

RESOLUTION NO. 2021-004

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA
INITIATING TEXT AMENDMENT TA-119-21 AND RECOMMENDING THAT THE CITY
COUNCIL ADOPT AN ORDINANCE TO AMEND SECTIONS 9-4.2306 AND 9-4.260.3
OF CHAPTER 4 OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE TO MODIFY
THE IDENTIFIED USES SUBJECT TO A SPECIAL USE PERMIT AND OTHER
CONFORMING AMENDMENTS AND FINDING THE TEXT AMENDMENT EXEMPT
FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) (FILE NO. 2021-
007)**

Initiated by: City of Pacifica

WHEREAS, the existing provisions of Section 9-4.2306 of Chapter 4 of Title 9 of the Pacifica Municipal Code ("PMC") prescribes the procedure for the accommodation, in any General Plan designation and zoning district, of uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings through approval of a special use permit; and

WHEREAS, the ability to authorize the enumerated uses in Section 9-4.2306 in any General Plan designation and zoning district upon approval of a special use permit is broad, and is not currently linked to any characteristic of the enumerated uses to enhance or provide health, sanitary or City services to the community; and

WHEREAS, the Planning Commission desires to limit the range of uses that may be approved with a special use permit to only those that enhance or provide health, sanitary or City services to the community and has determined that the uses removed from the special use permit provisions in Section 9-4.2306 may still be authorized elsewhere in the City of Pacifica in various zoning districts and pursuant to various zoning provisions; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendments contained in Text Amendment TA-119-21 on March 15, 2021.

NOW, THEREFORE BE IT RESOLVED, by the Planning Commission of the City of Pacifica as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its finding, the Planning Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.
3. The proposed amendments recommended by the Planning Commission are consistent with the City's General Plan and Local Coastal Land Use Plan.
4. This action is exempt from the California Environmental Quality Act ("CEQA"), pursuant to section 15061(b)(3) of the CEQA Guidelines (14 Cal. Code Regs. 15000 *et seq.*) because it can be seen with certainty that there is no

TEXT AMENDMENT TA-119-21 (FILE NO. 2021-007)

possibility that adoption of the ordinance may have a significant effect on the environment.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby intend to initiate an amendment to Sections 9-4.2306 and 9-4.260.3 of Chapter 4 of Title 9 of the Pacifica Municipal Code to modify the identified uses subject to a special use permit and other conforming amendments.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Pacifica does hereby recommend approval to the City Council of the City of Pacifica the zoning text amendment described in Text Amendment TA-119-21 included as Exhibit A to this Resolution.

* * * * *

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 15th day of March, 2021.

- AYES, Commissioners: BERMAN, GODWIN, HAUSER, NIBBELIN
NOES, Commissioners: N/A
ABSENT, Commissioners: DOMURAT, FERGUSON, LEAL
ABSTAIN, Commissioners: N/A




John Nibbelin, Chair

ATTEST:



Tina Wehrmeister, Planning Director/
Assistant City Manager

APPROVED AS TO FORM:



Michelle Kenyon, City Attorney

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA TO AMEND SECTIONS 9-4.2306 AND 9-4.260.3 OF CHAPTER 4 OF TITLE 9 OF THE PACIFICA MUNICIPAL CODE TO MODIFY THE IDENTIFIED USES SUBJECT TO A SPECIAL USE PERMIT AND OTHER CONFORMING AMENDMENTS AND FINDING THE AMENDMENT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) (FILE NO. 2021-007; TEXT AMENDMENT TA-119-21).

WHEREAS, the existing provisions of Section 9-4.2306 of Chapter 4 of Title 9 of the Pacifica Municipal Code (“PMC”) prescribe the procedure for the accommodation, in any General Plan designation and zoning district, of uses with special site or design requirements, operating characteristics, or potential adverse effects on surroundings through approval of a special use permit; and

WHEREAS, the ability to authorize the enumerated uses in Section 9-4.2306 in any General Plan designation and zoning district upon approval of a special use permit is broad, and is not currently linked to any characteristic of the enumerated uses to enhance or provide health, sanitary or City services to the community; and

WHEREAS, the City Council desires to limit the range of uses that may be approved with a special use permit to only those that enhance or provide health, sanitary or City services to the community would best serve the public health, safety, and welfare, and has determined that the uses removed from the special use permit provisions in Section 9-4.2306 may still be authorized elsewhere in the City of Pacifica in various zoning districts and pursuant to various zoning provisions; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendments contained in Text Amendment TA-119-21 on March 15, 2021.

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed amendments contained in Text Amendment TA-119-21 (File No. 2021-007) on March 15, 2021, and adopted Resolution No. 2021-004 by a vote of 4-0 initiating and recommending City Council approval of Text Amendment TA-119-21; and

WHEREAS, the City Council of the City of Pacifica held a duly noticed public hearing on the proposed ordinance on _____, 2021, and introduced Ordinance No. ###.

NOW, THEREFORE, the City Council of the City of Pacifica does ordain as follows:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Amendment. Article 2, “Definitions” of Chapter 4, “Zoning” of Title 9, “Planning and Zoning” of the Pacifica Municipal Code is hereby amended (deletions shown in ~~strikethrough~~ and additions shown in underline) as follows:

"Sec. 9-4.260.3. – ~~(Not Used) Organized off-road vehicle park.~~

~~"Organized off-road vehicle park" shall mean a special park established in accordance with Section 9-4.2306 of Article 23 of this chapter for off-road vehicle use by off-road vehicle organizations which have annual dues, regularly scheduled monthly or quarterly meetings, an elected body of officials, and an adopted set of bylaws."~~

Section 3. Amendment. Article 23, "General Provision and Exceptions" of Chapter 4, "Zoning" of Title 9, "Planning and Zoning" of the Pacifica Municipal Code is hereby amended (deletions shown in ~~strikethrough~~ and additions shown in underline) as follows:

"(a) *Purpose.* The purpose of this section is to prescribe the procedure for the accommodation, in any zoning district and general plan designation, of uses ~~with special site or design requirements, operating characteristics, or potential adverse effects on surroundings~~ which enhance or provide health, sanitary or City services to the community through the review and imposition of special conditions of approval. For the purposes of this section, a special use shall include the following:

~~(1) Heliports;~~

~~(2) Convalescent homes and nursing homes;~~

~~(3) Hospitals and convalescent hospitals;~~

~~(4) Institutions of a philanthropic or charitable nature;~~

~~(5) Sanitary landfill sites, solid waste transfer stations, and materials recovery facilities;~~

~~(6) Organized off-road vehicle parks;~~

~~(7) Ambulance facilities;~~

~~(8) Lodges and clubhouses;~~

~~(9) Churches;~~

~~(10) Civic Center facilities;~~

~~(11) Mortuaries and cemeteries; and~~

~~(12) Wastewater treatment and reclamation facilities.~~

(b) *Applications.* Applications for special use permits shall be filed with the Commission on the prescribed forms, together with the materials required therein and as indicated by the Planning Administrator. Such application shall be accompanied by a fee as set forth in Article 37 of Chapter 4 of Title 9 of this Code.

(c) *Procedure for consideration.* An application for a special use permit shall be reviewed by the Commission.

(1) *Relation to Hillside Preservation District regulations.* Hillside Preservation District regulations shall be followed; however, planned development zoning shall not be required.

(i) Coverage limitations shall not apply to recreational trail systems ~~or ungraded, unpaved, temporary parking areas associated with organized off-road vehicle parks.~~

(ii) Neither grading nor coverage limitations shall apply to any sanitary landfill proposal.

(2) *Hearings and notices required.* A public hearing before the Commission shall be held on each special use permit application. Notice of such hearing shall be made by publication in a newspaper of general circulation within the City at least ten (10)

days prior to the hearing and by mailing a notice not less than ten (10) days prior to the date of the hearing to the owners of the property within a radius of 300 feet of the exterior boundaries of the property which is the subject of the application, using for such purpose the last known name and address of such owners as shown upon the Assessor's roll of the County. The failure of any person to receive such notice shall not invalidate the special use permit proceedings.

(3) *Review criteria and schedule.* The Commission shall decide whether the proposal conforms to the special use permit criteria set forth in subsection (d) of this section and may approve or deny the proposed use or impose such conditions of approval as are necessary, in its judgment, to insure conformity.

(4) *Effective date and appeals.* Decisions of the Commission shall become final ten (10) days after the date of decision, unless appealed to the Council in accordance with Article 36 of Chapter 4 of Title 9 of this Code and, in the Coastal Zone, Article 439 of Chapter 4 of Title 9 of this Code.

(d) *Special use permit review criteria.* The request for a special use permit shall be considered in its relationship to the General Plan and to the intent and purposes of this chapter. Approval of a special use permit confers consistency with the zoning and General Plan designations of the subject property. The approval of a special use may be granted only if the proposal conforms to all of the following criteria and to any special conditions which may be applied:

- (1) That the proposed use will be of such size, design, and operating characteristics as will tend to keep it compatible with permitted uses in the district under consideration with respect to bulk, scale, coverage, density, noise, and the generation of traffic;
- (2) That the proposed development will enhance the successful operation of the community or will provide a service to the community;
- (3) That particular attention is given to the provision of buffering of uses from the surrounding neighborhood;
- (4) That the project conforms with the setback, coverage, landscaping, and other zoning regulations of the district where a use is proposed; and
- (5) That the project is consistent with the goals and policies of the General Plan and Local Coastal Plan and with the adopted Design Guidelines.

(e) *Time limits, renewal, and revocation of special use permits.* The time limits, renewal, and revocation of special use permits shall be as specified in Article 33 of Chapter 4 of Title 9 of this Code.”

Section 4. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to the “General Rule” Exemption in CEQA Guidelines § 15061(b)(3)). The General Rule exemption provides that “The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no

possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.”

In the case of this Ordinance, the zoning text amendment would not authorize any new uses or physical development potential that could result in direct or indirect impacts on the environment. Rather, the zoning text amendment would revise the list of uses which may be authorized subject to approval of a special use permit. There would be no direct impacts on the environment from approval of the proposed zoning text amendment, in particular because it would not create any permitted uses that could be commenced without a discretionary approval and associated CEQA review. There would be no indirect impacts on the environment from the zoning text amendment because all of the uses proposed to be removed from the list of allowable uses with a special use permit approval could still be undertaken in other zoning districts and pursuant to other zoning provisions within the City of Pacifica. Therefore, none of these uses proposed to be removed would be displaced to locations not already contemplated in the City's General Plan or zoning regulations, or to other jurisdictions.

Section 5. Severability. If any section, subsection, sentence, clause or phase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentence, clauses or phrases be declared unconstitutional.

Section 6. Publication. The City Clerk is hereby ordered and directed to certify to the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with State law.

Section 7. Coastal Act Compliance. The City Council hereby certifies that the zoning text amendment described herein is intended to be carried out in a manner fully in conformity with the California Coastal Act (Public Resources Code 30000 *et seq.*). The zoning text amendment described herein shall take effect immediately upon certification by the California Coastal Commission (“CCC”) if approved by the CCC as submitted. If the CCC certifies the zoning text amendment subject to modifications, final approval by the City Council shall be required prior to the zoning text amendment taking effect. The Planning Commission shall provide a recommendation to the City Council regarding any modifications proposed by the CCC prior to final City Council consideration and approval.

Section 8. Effective Date. This Ordinance shall be in full force and effective thirty (30) days after its adoption and shall be published and posted as required by law. For areas within the Coastal Zone, this Ordinance shall not become effective until the California Coastal Commission certifies an amendment to the City’s local coastal program pursuant to Section 30514 of the Public Resources Code.

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TEXT AMENDMENT TA-119-21 (FILE NO. 2021-007)

PASSED AND ADOPTED this __ day of _____, 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sue Beckmeyer, Mayor

ATTEST:

APPROVED AS TO FORM:

Sarah Coffey, City Clerk

Michelle Kenyon, City Attorney