



CITY OF

NEWPORT BEACH

City Council Staff Report

May 23, 2023
Agenda Item No. 3

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Ordinance Nos. 2023-4 and 2023-5: Code Amendments Related to Time Shares (PA2022-0202)

ABSTRACT:

For the City Council's consideration is the adoption of Ordinance Nos 2023-4 and 2023-5 to amend Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) modifying the definition of time share to clearly include fractional ownership units. As a time share use, fractional homeownership would be prohibited in all residential zoning districts and only allowed in certain commercial and mixed-use zoning districts subject to existing time share regulations. The attached ordinance was introduced and considered at the May 9, 2023 City Council meeting.

RECOMMENDATIONS:

- a) Find proposed amendments to Titles 20 and 21 of the NBMC are not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) and 15061(b)(3) of the CEQA Guidelines, because it would not result in a direct or reasonably foreseeable indirect physical change in the environment and is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Additionally, the proposed amendments to Titles 20 and 21 of the NBMC are categorically exempt pursuant to Section 15308 because the ordinances involve regulatory actions to assure protection of the environment;
- b) Conduct second reading and adopt Ordinance No. 2023-4, *An Ordinance of the City Council of the City of Newport Beach, California, Approving an Amendment to Title 20 (Planning and Zoning) of the Newport Beach Municipal Code Related to Time Shares (PA2022-0202)*, and
- c) Conduct second reading and adopt Ordinance No. 2023-5, *An Ordinance of the City Council of the City of Newport Beach, California, Approving and Authorizing Submittal of a Local Coastal Program Amendment to the California Coastal Commission Amending Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code Related to Time Shares (PA2022-0202)*.

DISCUSSION:

The proposed amendments to Title 20 and Title 21 of the NBMC would modify time share related definitions (i.e., time share accommodation, time share project, time share estate, time share instrument, time share interval, time share plan, time share property, time share unit, and time share use) to clearly include fractional ownership arrangements. While the proposed amendments include minor clean-up revisions to the existing time share regulations for consistency with the modified definitions, no significant changes to the manner in which time shares are approved or development standards are proposed. Time shares uses would continue to be prohibited in all residential zoning districts and permitted in certain commercial and mixed-use zoning districts, subject to certain criteria.

On May 9, 2023, the City Council introduced Ordinance Nos. 2023-4 and 2023-5, revising time share related definitions and regulations as discussed above. The attached ordinances include revisions made to draft Ordinance No. 2023-4 at the hearing related to prohibition of advertisements.

California Coastal Commission Review (Title 21 Amendments)

To expedite the approval of the Title 21 amendment, Ordinance No. 2023-5 adopts the Local Coastal Program (LCP) amendment and authorizes staff to submit the LCP amendment to the Coastal Commission. The Coastal Commission is the final decision-making authority on amendments to the certified LCP; however, the City retains the ability to reject an LCP amendment in its entirety if the Coastal Commission includes suggested modifications. If the Coastal Commission approves the LCP Amendment as submitted, the ordinance would immediately go into effect without the need to return for further City Council approval. Should the Coastal Commission make any suggested modifications, staff will then return to the City Council to accept any suggested modifications and adopt a new ordinance incorporating the modifications.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) and 15061(b)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This code amendment would clarify that fractional ownership uses are classified as time shares, which are currently regulated by the NBMC. This amendment does not alter the manner in which time shares are regulated and therefore would not result in a physical change in the environment. Additionally, the proposed amendments to Titles 20 and 21 of the NBMC are categorically exempt pursuant to Section 15308 because the ordinances involve regulatory actions to assure protection of 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. 2023-4: Adopting Title 20 Code Amendment

Attachment B – Ordinance No. 2023-5: Adopting Title 21 LCP Amendment and
Authorizing Submittal to the California Coastal Commission