



CITY OF

NEWPORT BEACH

City Council Staff Report

November 30, 2021
Agenda Item No. 26

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: Seimone Jurjis, Community Development Director - 949-644-3232,
sjurjis@newportbeachca.gov

PREPARED BY: Jaime Murillo, Principal Planner, jmurillo@newportbeachca.gov
PHONE: 949-644-3209

TITLE: Ordinance No. 2021-28: A Code Amendment Related to Short-Term Lodging Citywide and on Newport Island (PA2020-048 and PA2020-326)

ABSTRACT:

For the City Council's consideration is an ordinance amending Chapter 5.95 (Short Term Lodging Permit) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) updating the regulations for short-term lodging applicable to properties citywide to establish a maximum cap of 1,550 permits and a minimum night stay of two consecutive nights. The ordinance would also establish additional short-term lodging regulations applicable to Newport Island that include establishing a maximum of 20 permits, requiring properties with short-term lodging to be owner occupied and owner managed, establishing maximum daytime and overnight occupancy limits, restricting rentals to a maximum of one per week, and establishing minimum parking requirements.

RECOMMENDATION:

- a) Conduct public hearing;
- b) Find the action statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15265(a)(1) of the California Code of Regulations, Title 14, and Chapter 3 of the Coastal Act. Section 15265(a)(1), which exempts local governments from the requirements of preparing an environmental impact report or otherwise complying with CEQA in connection with the adoption of LCP Amendments; and
- c) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2021-28, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Chapter 5.95 (Short Term Lodging Permit) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code Relating to Short Term Lodging, and Adopting Local Coastal Program Amendment No. LC2020-007 Related to Short Term Lodging and Local Coastal Program Amendment No.*

LC2020-008 Related to Short Term Lodging on Newport Island (PA2020-048 and PA2020-326), and pass to second reading on December 14, 2021.

DISCUSSION:

Short-term lodging is a dwelling unit that is rented or leased for a period of less than 30 consecutive calendar days. The City of Newport Beach (City) initially regulated short-term lodging by establishing Chapter 5.95 of the Newport Beach Municipal Code (NBMC) in 1992, which includes permitting requirements, standard operating conditions, and penalties. Chapter 5.95 was amended in 2004 when the City prohibited the establishment of short-term lodging in the R-1 (Single-Unit Residential) zoning district. In 2010, the City adopted a comprehensive update to the Zoning Code (Title 20), which allowed short-term lodging in most residential zoning districts except the R-1 zones.

Although the primary regulatory framework for short-term lodging is contained in NBMC Chapter 5.95, it is classified as a visitor accommodation land use that provides lower cost access to the coast. Therefore, in 2017, when the California Coastal Commission certified the Local Coastal Plan Implementation Plan (Title 21), NBMC Chapter 21.48 was incorporated to include general standards affecting the regulations of short-term lodging in the coastal zone, including permitted locations.

In 2019, the City Council held a study session on short-term lodging and later formed an Ad Hoc Committee to review and recommend changes to the ordinance. Over the past two years, the City Council has adopted a number of ordinances related to short-term lodging as summarized below:

- In May 2020, the City Council adopted Emergency Ordinance Nos. 2020-003 and 2020-004, which prohibited the issuance of any new short-term lodging permits and required a three-night minimum stay for all areas of the city, except for Newport Island where rentals were prohibited. In June 2020, the City Council adopted Emergency Ordinance No. 2020-006 which required a four-night minimum stay on Newport Island. These requirements were in effect until the local emergency period was terminated on June 22, 2021.
- In July 2020, the City Council adopted Ordinance No. 2020-15, amending Chapter 5.95 (Short Term Lodging Permit) of the NBMC. This ordinance was adopted in response to complaints about unlicensed units, noise, too many guests in one unit, shortage of available street parking, and improper use of trash containers at short-term lodging units. The ordinance requires permit holders to post their permit number on all advertisements, register a local contact person with the City, limit the number of transient users that can stay overnight at a unit, comply with stricter noise standards, and provide transient users with a copy of a good neighbor policy.
- In October 2020, the City Council adopted Ordinance No. 2020-26 (Attachment B), amending portions of NBMC Chapter 5.95, as recommended by the Ad Hoc Committee, relating to short-term lodging citywide that consisted of the following:

- *Minimum Night Stay*- Require a minimum three-night stay;
- *Limits on Permits*- Establish a maximum cap of 1,550 permits and create a waiting list for new permits once cap is reached;
- *Transferability*- Include provisions clarifying the transferability of permits and establishing when a permit is deemed abandoned;
- *Minimum Age*- Prohibit the rental to users under the age of 25; and
- *Responsibility for Parking Violations*- Allows owner of the short-term rental unit to be cited if a user receives a parking ticket while utilizing a short-term lodging unit.

LCP Amendments

On October 13, 2020, the City Council also approved Resolution 2020-91 (Attachment C) authorizing the submittal of LCP Amendment No. LC2020-007 to the California Coastal Commission (CCC) to incorporate the maximum cap of 1,550 permits and minimum three-night stay requirements applicable to properties citywide into Title 21.

On April 13, 2021, the City Council adopted Resolution No. 2021-30 (Attachment D) authorizing submittal of LCP Amendment No. LC2020-008 to the CCC to incorporate additional short-term lodging regulations affecting Newport Island into Title 21 as follows:

- *Limits on Permits*- Limit a maximum of 20 permits in Newport Island;
- *Require on-site property owner and management*- Any existing short-term lodging permits that do not comply would be permitted to remain active and transferable until one year following the effective date of the implementing ordinance. Following the one year, any existing permits would become void except for permit holders that comply with new requirements:
- *Allow a maximum of one rental per week*;
- *Overnight Occupancy Limits*- Restrict overnight occupancy to two persons per bedroom, plus two additional persons, with a maximum overnight occupancy of 10 persons;
- *Daytime Occupancy Limits*- Limit daytime occupancy, between the hours of 7 a.m. and 10 p.m., to a number equal to the overnight occupancy limit plus six additional persons; and

- *Minimum Parking Requirements*- Require a rental unit to provide a minimum of one parking space that is free and unobstructed for renter use, and if only one space is available, overnight occupancy shall be restricted to a maximum of five persons.

Coastal Commission Action and Acceptance of Suggested Modifications

The CCC reviewed both LCP Amendments related to short-term lodging citywide and on Newport Island at its October 13, 2021, hearing. The CCC approved the amendments as submitted, with the exception of suggested modifications related to minimum night stay, conversions of multi-unit structures, and parking clarifications. The CCC approval letters, including suggested modifications, are included as Attachment E for the citywide amendment (LC2020-007) and Attachment F for the Newport Island specific amendment (LC2020-008).

The City Council must either accept or reject all these suggested modifications. If the City Council rejects the suggested modifications, both LCP amendments would effectively expire, and the revised regulations would not go onto effect. In other words, the 1,550-permit cap, two-night minimum night stay requirement, Newport Island specific regulations, and related provisions in Chapter 5.95 regarding transferability and waiting list procedures could not be implemented. Should the City Council want to partially accept the suggested modifications, the City would need to process a new LCP amendment application and attempt to obtain CCC approval.

The proposed ordinance accepts and incorporates all the CCC suggested modifications into the LCP Amendments. A redline strikeout version of the proposed code revisions is included as Attachment G.

A summary of the suggested modifications to citywide amendment (LC2020-007) affecting both Title 21 and Chapter 5.95 of NBMC:

Reduced Minimum Night Stay (Two nights)

The proposed minimum night stay requirement is intended to reduce the number of disturbances at short-term lodging units and the demand on Police and Fire Department personnel services. Specifically, this provision would discourage the use of short-term lodging units for non-residential purposes (e.g., large gatherings, weddings, and commercial filming), and encourage vacationers to spend multiple days visiting the beach and other sites in the area.

The CCC determined that a three-night minimum would significantly increase the cost associated with weekend rentals for low- and moderate-income visitors and in many instances, make the entire visit unaffordable. Short-term lodgings provide amenities that often make them the most affordable option for overnight stays on the coast, particularly for groups and families when restaurant meals and parking costs saving are considered.

Acknowledging the City's intent in providing a minimum night stay to prevent single-day rentals, the CCC reduced the proposed three-night minimum stay to a less prohibitive two-night minimum stay.

Restricting Apartment Conversions to Short-Term Lodging

While the CCC embraces short-term lodging as a means of providing lower-cost visitor accommodations, they also recognize that short-term lodgings may reduce the availability of rental housing opportunities in coastal areas. Therefore, the CCC adopted a suggested modification limiting the number of units within a multi-unit structure consisting of five or more units that can be converted into short-term lodging to no more than 20 percent of the total number of units within the development. For example, the owner of a five-unit apartment complex would be limited to a maximum of one short-term lodging permit. However, the owner of multi-unit structures consisting of four units or less, such as a duplex, would continue to be allowed to utilize all units for short-term lodging.

A summary of the Suggested Modifications to Newport Island Specific Amendment (LC2020-008) affecting Title 21 of NBMC only:

Clarifying Minimum Parking Requirements

The intent of the proposed minimum parking requirements was to ensure that a unit used for short-term lodging provides at least one on-site space that is open and available for use by a renter to minimize demand for on-street parking. The CCC suggested modification makes a minor point of clarification that the required parking space is not intended to be a new additional space, but rather an existing space may satisfy this requirement.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA), Local Coastal Program Amendment No. LC2020-007 and Local Coastal Program Amendment No. LC2020-008 are statutorily exempt from CEQA pursuant to Section 21065 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), because the LCP Amendments have no potential for resulting in physical change to the environment, directly or indirectly. The proposed LCP Amendments are 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. The LCP Amendments themselves provide additional regulations on short-term lodging; but, since the use is already permitted, it does not authorize development that would directly result in physical change to the environment.

NOTICING:

Pursuant to Section 13515 of the California Code of Regulations, a review draft of the LCP Amendment was made available, and a Notice of Availability was distributed on July 14, 2020, and November 20, 2020, to all persons and agencies on the Notice of Availability mailing list and posted online.

Notice of this amendment was published in the *Daily Pilot* as an eighth-page advertisement, consistent with the provisions of the Municipal Code. The item also appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

In addition, notice of this hearing was mailed to all Newport Island property owners and owners of property within 300 feet of the boundaries of Newport Island (excluding intervening rights-of-way and waterways), and posted on the 14 properties that currently maintain a short-term lodging permit on Newport Island, at least 10 days before the scheduled meeting.

ATTACHMENTS:

- Attachment A – Ordinance No. 2021-28
- Attachment B – Ordinance No. 2020-26
- Attachment C – Resolution No. 2020-91 (LC2020-007)
- Attachment D – Resolution No. 2021-30 (LC2020-008)
- Attachment E – CCC Approval Letter and Suggested Modifications (LC2020-007)
- Attachment F – CCC Approval Letter and Suggested Modifications (LC2020-008)
- Attachment G – Redline Strikeout Version of Proposed Code Revisions