



CITY OF

NEWPORT BEACH

City Council Staff Report

May 23, 2023
Agenda Item No. 16

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Ordinance No. 2023-9: A Code Amendment Related to Reinvestment
and Improvements of Short-Term Lodging Units (PA2023-100)

ABSTRACT:

For the City Council's consideration is an ordinance amending Chapter 5.95 (Short-Term Lodging Permit) of the Newport Beach Municipal Code (NBMC) requiring owners of short-term lodging units to reinvest and improve their units at least once every three years. These new reinvestment requirements are intended to ensure that visitors to the City of Newport Beach (City) experience a high-level guest experience, and that residential neighborhoods are not burdened by unkept short-term lodging units.

RECOMMENDATIONS:

- a) Find the action 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 amendments to NBMC Chapter 5.95 provide additional regulations on short-term lodging, which is an existing, permitted use, and thus do not authorize development that would directly result in physical change to the environment; and
- b) Waive full reading, direct the City Clerk to read by title only, introduce Ordinance No. 2023-9, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Chapter 5.95 (Short Term Lodging Permit) of the Newport Beach Municipal Code Related to Reinvestment and Improvement of Short Term Lodging Units*, and pass to second reading on June 13, 2023.

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 initially regulated short-term lodging by establishing NBMC Chapter 5.95 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 most residential zoning districts except the R-1 Zones.

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 years, the City Council has adopted a number of ordinances related to short-term lodging as summarized below:

In July 2020, the City Council adopted Ordinance No. 2020-15, amending NBMC Chapter 5.95. 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, 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:

- 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 owners of the short-term rental unit to be cited if a user receives a parking ticket while utilizing a short-term lodging unit.

After receiving California Coastal Commission approval, the City Council adopted Ordinance No. 2021-28 in November 2021, 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 also established additional short-term lodging regulations applicable to Newport Island that included 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.

Proposed Ordinance

The proposed ordinance requires owners of short-term lodging units, at least once every three years, to reinvest a minimum of 10 percent of the rent collected from a lodging unit over the preceding three years back into the unit as improvements. For purposes of the ordinance, “improvements” means structural and/or façade maintenance or repairs, including but not limited to finishes and fixtures, along with landscape and associated maintenance or repair to the exterior or interior of a lodging unit. Recognizing the large investment required by new construction, newly constructed lodging units are exempt from this reinvestment requirement for the first five years following receipt of a certificate of occupancy from the City.

The intent of these regulations is to protect the character and property values of residential neighborhoods burdened with a concentration of short-term lodging units with high turnover. The City has an interest in preserving its housing stock and preventing the deterioration of its neighborhoods by requiring owners of short-term lodging units to reinvest in and maintain the units.

Self-Certification

Short-term lodging permit applicants would self-certify their compliance with these reinvestment requirements as part of their annual permit renewal process, which significantly reduces the need for the City to hire additional staff.

FISCAL IMPACT:

If approved, staff will review the incremental time needed to review the compliance documents and to administer hearings for any appeals filed and propose fees for cost recovery accordingly.

ENVIRONMENTAL REVIEW:

The introduction and adoption of this ordinance 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 Sections 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 amendments to NBMC Chapter 5.95 provide additional regulations on short-term lodging, which is an existing, permitted use, and thus do not authorize development that would directly result in physical change to the environment.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENTS:

Attachment A – Ordinance No. 2023-9

Attachment B – Redline Strikeout Version of Proposed Code Revisions