

ATTACHMENT D

City Council Resolution

No. 2021-30

(LC2020-008)

RESOLUTION NO. 2021-30

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AUTHORIZING SUBMITTAL OF LOCAL COASTAL PROGRAM AMENDMENT NO. LC2020-008 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 ON NEWPORT ISLAND (PA2020-326)

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 ("Local Coastal Program"), as amended from time to time including most recently on February 12, 2019, via Resolution No. 2019-16;

WHEREAS, the California Coastal Commission effectively certified the City's Local Coastal 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, on October 13, 2020, after deliberation of Local Coastal Program Amendment No. LC 2020-007, the City Council initiated an amendment to Title 21 (Local Coastal Program Implementation Plan) ("LCP Amendment") related to short-term lodging on Newport Island;

WHEREAS, the LCP Amendment is consistent with the City of Newport Beach General Plan ("General Plan") including, but not limited to, General Plan Policy LU 2.6 (Visitor Serving Uses), which provides for ". . . uses that serve visitors to Newport Beach's ocean, harbor, open spaces, and other recreational assets, while integrating them to protect neighborhoods and residents" in that the LCP Amendment continues to allow short-term lodging as a visitor serving use, while providing necessary protections to the residents of Newport Island;

WHEREAS, the LCP Amendment is consistent with the following policies of the Local Coastal Program:

Policy 2.3.3-6: Continue to issue short-term lodging permits for the rental of dwelling units as a means of providing lower-cost overnight visitor accommodations while continuing to prevent conditions leading to increase demand for City services and adverse impacts in residential areas and coastal resources; and

Policy 2.7-3: Continue to authorize short-term rental of dwelling units pursuant to permits and standard conditions that ensure the rentals will not interfere with public access and enjoyment of coastal resources;

WHEREAS, the Newport Island community consists of a total of 119 parcels zoned Two-Unit Residential (R-2), which could potentially allow up to two dwelling units per lot; however, more than 68 percent of the parcels (81 parcels) are developed with single-unit residences, making the community relatively low density and more single-family in character;

WHEREAS, prior to 2018, only 3 parcels (two percent (2%) of the 157 total units) were utilized for short-term lodging;

WHEREAS, in the last three years, there has been a significant increase in properties used for short-term lodging, with a total of 18 short-term lodging permits issued, which equates to 11.5 percent of the total units on Newport Island;

WHEREAS, Newport Island is a unique triangular-shaped island community surrounded by water channels on all sides and is only accessible via a single bridge;

WHEREAS, given the limited access to and narrow streets on Newport Island, it is important to ensure that the number of short-term lodging units on the island is limited so that emergency personnel can properly respond to incidents without compromising the safety of Newport Island residents and visitors;

WHEREAS, Newport Island was originally subdivided in 1907 and primarily consists of older residences that are nonconforming to current modern parking standards, impacting the limited on-street parking on Newport Island;

WHEREAS, on-street parking on Newport Island is further impacted by visitors seeking public access to the water via nine street ends and a public park;

WHEREAS, the proliferation of short-term lodging units on Newport Island, which has increased the number of transient users, has exacerbated the need for on-street parking, negatively impacting the community and impacting public safety because transient users and their guests park in red zones, interfering with emergency access, and in front of driveways blocking access to neighborhood homes;

WHEREAS, Newport Island is a residential area where dwelling units are primarily 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 Newport Island can sometimes adversely disrupt the quietude and residential character of the neighborhood;

WHEREAS, the City has an interest in preserving its housing stock and the quality and character of the Newport Island residential community;

WHEREAS, a telephonic public hearing was held by the Planning Commission on December 3, 2020, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, observing restrictions 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 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 hearing, the Planning Commission adopted Resolution No. PC2020-044 by a majority vote (6 ayes, 1 nays), thereby recommending the City Council deny Local Coastal Program Amendment No. LC2020-008;

WHEREAS, a telephonic public hearing was held by the City Council on April 13, 2021, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California, observing restrictions 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 the California Government Code Section *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 City Council at this public hearing;

WHEREAS, the City Council has reviewed and considered evidence and documentation attesting to the need to limit the number of short-term lodging permits on Newport Island; 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. LC2020-008 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. LC2020-008, as set forth below, to the California Coastal Commission as an amendment to LC2020-007 previously submitted to the California Coastal Commission.

Section 2: Amend 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 to repeal said section and replace it 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. Permits.

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 five hundred and fifty (1,550) permits at any time. If there are more than one thousand five hundred and fifty (1,550) valid permits that have been issued as of [EFFECTIVE DATE OF ORDINANCE NO. 2020-26], no new permit shall be issued to anyone on the waiting list, as described in Section 5.95.042 (D), until the total number of permits does not exceed the one thousand five hundred and fifty (1,550) limit.

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. 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 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.

D. Additional Permit Conditions 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), 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 the [EFFECTIVE DATE OF ORDINANCE], 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); 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 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.

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 (D)(4) below, or (b) two persons per bedroom plus two additional persons, up to a maximum of ten 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 maximum overnight occupancy plus six 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 parking space in a garage or carport. Occupancy shall be limited to a maximum of five overnight guests for a short-term lodging unit providing only one parking space. The parking required by this subsection shall be free of obstructions and available for use by the short-term lodging user.

5. Any existing permit holder of a dwelling unit that is not located on an owner-occupied lot per subsection (D)(2) or does not meet the parking requirements of subsection (D)(4) will be permitted to retain their permit until [ONE YEAR AFTER EFFECTIVE DATE OF ORDINANCE].

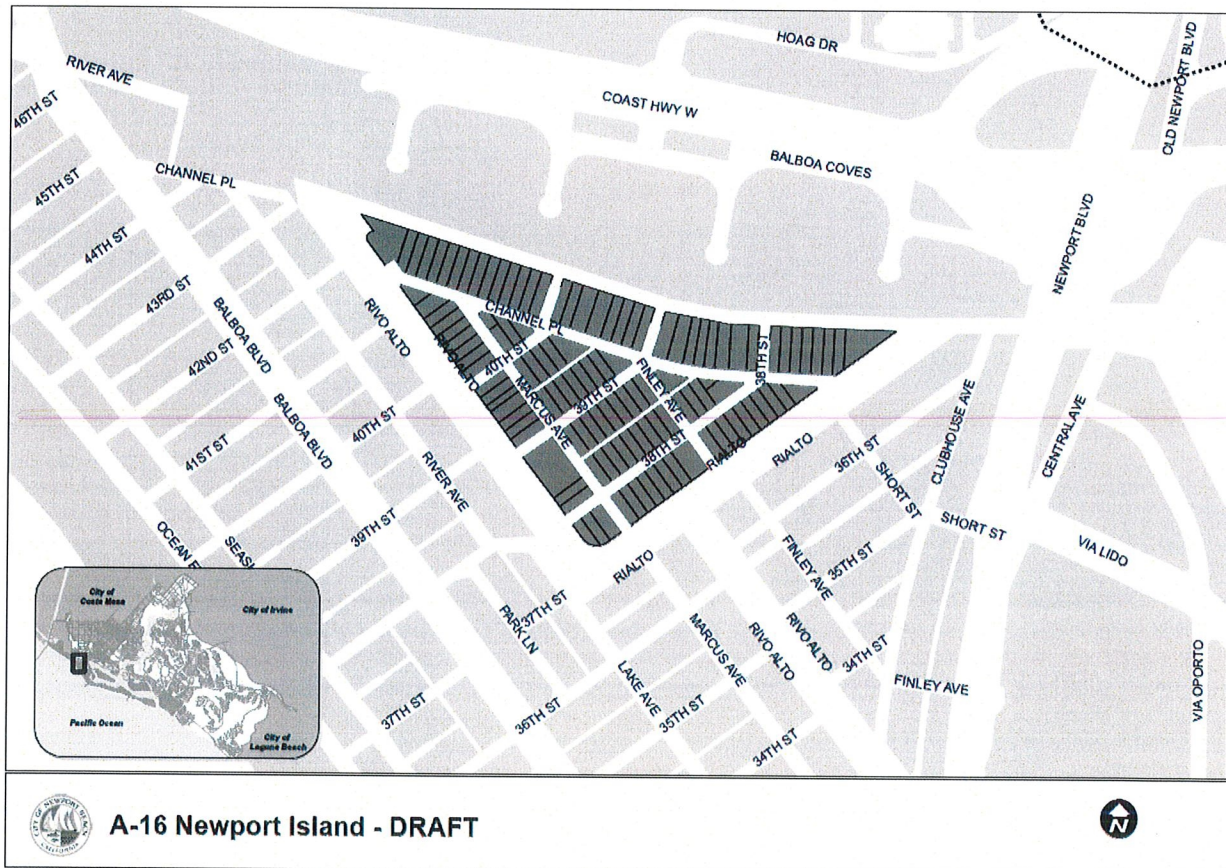
6. No owner, agent, or other person shall rent or let a short-term lodging unit on Newport Island more than once in any seven (7) consecutive day period.

Section 3: Amend Section 21.70.020 (Definitions of Specialized Terms and Phrases) of Chapter 21.70 (Definitions) of the NBMC to include the following definition:

“Dwelling unit, owner-occupied” means a dwelling unit that is occupied by a natural person who has at least a twenty-five percent ownership interest in the lot where one or more dwelling units are located or a twenty five percent ownership interest in the entity that owns the lot where one or more of the dwelling units are located and who resides in a dwelling unit on the same lot, which is the person’s legal domicile and permanent residence.

Section 4: Amend Section 21.80.010 (Area Maps) of Chapter 21.80 (Maps) of the NBMC to include the following map:

A-16 – Newport Island (PDF)



Section 5: LCP Amendment No. LC2020-008, 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. LC2020-008 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 6: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 7: 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 8: 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"), because it has no potential for resulting in physical change to the environment, directly or indirectly. 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.

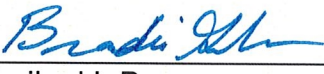
Section 9: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 13th day of April, 2021



Brad Avery
Mayor

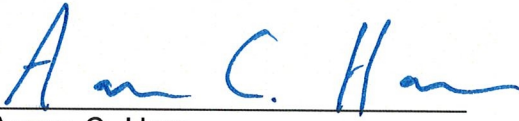
ATTEST:



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. 2021-30 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 April, 2021; and the same was so passed and adopted by the following vote, to wit:

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

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 14th day of April, 2021.



Leilani I. Brown
City Clerk
Newport Beach, California

