

ORDINANCE NO. 4285

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HUNTINGTON BEACH
AMENDING CHAPTER 202.04 OF THE HUNTINGTON BEACH ZONING AND
SUBDIVISION ORDINANCE PROHIBITING BUILDERS REMEDY APPLICATIONS
(ZONING TEXT AMENDMENT NO. 23-001)

WHEREAS, Zoning Text Amendment No. 23-001 will amend Chapter 202 of the Huntington Beach Zoning and Subdivision Ordinance, relating to Organization, Applicability, and Interpretation; and

The Huntington Beach Planning Commission and Huntington Beach City Council have held separate, duly noticed public hearings to consider Zoning Text Amendment No. 23-001; and

After due consideration of the findings and recommendations of the Planning Commission and all other evidence presented, the City Council finds that the aforesaid amendment is proper and consistent with the General Plan;

The City Council of the City of Huntington Beach does hereby ordain as follows:

SECTION 1. Section 202.04 of the Huntington Beach Zoning and Subdivision Ordinance is hereby amended to read as follows:

202.04 (o) **Builder's Remedy Ban.** The City expressly prohibits the processing or approval of any application for a housing development project or any project not in conformance with the zoning and General Plan land use designation, including all applicable City laws, zoning and land use regulations, and other environmental laws, such as CEQA, regardless of the so-called "Builder's Remedy" (under the Housing Accountability Act or any other State law), that portend to allow developers of affordable housing projects to bypass the zoning code and general plan of cities that are out of compliance with the Housing Element Law.

This express prohibition requires that all project applicants conform to the applicable zoning and General Plan land use designations regardless of the City's status and regard to Housing Element Law.

SECTION 3. This Ordinance shall become effective 30 days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the _____ day of _____, 2023.

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk



City Attorney *WV*

ATTEST:

APPROVED AS TO FORM:

City Manager

Director of Community Development

LEGISLATIVE DRAFT
HBZC CHAPTER 202.04

Chapter 2.111

202.04 General Rules of Applicability of the Zoning and Subdivision Ordinance

A. **Applicability to Property.** The Zoning and Subdivision Ordinance shall apply to all land within the City of Huntington Beach. The Local Coastal Program Implementation Plan shall apply to all land within the City of Huntington Beach coastal zone.

B. **Applicability to Streets and Rights-of-Way.** Public streets, utility, and other rights-of-way shall be in the same zoning district as contiguous property. Where contiguous properties are classified in different zoning districts, the centerline of the street or right-of-way shall be the district boundary, unless otherwise depicted on the zoning map.

C. **Who Qualifies as an Applicant.** Only a qualified applicant (including an agent of the applicant with written authorization from the owner) may file an application for approval on a specific site. A qualified applicant is a person who has a freehold interest in the land which is the subject of the application. The Director shall require an applicant to submit proof of the interest. The Director shall require an agent to submit evidence of authority to act for the applicant. Any person or agency may file for a zoning text amendment.

D. **Compliance with Ordinances.** No land shall be used, and no structure shall be constructed, occupied, enlarged, altered, demolished or moved in any zoning district except in accord with the provisions of Titles 20 through 25. Further, no lot area shall be so reduced or diminished that the yards or other open space shall be smaller than prescribed by these titles nor shall the density be increased in any manner except in conformity with the provisions established herein.

E. **Public Nuisance.** Neither the provisions of Titles 20 through 25 nor the approval of any permit authorized by these titles shall authorize the maintenance of any public nuisance.

F. **Compliance with Public Notice Requirements.** Compliance with public notice requirements prescribed by Titles 20 through 25 shall be deemed sufficient notice to allow the City to proceed with a public hearing and take action on an application, regardless of actual receipt of mailed or delivered notice.

G. **Requests for Notice.** Where Titles 20 through 25 require that notice be given by first class mail to "any person who has filed a written request for such notice," the request shall be filed with the Director and shall be subject to the applicable fees set to cover mailing costs.

H. **Notice to Surrounding Property Owners.** Notice shall be mailed to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the property that is the subject of the hearing, as required by state law. Applicants may submit and the Director may use records of the County Assessor or Tax Collector which contain more recent information than the assessment roll.

I. **Conflict with Other Ordinances.** Where conflict occurs between the provisions of Titles 20 through 25 and any other City code, title, chapter, resolution, guideline, or regulation, the more restrictive provision shall control unless otherwise specified in these titles.

J. **Relation to Private Agreements.** It is not intended by applicable provisions of Titles 20 through 25 to interfere with or abrogate or annul any easements, covenants, or other existing agreements between parties or to repeal any ordinance or other section of the Huntington Beach Municipal Code except as set forth in subsection [202.04\(l\)](#), above.

K. **Annexations/Pre-Zoning.** Unincorporated territory adjacent to the City may be pre-zoned for the purpose of determining the zone district which will apply in the event of annexation to the City. The procedure for pre-zoning property shall be the same as that for zone changes within the City. Such zoning shall become effective at the time the annexation becomes effective. Any property which, after annexation or for any other reason, does not have a designation on the zoning map shall be deemed to be zoned RL, low-density residential. Inclusion of an annexed area within the coastal zone into the certified Local Coastal Program shall require approval of a Local Coastal Program amendment by the Coastal Commission.

L. **Application During Local Emergency.** The City Council may authorize deviations from any provision of this title during a local emergency. Such deviations may be authorized by resolution of the City Council.

M. **Issuance of Permits or Entitlements Prohibited.** No permit or entitlement shall be issued by any department of the City in any case where a permit or entitlement is required to be granted and for which an appeal period is provided by this zoning and subdivision ordinance until the expiration of such appeal period or the final determination of any appeal filed pursuant to this ordinance.

N. **Certificate of Occupancy and Final Building Inspection Withheld.** No certificate of occupancy shall be issued or final building inspection shall be made until terms and conditions attached to a permit or entitlement required by this zoning and subdivision ordinance are met.

O. **Builder's Remedy Ban.** The City expressly prohibits the processing or approval of any application for a housing development project or any project not in conformance with the zoning and General Plan land use designation, including all applicable City laws, zoning and land use regulations, and other environmental laws, such as CEQA,

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