

ATTACHMENT C

City Council Resolution

No. 2020-91

(LC2020-007)

RESOLUTION NO. 2020-91

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2020-007 TO THE CALIFORNIA COASTAL COMMISSION, AN AMENDMENT TO TITLE 21 (LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO SHORT-TERM LODGING (PA2020-048)

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, the City is a popular beach resort community that serves a large number of tourists during the summer months. To accommodate this large influx, the City has in excess of 4,000 hotel/motel rooms and 1,500 short-term lodging units;

WHEREAS, this influx of tourists' burdens City streets and services with heavy volume of vehicle traffic and heavy demand on parking, sewage, and refuse facilities, paramedics and police services;

WHEREAS, a survey conducted by the City of permitted short-term lodging within 52 communities that are located in Orange County and coastal regions of Los Angeles and San Diego counties has shown that the City has the third highest concentration of short-term lodging units, exceeding 177 short-term lodging units per 10,000 residents;

WHEREAS, the Police and Fire Departments frequently respond to complaints of noise disturbances, disorderly conduct and other illegal activity at short-term lodging units;

WHEREAS, a large number of short-term lodging units are located in residential areas where dwelling units are occupied by the property owner or long term tenants and these permanent residents are adversely impacted by the noise, traffic, refuse and demand for parking resulting from occupancy of short term lodging units;

WHEREAS, the presence of such visitors within the City's residential neighborhoods can sometimes disrupt the quietude and residential character of the neighborhoods and adversely affect the community;

WHEREAS, approximately 3.4 percent of the City's housing stock is utilized for short-term lodging units;

WHEREAS, the City has an interest in preserving its housing stock and the quality and character of its existing residential neighborhoods;

WHEREAS, the City has more short term lodging units than any other southern California city of a similar size, and limiting the number of short term lodging units will reduce the demand for City services, preserve the housing stock and quality and character of the City's neighborhoods;

WHEREAS, occupants of short term lodging units are generally not residents of the City and the City has limited ability to enforce provisions of the Newport Beach Municipal Code and the Penal Code related to disorderly conduct when violated by occupants of short term lodging units;

WHEREAS, requiring a three (3) night minimum stay has been shown to reduce the number of disturbances at short term lodging units, thereby reducing the demand on Police and Fire Department personnel;

WHEREAS, establishing a maximum cap of 1,550 permits accommodates a minor expansion of the City's short-term lodging capacity, while guarding against future impacts that unregulated expansion would create;

WHEREAS, the City Council has reviewed and considered evidence and documentation attesting to the need to limit the number of short term lodging permits and further regulate and control short term lodging units in residential zones to ensure that short term lodging units are regulated in a way to maintain harmony with surrounding uses;

WHEREAS, a telephonic public hearing was held by the Planning Commission on July 23, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place, and purpose of the public hearing was given in accordance with Government Code Section 54950 et seq. ("Ralph M. Brown Act") and Chapter 21.62 (Public Hearings) of the Newport Beach Municipal Code ("NBMC"). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

WHEREAS, Local Coastal Program Amendment No. LC2020-007, as drafted at the time, included more restrictive proposed standards, including prohibiting the issuance of any new short-term lodging permits and establishing a minimum six (6) night stay for non owner-occupied units.

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2020-027 by a majority vote (4 ayes, 2 nays), thereby recommending the City Council deny Local Coastal Program Amendment No. LC2020-007;

WHEREAS, a telephonic study session was held by the City Council on September 8, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19 to discuss short-term lodging in the City;

WHEREAS, a telephonic public hearing was held by the City Council on October 13, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the public hearings was given in accordance with the 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 City Council at these public hearings; and

WHEREAS, pursuant to Section 13515 of the California Code of Regulations Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 5 ("Public Participation"), drafts of LCP Amendment No. LC2020-007 were made available and a Notice of Availability was distributed at least six (6) weeks prior to the City Council 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 Local Coast Amendment No. LC2020-007, as set forth below, to the California Coastal Commission.

Section 2: The row entitled "Short-Term Lodging" set forth in Table 21.18-1 (Allowed Uses) in Section 21.18.020(C) (Residential Coastal Zoning Districts Land Uses) of Chapter 21.18 (Residential Coastal Zoning Districts (R-A, R-1, R-BI, R-2, and RM)) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC is amended to read as follows:

Land Use	R-A	R-1 R-1- 6,000	R-BI R-2 R-2- 6,000	RM RM- 6,000	Specific Use Regulations
Residential Uses					
Short-Term Lodging	—	—	A	A	Chapter 5.95 and Section 21.48.115

Section 3: Section 21.48.115 (Short-term Lodging) of Chapter 21.48 (Standards for Specific Land Uses) of Title 21 (Local Coastal Program Implementation Plan) of the NBMC is repealed and replaced with the following:

21.48.115 Short-Term Lodging.

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

B. Zoning Districts and Planned Communities. No short-term lodging unit shall be permitted on any parcel in the R-1 (Single-Unit Residential) Coastal Zoning District or any parcel 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. 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 Chapter 5.95. As set forth in Section 5.95.042, of Chapter 5.95, the maximum number of short term lodging permits shall be limited to fifteen hundred and fifty (1,550) permits at any time. If there are more than fifteen hundred and fifty (1,550) valid permits that have been issued as of the effective date of this section, 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 to anyone on the waiting list, as described in Section 5.95.043 (D), until the total number of permits does not exceed the fifteen hundred and fifty (1,550).

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 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 three (3) 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.

Section 4: LCP Amendment No. LC2020-007, shall be carried out in full conformance with the California Coastal Act of 1976 as set forth in the California Public Resources Code Section 30000 et seq. LCP Amendment No. LC2020-007 shall not become effective until approval by the Coastal Commission and adoption, including any modifications suggested by the Coastal Commission, by resolution(s) and/or ordinance(s) of the City Council.

Section 5: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 6: 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 7: The City Council finds the adoption of this resolution is not a project subject to the California Environmental Quality Act ("CEQA") in accordance with 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"). The proposed action 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. The LCP Amendment itself provides 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.

Section 8: 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 13th day of October, 2020



Will O'Neill
Mayor

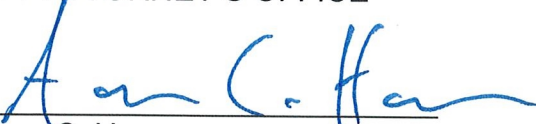
ATTEST:



Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

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. 2020-91, was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 13th day of October, 2020; and the same was so passed and adopted by the following vote, to wit:

AYES: Council Member Joy Brenner, Council Member Diane Dixon, Council Member Duffy Duffield, Council Member Jeff Herdman
NAYS: Mayor Will O'Neill, Mayor Pro Tem Brad Avery, Council Member Kevin Muldoon

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 14th day of October, 2020.



Leilani I. Brown
City Clerk
Newport Beach, California

