

Attachment C

Resolution No. 2023-27

RESOLUTION NO. 2023-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF A LOCAL COASTAL PROGRAM AMENDMENT TO TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO COMMERCIAL PARKING (PA2021-104)

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 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”) of the City of Newport Beach Municipal Code (“NBMC”) whereby the City assumed coastal development permit-issuing authority on January 30, 2017;

WHEREAS, on January 26, 2021, the City Council conducted a study session regarding parking regulations and outdoor dining;

WHEREAS, at the conclusion of the session, the City Council provided direction to study potential updates to the City’s parking regulations to modernize them, to address emerging trends such as rideshare and delivery services and identify other changes to support the retention of expanded outdoor dining due to the COVID-19 pandemic;

WHEREAS, the City retained a parking consultant, Nelson\Nygaard, to help study best practices and returned to a City Council study session on November 30, 2021, to share some of the initial findings;

WHEREAS, the City Council adopted Resolution No. 2021-121 initiating a code amendment to Title 20 (Planning and Zoning) of the NBMC (“Code Amendment”) and Title 21 of the NBMC (“Local Coastal Program Amendment”) related to commercial parking;

WHEREAS, on September 7, 2022, the City hosted a virtual community meeting to share potential changes to the regulations related to parking;

WHEREAS, on October 20, 2022, the Planning Commission conducted a study session to discuss and provide input and direction to City staff on the identified potential updates to the NBMC, including bicycle-based reductions, shared-mobility-based reductions, revised parking ratios, and administrative reductions by the Community Development Director;

WHEREAS, a duly noticed public hearing was held on April 20, 2023, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the 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 public hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted Resolution Nos. PC2023-019 and PC2023-020 by a unanimous vote (6 ayes – 0 nays), recommending approval of the Zoning Code Amendment and Local Coastal Program Amendment to the City Council;

WHEREAS, pursuant to Title 14 of the California Code of Regulations (“CCR”) Section 13515 (Public Participation), drafts of the Local Coastal Program Amendment were made available and a Notice of Availability was distributed at least six weeks prior to the final action date; and

WHEREAS, a duly noticed public hearing was held on May 9, 2023, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act, Chapter 21.62 (Public Hearings) of the NBMC, and 14 CCR Section 13515. 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 authorizes staff to submit the Local Coastal Program Amendment as set forth in Exhibit "A," based upon the Findings in Exhibit "B," both of which are attached hereto and incorporated by reference, to the California Coastal Commission.

Section 2: This Local Coastal Program Amendment 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, will be carried out fully in 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 be declared invalid or unconstitutional.

Section 6: The City Council finds the introduction and adoption of this ordinance is not subject to the California Environmental Quality Act ("CEQA") in accordance with Section 20165 of the California Public Resources Code and Sections 15060(c)(2), 15060(c)(3), and 15378 of the California Code of Regulations, Title 14, Division 6, Chapter 3 ("CEQA Guidelines"). The Code Amendment is also exempt pursuant to CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on 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 9th day of May, 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 Program Amendment (PA2021-104)
 Exhibit B – Findings in Support of Local Coastal Program
 Amendment (PA2021-104)

EXHIBIT “A”

LOCAL COASTAL PROGRAM AMENDMENT (PA2021-104)

- I. The row entitled “Take-Out Service, Limited” in Table 21.20-1 of Section 21.20.020 (Commercial Coastal Zoning Districts Land Uses) of the NBMC is amended to read as follows:

TABLE 21.20-1 ALLOWED USES	Commercial Coastal Zoning Districts							
	A Allowed — Not Allowed *							
Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.	CC	CG	CM (3)	CN	CV (3)	CV- LV (3)	OG	Specific Use Regulations
Eating and Drinking Establishments								
Accessory Food Service (open to public)	A	A	A	A	A	A	A	
Bars, Lounges, and Nightclubs	A	A	A	A	A	—	—	
Fast Food	A	A	A	A	A	A	A	
Food Service	A	A	A	A	A	A	A	
Take-Out Service—Fast-Casual (up to 20 seats)	A	A	A	A	A	A	A	

- II. The row entitled “Take-Out Service, Limited” in Table 21.22-1 of Section 21.22.020 (Mixed-Use Coastal Zoning Districts Land Uses) of the NBMC is amended to read as follows:

TABLE 21.22-1 ALLOWED USES	Mixed-Use Zoning Districts			
	A Allowed — Not Allowed *			
Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.	MU-V (6)	MU-MM (4)	MU-CV/15th St. (5)(6)	Specific Use Regulations
Eating and Drinking Establishments				
Accessory Food Service (open to public)	A	A	A	
Fast Food	A	A	A	
Food Service	A	A	A	
Take-Out Service—Fast-Casual (up to 20 seats)	A	A	A	

- III. The rows entitled “Food Service with/without alcohol, with/without late hours” and “Take-Out Service, Limited” in Table 21.40-1 (Off-Street Parking Requirements) of Section 21.40.040 (Off-Street Parking Spaces Required) of the NBMC are amended to read as follows:

**TABLE 21.40-1
OFF-STREET PARKING REQUIREMENTS**

Land Use	Parking Spaces Required
Eating and Drinking Establishments	
Accessory (open to public)	1 per each 3 seats or 1 per each 75 sq. ft. of net public area, whichever is greater
Bars, Lounges, and Nightclubs	1 per each 4 persons based on allowed occupancy load or as required by conditional use permit
Food Service with/without alcohol, with/without late hours	1 per 100 sq. ft., and 1 per 150 sq. ft. for outdoor dining areas
Food Service—Fast food	1 per 50 sq. ft., and 1 per 100 sq. ft. for outdoor dining areas
Take-Out Service—Fast-Casual (up to 20 seats)	1 per 250 sq. ft., including outdoor dining areas
Wine Tasting Room	1 per each 4 persons based on allowed occupancy load or as required by conditional use permit

- IV. Section 21.40.060 (Parking Requirements for Food Service Uses) of the NBMC is deleted in its entirety and replaced with the following:

21.40.060 Reserved.

- V. Section 21.40.110 (Adjustments to Off-Street Parking Requirements) is amended to read as follows:

The number of parking spaces required by this chapter may be reduced only in compliance with the following standards and procedures.

- A. ADA Compliance. The Community Development Director may administratively reduce parking requirements due to a loss of parking spaces because of ADA requirements associated with tenant improvements.

B. Reduction of Required Off-Street Parking. Off-street parking requirements may be reduced as follows:

1. Reduced Parking Demand. Required off-street parking may be reduced in compliance with the following conditions:
 - a. The applicant has provided sufficient data, including a parking study if required by the Director, 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, mixed-use development); and
 - b. A parking management plan shall be prepared in compliance with subsection (C) of this section (Parking Management Plan).
2. Joint Use of Parking Facilities. Required nonresidential off-street parking may be reduced where two or more nonresidential uses on the same site or immediately adjacent sites have distinct and differing peak parking demands (e.g., a theater and a bank). The review authority may grant a joint use of parking spaces between the uses that results in a reduction in the total number of required parking spaces.
3. On-Site Bicycle Facilities. Required nonresidential off-street parking may be reduced where there is a demonstrated use of bicycles as a mode of transportation. The review authority may reduce the number of required parking spaces by one space for every three bicycle parking spaces provided on the same site they serve, up to five percent of the total requirement in compliance with the following conditions:
 - a. The applicant has provided sufficient evidence to substantiate that there exists a demand for bicycle parking; and
 - b. The bicycle parking spaces are located completely within the private property they serve.
 - c. An additional five percent reduction may be allowed when end-of-trip facilities for employees are provided on the same site they serve, including, but not limited to showers and locker facilities.

4. Space for Shared Mobility. Required nonresidential off-street parking may be reduced by up to ten percent in compliance with the following conditions:
 - a. Exclusive of curb space needed for emergency access purposes (e.g., a fire lane), the development includes at least 20 linear and contiguous feet of onsite dedicated curb-space located entirely on private property; or
 - b. There is one off-street parking space designated and signed for the use of shared-mobility vehicles and/or pick-up/drop-off located on private property and on the same site it is intended to serve.
- C. Parking Management Plan. When a parking management plan to mitigate impacts associated with a reduction in the number of required parking spaces is required by this chapter, the parking management plan may include, but is not limited to, the following when required by the review authority:
 1. Restricting land uses to those that have hours or days of operation so that the same parking spaces can be used by two or more uses without conflict;
 2. Restricting land uses with high parking demand characteristics;
 3. Securing off-site parking;
 4. Providing parking attendants and valet parking;
 5. Utilization of transportation demand management strategies that promote the use of alternative transportation modes (e.g., ridesharing, carpools, vanpools, public transit, shuttles, bicycles and walking) pursuant to Section 21.44.030 (Transportation Demand Management); and
 6. Other appropriate mitigation measures.
- D. Required Data. In reaching a decision to allow a reduction of required parking spaces, the review authority shall consider data submitted by the applicant or collected/prepared at the applicant's expense.
- E. Impact to Coastal Access Prohibited. No application for a reduction in the number of off-street parking requirements shall be approved that impacts public parking available for coastal access.

The definition of “Take-out service, limited” in Section 21.70.020 (Definitions of Specialized Terms and Phrases) of the NBMC is amended as follows:

8. “Take-out service—Fast-casual” means an establishment that sells food or beverages and that has all of the following characteristics:
 - a. Sales are primarily for off-site consumption;
 - b. Customers order and pay for food at either a counter or service window;
 - c. No more than a total of 20 seats, including seats in interior areas and seats in outdoor dining areas, may be provided for on-site consumption of food or beverages; and
 - d. Alcoholic beverages are not sold, served, or given away on the premises.

Typical uses include bakeries, candy, coffee, nut and confectionery stores, ice cream and frozen dessert stores, small delicatessens, small restaurants, and similar establishments.

EXHIBIT “B”

FINDINGS IN SUPPORT OF CODE AMENDMENT (PA2021-104)

An amendment to Title 21 (Local Coastal Program Implementation Plan) of NBMC is a legislative act. There are no required findings for either approval or denial of such amendments. Notwithstanding the foregoing, the Code Amendment is consistent with the City Council’s initiation and is in furtherance of the Coastal Land Use Plan’s Goals and, specifically, the following Policies:

Policies:

1. **2.1.4-5.**

Development shall be designed and planned to achieve high levels of architectural quality and compatibility among on-site and off-site uses. Adequate pedestrian, non-automobile and vehicular circulation and parking shall be provided.

2. **2.9.3-2.**

Continue to require new development to provide off-street parking sufficient to serve the approved use in order to minimize impacts to public on-street and off-street parking available for coastal access.

3. **2.9.3-4.**

Periodically review and update off-street parking requirements to ensure that new development provides off-street parking sufficient to serve approved uses.

Facts in Support of Policies:

The Code Amendment includes revisions to the parking requirements for some commercial uses, including take-out service and full service eating and drinking establishments (i.e., “restaurants”). The Code Amendment leaves most other parking requirements intact. The Code Amendment further considers alternative modes of transportation and encourages them through offering reduced parking requirements when accommodations are provided.

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. 2023-27 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 9th day of May, 2023; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Pro Tem Will O'Neill, Council Member Brad Avery, Council Member Robyn Grant,
Council Member Lauren Kleiman, Council Member Joe Stapleton, Council Member 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 10th day of May, 2023.



Leilani I. Brown
City Clerk
Newport Beach, California

