

Attachment D

Resolution No. 2023-83

RESOLUTION NO. 2023-83

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF A LOCAL COASTAL PLAN AMENDMENT TO THE CALIFORNIA COASTAL COMMISSION AMENDING TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO SHORT TERM LODGING (PA2023-0116)

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

WHEREAS, Section 30500 of the California Public Resources Code requires each county and city to prepare a Local Coastal Program (“LCP”) for that portion of the coastal zone within its jurisdiction;

WHEREAS, in 2005, the City of Newport Beach adopted the City of Newport Beach Local Coastal Program Coastal Land Use Plan as amended from time to time;

WHEREAS, the California Coastal Commission effectively certified the City’s Local Coastal Program Implementation Plan on January 13, 2017, and the City added Title 21 (Local Coastal Program Implementation Plan) (“Title 21”) to the City of Newport Beach Municipal Code (“NBMC”) whereby the City assumed coastal development permit-issuing authority on January 30, 2017;

WHEREAS, City Council Policy K-1 (General Plan and Local Coastal Program) of the NBMC requires amendments to the City of Newport Beach certified Local Coastal Program codified in Title 21 to be initiated by the City Council;

WHEREAS, on May 23, 2023, the City Council directed the Planning Commission to identify opportunities to modify Titles 20 and 21 of the NBMC, effectively initiating amendments, to facilitate new visitor serving accommodation opportunities within the Mixed-Use Water (MU-W2) and Mixed-Use Cannery Village and 15th Street (MU-CV/15th St.) zoning districts (“LCP Amendment”);

WHEREAS, on June 22, 2023, the Planning Commission discussed the amendments to Titles 20 and 21 to facilitate new visitor serving accommodations;

WHEREAS, pursuant to Section 13515 (Public Participation and Agency Coordination Procedures) of the California Code of Regulations Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 5 (Public Participation) ("Section 13515"), drafts of LCP Amendment were made available and a Notice of Availability was distributed at least six weeks prior to the anticipated final action date;

WHEREAS, the Planning Commission held a public hearing on October 19, 2023, in the City Council Chambers, located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing;

WHEREAS, at the conclusion of the hearing, the Planning Commission adopted Resolution No. PC2023-038 by a majority vote (3 ayes, 1 nay) recommending approval of the LCP Amendment to the City Council; and

WHEREAS, the City Council held a public hearing on November 28, 2023, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California. Notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, Section 13515, and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

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

Section 1: The City Council of the City of Newport Beach does hereby authorize City staff to submit Local Coastal Program Amendment No. PA2023-0116 to the California Coastal Commission to amend Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code as set forth in Exhibit "A," and supported by the findings set forth in Exhibit "B," both of which are attached hereto and incorporated herein by reference.

Section 2: Local Coastal Program Amendment No. PA2023-0116 shall not become effective until approval by the California Coastal Commission and adoption, including any modifications suggested by the California Coastal Commission, by resolution and/or ordinance of the City Council of the City of Newport Beach.

Section 3: The LCP, including this Local Coastal Program Amendment No. PA2023-0116, will be carried out in full conformity with the California Coastal Act.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.


Section 6: The City Council of the City of Newport Beach finds the Local Coastal Program Amendment PA2023-0116 is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to Section 15060(c)(2) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, which states that an activity is not subject to CEQA if "[t]he activity will not result in a direct or reasonably foreseeable indirect physical change in the environment." The LCP Amendment would allow existing residential dwelling units in mixed use zones to be used as short term lodging. The LCP Amendment would not authorize new development that would result in a physical change in the environment.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 28th day of November 2023.


NOAH BLOM
Mayor

ATTEST:


Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE


Aaron C. Harp
City Attorney

Attachments: Exhibit A - Local Coastal Plan Amendment No. PA2023-0116
Exhibit B - Findings in Support of LCP Amendment No. PA2023-0116

EXHIBIT “A”

LOCAL COSTAL PLAN AMENDMENT NO. PA2023-0116

Section 1: Rows entitled “Visitor Accommodations, Residential” and “Short Term Lodging” are hereby added to the “Residential Uses” section of Table 21.22-1 (Allowed Uses) of Section 21.22.020(C) of the Newport Beach Municipal Code to read as follows:

TABLE 21.22-1 ALLOWED USES	Mixed-Use Zoning Districts			
	A Allowed			
	— Not Allowed *			
Land Use	MU-V (6)	MU-MM (4)	MU-CV/15th St. (5)(6)	Specific Use Regulations
See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.				
Residential Uses				
Single-Unit Dwellings				
Located on 1st floor	—	—	A (3)	
Located above 1st floor	A (1)	—	A (3)	
Multi-Unit Dwellings				
Located on 1st floor	—	A (1)(2)	A (3)	
Located above 1st floor	A (1)	A (1)(2)	A (3)	
Two-Unit Dwellings				
Located on 1st floor	—	—	A (3)	
Located above 1st floor	A (1)	—	A (3)	
Home Occupations	A	A (1)	A	
Live-Work Units	A	A (1)(2)	A (3)	
Accessory Dwelling Units and Junior Accessory Dwelling Units	A	A	A	Section 21.48.200
Visitor Accommodations, Residential				
Short Term Lodging	—	—	A	Chapter 5.95 and Section 21.48.115

Section 2: Rows entitled “Visitor Accommodations, Residential” and “Short Term Lodging” are hereby added to the “Residential Uses” section of Table 21.22-2 (Allowed Uses) of Section 21.22.020(C) of the Newport Beach Municipal Code to read as follows:

TABLE 21.22-2 ALLOWED USES	Mixed-Use Coastal Zoning Districts		
			Allowed A — Not Allowed *
Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.	MU-W1 (3)	MU-W2 (5)	Specific Use Regulations
Residential Uses			
Single-Unit Dwellings			
Located on 1st floor	—	—	
Located above 1st floor	A (1)	A (2)	
Multi-Unit Dwellings			
Located on 1st floor	—	—	
Located above 1st floor	A (1)	A (2)	
Two-Unit Dwellings			
Located on 1st floor	—	—	
Located above 1st floor	A (1)	A (2)	
Home Occupations	A	A (2)	
Accessory Dwelling Units and Junior Accessory Dwelling Units	A	A	Section 21.48.200
Visitor Accommodations, Residential			
Short Term Lodging	—	A	Chapter 5.95 and Section 21.48.115

Section 3: The title and content of Section 21.48.115 (Short-Term Lodging) of the Newport Beach Municipal Code are hereby amended to read as follows:

21.48.115 Short Term Lodging.

A. Purpose. This section provides standards for the operation of short term lodging units to prevent overburdening City services and adverse impacts on residential neighborhoods, multi-use areas, and on coastal access and resources.

B. Permits within a Residential District.

1. No owner of a short term lodging unit shall advertise for rent, or rent a lodging unit located within a residential district for a short term, without a valid short term lodging permit for that unit, issued pursuant to Chapter 5.95.
2. An owner shall be permitted to renew, reinstate, or transfer a valid permit in accordance with the provisions of Chapter 5.95.
3. As set forth in Section 5.95.042 of Chapter 5.95, the maximum number of short term lodging permits shall be limited to one thousand four hundred seventy-five (1,475) permits within a residential district at any time. If there are more than one thousand four hundred seventy-five (1,475) valid permits that have been issued within a residential district as of the effective date of Ordinance No. 2023-____, no new permit shall be issued to any person on the waiting list, as described in Section 5.95.042(D), until the total number of permits does not exceed the one thousand four hundred seventy-five (1,475) limit. To avoid wholesale conversion of existing and new housing complexes into short term lodgings, multi-unit developments within a residential district with five (5) or more units may permit a maximum of twenty (20) percent of the total number of units to be short term lodgings (rounded down to the nearest whole number).
4. No short term lodging unit shall be permitted on any lot in the R-1 (Single-Unit Residential) Coastal Zoning District or any lot designated for single-unit dwelling land use as part of a planned community development plan, unless the short term lodging unit was legally established on or before June 1, 2004.

C. Permits within Mixed-Use Water Zoning District (MU-W2) and Mixed-Use Cannery Village and 15th Street Zoning District (MU-CV/15th St.).

1. No owner of a short term lodging unit shall advertise for rent, or rent a lodging unit located within the Mixed-Use Water (MU-W2) or Mixed-Use Cannery Village and 15th Street (MU-CV/15th St.) zoning districts for a short term, without a valid short term lodging permit for that unit, issued pursuant to Chapter 5.95.
2. An owner shall be permitted to renew, reinstate, or transfer a valid permit in accordance with the provisions of Chapter 5.95.
3. As set forth in Section 5.95.042 of Chapter 5.95, the maximum number of short-term lodging permits shall be limited to a total of seventy-five (75) permits within the Mixed-Use Water (MU-W2) and Mixed-Use Cannery Village and 15th Street (MU-CV/15th St.) districts at any time. No new permit shall be issued to anyone on the waiting list, as described in Section 5.95.042(F), until the total number of permits is

less than seventy-five (75). Notwithstanding the foregoing, the seventy-five (75) permit maximum shall not apply to a short term lodging unit that was legally established as of November 25, 2010, on a lot within a Mixed-Use Coastal Zoning District provided the owner maintains a valid short term lodging permit that is not subsequently revoked or abandoned.

4. Only a property owner that owns twenty (20) or more units under common ownership within the same Statistical Area as defined by the Land Use Element of the General Plan shall be eligible to obtain a short term lodging permit(s) in the MU-W2 and/or MU-CV/15th St. districts. The eligible units may be located upon one (1) or more separate parcels or properties provided they cumulatively add up to twenty (20) or more units, and all units are located within the MU-W2 and/or MU-CV/15th St. districts. Common ownership means the same person, entity or managing partner holds legal and/or equitable title to no less than fifty percent (50%) of each property or entity.

D. Operational Standards. The owner, or any other person(s) or entity(ies) that hold(s) legal and/or equitable title to the lodging unit, shall comply with all federal, State, and local laws, rules, regulations and conditions of approval including, but not limited to, all short term lodging permit conditions, as set forth in Chapter 5.95. In addition, the owner, or any other person(s) or entity(ies) that hold(s) legal and/or equitable title to the lodging unit, shall:

1. By written agreement, limit overnight occupancy of the short term lodging unit to the maximum permitted by the Building Code and Fire Code.
2. Use best efforts to ensure that the transient user, occupants and/or guests of the short term lodging unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this Code or any State or federal law pertaining to noise, disorderly conduct, the consumption of alcohol, or the use of illegal drugs.
3. Upon notification that any transient user, occupant and/or guest of his or her short term lodging unit has created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of this Code or any State or federal law pertaining to noise, disorderly conduct, the consumption of alcohol or the use of illegal drugs, promptly use best efforts to prevent a recurrence of such conduct by any transient user, occupant or guest.
4. Use best efforts to ensure compliance with applicable health and sanitation regulations relating to waste disposal.

5. Post a copy of any applicable permits and conditions in a conspicuous place within the unit.

6. Not rent, let, advertise for rent, or enter into an agreement for the rental of any lodging unit, for less than two (2) consecutive nights.

7. The City Manager shall have the authority to impose additional standard conditions, applicable to all short term lodging units, as necessary to achieve the objectives of this section.

E. Additional Requirements for Newport Island (Map A-16). To the extent there is any conflict between this subsection and other provisions of the Code related to short term rentals on Newport Island (Map A-16), this subsection shall govern and control.

1. In addition to the restriction set forth in Section 5.95.042 and subsection (B)(3) of this section, the maximum number of short term lodging permits issued for units located on Newport Island shall be limited to twenty (20) short term lodging permits at any one time. If there are more than twenty (20) valid short term lodging permits that have been issued as of January 13, 2022, an owner shall be permitted to renew, reinstate, or transfer a valid permit in accordance with the provisions of Chapter 5.95; however, no new permit shall be issued unless: (a) permits are available for issuance pursuant to Section 5.95.042 and subsection (B)(3) of this section; and (b) the total number of permits for units located on Newport Island does not exceed twenty (20). If the City has issued the maximum number of permits available for units on Newport Island, the City shall maintain a waiting list and follow the same procedures as set forth in Section 5.95.042(D). For purposes of this subsection, the maximum number of permits available will be calculated in the same manner as set forth in Chapter 5.95.

2. An owner, agent, or other person shall only be allowed to rent a dwelling unit on Newport Island for a short term if the dwelling unit is located on a lot with an owner-occupied dwelling unit that is managed by the owner of the owner-occupied dwelling unit. For purposes of this subsection, the term "owner-occupied" means the owner occupies and lives at the property and the property is used as the owner's primary residence no less than one hundred eighty-three (183) days of each year and provides at least two (2) of the following documentation: motor vehicle registration, driver's license, California State Identification card, voter registration, income tax return, property tax bill, or a utility bill showing the dwelling unit is the owner's primary residence. For purposes of this subsection, "managed by the owner" means that the owner is occupying and living at the property while it is being rented for a short term use.

3. The owner and/or agent shall limit the overnight occupancy of the short term lodging unit on Newport Island to the lesser of: (a) the number of occupants that can be accommodated consistent with the on-site parking requirement set forth in subsection (E)(4) of this section, or (b) two (2) persons per bedroom plus two (2) additional persons, up to a maximum of ten (10) persons. Additional daytime guests are allowed between the hours of 7:00 a.m. and 10:00 p.m. with the maximum daytime occupancy limited to a number equal to the maximum overnight occupancy plus six (6) additional persons. The occupancy restrictions set forth in this subsection shall be set forth in a written rental agreement.

4. Each short term lodging unit on Newport Island shall provide a minimum of one (1) parking space in an existing garage or carport. Occupancy shall be limited to a maximum of five overnight guests for a short term lodging unit providing only one (1) parking space. The parking required by this subsection shall be free of obstructions and available for use by the short term lodging user.

5. No owner, agent, or other person shall rent or let a short term lodging unit on Newport Island more than once in any seven-consecutive-day period.

F. Additional Requirements for the Mixed-Use Water Zoning District (MU-W2) and Mixed-Use Cannery Village and 15th Street Zoning District (MU-CV/15th St.). To the extent there is any conflict between this subsection and other provisions of the Code related to short term lodging within the Mixed-Use Water (MU-W2) district or Mixed-Use Cannery Village and 15th Street (MU-CV/15th St.) district, this subsection shall govern and control.

1. Prior to issuance of a short term lodging permit, a management plan shall be submitted for review and approval by the Community Development Director. The management plan shall include the following:

- a. Acknowledgement and method of compliance with all operational standards identified in Subsection 21.48.115(D) for all short term lodging units on the property or properties;
- b. Identification of professional management responsible for administering the permit;
- c. Evidence of eligibility and compliance with ownership requirements of Subsection 21.48.115(C)(4) above;
- d. Demonstration that on-site amenities are provided to guests; and
- e. Parking management plan ensuring all available on-site parking remain free of obstructions and available for use by the short term lodging user. For

short term lodging units that are non-conforming due to number of parking spaces provided, sufficient data to indicate that parking demand will be less than the required number of spaces or that other parking is available (e.g., City parking lot located nearby, on-street parking available, greater than normal walk in trade, alternative transportation, etc.) such that use or operation of the short term lodging permit will not reduce availability of parking in nearby residential neighborhoods.

2. No deed-restricted affordable housing units shall be used for short term lodging.

Section 4: The definition of “Bed and breakfast inn” of Section 21.70.020 (Definitions of Specialized Terms and Phrases) of the Newport Beach Municipal Code is hereby amended to read as follows:

“Bed and breakfast inn” means a dwelling unit that offers guest rooms or suites for a fee for thirty (30) days or less, with incidental eating and drinking service provided from a single kitchen for guests only.

Section 5: The title and definition of “Short-term lodging” of Section 21.70.020 (Definitions of Specialized Terms and Phrases) of the Newport Beach Municipal Code is hereby amended to read as follows:

“Short term lodging” means a dwelling unit that is rented or leased as a single housekeeping unit (see “Single housekeeping unit”) for a period of thirty (30) days or less.

EXHIBIT “B”

FINDINGS IN SUPPORT OF LOCAL COASTAL PLAN AMENDMENT NO. PA2023-0116

1. The LCP Amendment (PA2023-0116) is consistent with the City’s General Plan. It would serve to implement the following goals and policies of the General Plan:

Land Use Element Policy LU 2.6 (Visitor Serving Uses), which states, “Provide uses that serve visitors to Newport Beach’s ocean, harbor, open spaces, and other recreational assets, while integrating them to protect neighborhoods and residents.” The proposed amendment would allocate and allow 75 short term lodging permits within the MU-W2 and MU-CV/15th St. coastal zoning districts, subject to specific regulations that would require the operation of short term lodging would be subject to a permit issued by the City, managed by professional management, and not impact parking in the neighborhood. The amendment would also maintain the existing Citywide maximum cap of 1,550 permits by establishing a maximum cap of 1,475 permit with residential coastal zoning districts and a maximum cap of 75 permit within the MU-W2 and MU-CV/15th St. coastal zoning districts. This would maintain the existing allowance for this type of visitor accommodations in the City without altering existing provisions and regulations on short term lodging previously adopted to protect residential neighborhoods.

Land Use Element Goal LU 4, which states, “Management of growth and change to protect and enhance the livability of neighborhoods and achieve distinct and economically vital business and employment districts, which are correlated with supporting infrastructure and public services and sustain Newport Beach’s natural setting.” In specific mixed-use zones larger scale (twenty (20) or more units) permit holders would be permitted to operate. This provides additional opportunities for properties in the mixed-use zones to achieve and maintain economic viability and minimizes impacts on residential neighborhoods.

2. The LCP Amendment serves to implement Coastal Land Use Plan (CLUP) Table 2.1.1-1 (Land Use Plan Categories) of the LCP, which establishes the type, density, and intensity of land uses within the coastal zone. The amendment would allow the operation of short term lodging in certain mixed-use coastal zoning districts where the commercialization of existing residential dwellings as visitor accommodations is more appropriate. This is consistent with allowing visitor serving accommodations in the mixed-use zones while maintaining the adopted regulations to protect residential zones.
3. CLUP Policy 2.3.3-6 authorizes the short term rental of dwelling units as a means of providing lower-cost overnight visitor accommodations. The City currently limits the maximum number of short term rentals at a cap of 1,550 permits to prevent adverse impacts to residential areas and preserve housing stock within the coastal zone. To allow for the small expansion of short term lodging in the more appropriate mixed

4. use coastal zoning districts, but maintain and protect existing maximum cap of 1,550 permits, this amendment establishes two separate caps: 1) a maximum cap of 1,475 permit with residential coastal zoning districts; and, 2) a maximum cap of 75 permit within the MU-W2 and MU-CV/15th St. coastal zoning districts.

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2023-83 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 28th day of November, 2023; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Pro Tem Will O'Neill, Councilmember Brad Avery, Councilmember Robyn Grant, Councilmember Lauren Kleiman, Councilmember Joe Stapleton, Councilmember Erik Weigand

NAYS: None

RECUSED: Mayor Noah Blom

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 29th day of November, 2023.



Leilani I. Brown
City Clerk
Newport Beach, California

