreline protective works.
- (3) The replacement of twenty (20) percent or more of the materials of an existing structure with materials of a different kind.
- (4) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within twenty (20) feet of coastal waters or streams.
- (5) 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;
 - (B) The placement of dredged spoils of any quantity on any sand area, within fifty (50) feet of the edge of a coastal bluff as described in Chapter 9.27, within an environmentally sensitive habitat area, or within twenty (20) feet of coastal waters or streams;
 - (C) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by Resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use. (Coastal Act/30610(d); 14 Cal. Code of Regulations/13252(a)(2))
- (6) Any repair or maintenance to facilities or structures or work located in any sand area, within fifty (50) feet of the edge of a coastal bluff as described in Chapter 9.27, within fifty (50) feet of or in an environmentally sensitive habitat area; or within twenty (20) feet of any coastal waters or streams that include:
 - (A) The placement or removal, whether temporary or permanent, of riprap, rocks, sand or other beach materials or any other forms of solid materials;
 - (B) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sandy area.
- (7) Unless destroyed by natural disaster, the replacement of fifty (50) percent or more of a seawall, revetment, bluff retaining wall, breakwater, groin or similar protective work under one ownership is not repair and

maintenance according to this subsection but instead constitutes a replacement structure requiring a coastal development permit. (Coastal Act/30610(d); 14 Cal. Code of Regulations/13252).

(e) 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. (Coastal Act/30610(f)).

(f) The replacement of any structure, other than a public works facility, destroyed by natural disaster, provided such replacement structure conforms to applicable current zoning regulations; is designed and intended for the same use as the destroyed structure; does not exceed the floor area, height or bulk of the destroyed structure by more than ten (10) percent; and is sited in the same location on the same building site as the destroyed structure. As used in this subsection:

(1) "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

(2) "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(3) "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster. (Coastal Act/30610(g)).

(g) Notwithstanding the above provisions, the Director of Community Development shall have the discretion to exempt the ongoing routine repair and maintenance activities of local governments, state agencies, and public utilities (such as railroads) involving shoreline works protecting transportation roadways, as well as the activities described in the "Repair, Maintenance, and Utility Hook-Up Exclusion from Permit Requirements" adopted by the Coastal Commission on September 5, 1978. (Coastal Act/30610(d); 14 Cal. Code of Regulations/13252(c)).

(h) Interior modifications to an existing structure that do not result in the enlargement or expansion of the cubic area of the structure, except that a change in the intensity or density of use of the structure, or the reconstruction of fifty (50) percent or more of the exterior walls of the existing structure, is not exempt. Such modifications shall comply with the applicable sections of Chapter 8.06 of the Zoning Code and of this Chapter 9.69.

(i) Notwithstanding the provisions of Chapter 9.39 "Temporary Uses," temporary events consistent with guidelines adopted by the Coastal Commission may be exempt from coastal development permit requirements.

(j) A coastal development permit is not required for any of the following projects, except that notification by the agency or public utility performing any of the following projects shall be made to the City within 14 days from the date of the commencement of the project:

(1) Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain

service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(2) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. This paragraph does not exempt any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide from the requirement to obtain a coastal development permit from the City.