

CALIFORNIA COASTAL COMMISSION

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W14b

ADDENDUM

DATE: October 12, 2021
TO: Coastal Commissioners and Interested Parties
FROM: South Coast District Staff
SUBJECT: **ADDENDUM TO ITEM W14b, CITY OF NEWPORT BEACH MAJOR AMENDMENT NO. LCP-5-NPB-20-0070-3, SHORT TERM LODGINGS) for the Commission Meeting of Wednesday, October 13, 2021.**

I. REVISIONS/CORRECTIONS TO THE STAFF REPORT

Additional changes proposed in this Staff Report Addendum show deleted language in ~~single strikethrough~~ and new added language is in **bold and single underlined** to differentiate from the suggested modifications from the staff report which depict deleted language in ~~double strikethrough~~ and new added language in **bold and double underlined**.

As submitted, the LCP amendment would amend Section 21.48.115 (Short-Term Lodging) of the IP, the proposed amended language references the regulatory framework for short-term rentals contained in the Newport Beach Municipal Code (NBMC) Title 5 Chapter 5.95 (as modified by the most recent City Council Ordinance No. 2020-26). On October 27, 2020, the City Council approved Ordinance No. 2020-26 (included as Exhibit 2 of the staff report) amending Chapter 5.95 short-term lodging regulations to implement a 3-night minimum stay, cap the number of short-term lodging permits to 1,550 permits citywide, and set up a wait list for new permits, make revisions clarifying the transferability of permits and establishing when a permit is deemed abandoned, prohibit the rental to a user under the age of 25, and allowance for the owner of the short-term rental unit to be cited if a user receives a parking ticket while utilizing a short-term lodging unit. Chapter 5.95 becomes incorporated by reference into the certified IP. The Commission considers the *entirety* of Chapter 5.95 as becoming incorporated into the LCP, not just those subsections that the City modified in City Council Ordinance No. 2020-26.

This point of clarification is proposed to be included into the staff report findings beginning in the last sentence on page 13, as follows:

The proposed IP amendment would result in no change to IP Section 21.48.115(A) and (B) but would modify subsection (C) and add subsection (D); the resulting proposed new IP language **to Section 21.48.115(C) and (D) contain several**

references to the provisions and conditions of Chapter 5.95. Thus, the entirety of Chapter 5.95, currently not a part of the certified LCP, becomes incorporated into the LCP by way of reference. The Commission considers the entirety of Chapter 5.95 as becoming incorporated into the LCP, not just those subsections that the City modified in City Council Ordinance No. 2020-26. Consequently, the LCP Amendment as submitted incorporates all short-term lodging permit conditions set forth in the NBMC Title ~~20~~5 Chapter 5.95, ~~thereby incorporating~~ **and incorporates** NBMC Title ~~20~~5 **Chapter 5.95** into the certified LCP.

Secondly, after further communication with the City of Newport Beach, Commission staff recommends additional language changes to the Suggested Modification #2 included in the staff report. Suggested Modification #2 includes language that multi-unit developments with five or fewer units may only permit a maximum of one unit for short-term lodging use. The City explains that a large portion of the City's existing short-term lodging permits are currently provided within smaller multi-unit developments of 5 units or less. Suggested Modification #2 would have the unintended consequence of making at least 245 multi-unit properties nonconforming because they currently maintain two or more short term rental permits. In order to comply with Suggested Modification #2, these affected properties would only be permitted to maintain one permit per property, unintentionally resulting in the elimination of 252 currently issued permits (approximately 16% of existing permits), all held in good standing. The intent of Suggested Modification #2 is to avoid wholesale conversion of existing and new housing complexes into short-term lodgings. Duplexes may provide two short term lodging units. They are also typically smaller units and thereby also have lower rental costs than larger single-unit rentals. Therefore, additional changes are proposed to the language of Suggested Modification #2 in this staff report addendum to ensure that Suggested Modification #2 only applies to multi-unit developments of 5 or more units and not to multi-unit developments of 5 or less.

On page 9 of the staff report, revise new language proposed as part of Suggested Modification #2 to the new IP Section 21.48.115(C) as follows:

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). To avoid wholesale conversion of existing and new housing complexes into short-term lodgings, multi-unit developments with five or fewer units may only permit a maximum of one unit for short-term lodging use. Multi-

unit developments with more than five more units may permit a maximum of twenty percent (20%) of the total number of units into to be short-term lodgings (rounded down to the nearest whole number).

Furthermore, as discussed earlier, the LCP amendment as submitted would amend Section 21.48.115 (Short-Term Lodging) of the IP to incorporate by reference the regulatory framework for short-term rentals contained in the Newport Beach Municipal Code (NBMC) Title 5 Chapter 5.95 (as modified by the most recent City Council Ordinance No. 2020-26) to, among other changes, include a maximum cap of 1,550 short-term lodging permits and impose a 3-night minimum short-term lodging stay. Therefore, equivalent language as that contained in Suggested Modification #2 (as modified by this staff report addendum) is required to be reflected in Title 5 Chapter 5.95. Therefore, two additional suggested modifications are necessary to ensure the same language in the Suggested Modifications to IP Section 21.48.115 are reflected in Title 5 Chapter 5.95.

At the end of page 9 of the staff report, include these two additional suggested modifications:

Suggested Modification #3 – Reflect Suggested Modification #2 language in Title 5 Chapter 5.95, Section 5.95.042(A):

5.95.042 Maximum Number of Permits.

A. 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 this chapter; however, no new permit shall be issued to anyone on the waiting list, as described in Subsection (D), until the total number of permits does not exceed the fifteen hundred and fifty (1,550). For purposes of calculating the maximum number of permits available, a permit shall be deemed valid and unavailable until it is abandoned in accordance with Section 5.95.030, (B) through (F), and/or Section 5.95.043(B). **To avoid wholesale conversion of existing and new housing complexes into short-term lodgings, multi-unit developments with five or more units may permit a maximum of twenty (20%) of the total number of units to be short-term lodgings (rounded down to the nearest whole number).**

Suggested Modification #4 – Reflect Suggested Modification #1 language to reduce the minimum number of rental nights from 3 to 2 nights in Title 5 Chapter 5.95, Section 5.95.045(A)(21):

21. Neither an owner or the owner's agent shall rent, let, advertise for rent, or enter into an agreement for the rental of any lodging unit, for less than ~~three (3)~~ **two (2)** consecutive nights.

Addendum to Item W14b
City of Newport Beach Major Amendment No. LCP-5-NPB-20-0070-3

Additionally, the following three corrections within the body of the staff report are necessary:

1. On page 1 in the Summary of LCP Amendment Request and on pages 10, 13, and 14 of the staff report, there are erroneous references to Newport Beach Municipal Code (NBMC) in which Chapter 5.95 is reported to be a part of Title 20 of the NBMC. Chapter 5.95 is in fact not a part of Title 20: Planning and Zoning, it is part of Title 5: Business Licenses. Therefore, the following correction is made in this addendum:

Newport Beach Municipal Code (NBMC) Title ~~20~~ **5** Chapter 5.95

2. On page 7 of the staff report, incorrect dates were mistakenly reported in the Deadline for Commission Action report section and are hereby corrected as follows:

D. DEADLINE FOR COMMISSION ACTION

The City submitted the LCP amendment request on ~~April 29, 2021~~ **November 2, 2020**. After a request for additional information, the amendment request was deemed by staff to be complete on ~~June 8, 2021~~ **December 26, 2020** and the Commission granted a one-year extension at its ~~July 7, 2021~~ **February 10, 2021** meeting. **The sixtieth working day after the City's filing of the complete submittal is March 24, 2021.** As such, the last date for Commission action on this item is ~~October 18, 2022~~ **March 24, 2022**. (See Pub. Res. Code § 30511(a).)

3. On page 13 of the staff report, the third sentence of the second paragraph:

The City began regulating short-term lodging in 1992 to address code enforcement issues and increasing demands on City services from short-term lodging users. In ~~1992~~**2004**, the City established a prohibition on short-term lodging in single-family residential districts (with the exception of 211 “grandfathered” properties), and permitted short-term lodging in two-unit (R2) and multi-family (RM) residential zoning districts throughout the City.

II. CORRESPONDENCE

Seven public comment letters were received regarding this item. Five letters in support of the staff recommendation for LCP Amendment No. LCP-5-NPB-20-0070-3, one letter in opposition, and one comment letter from Dr. Jim Mosher with procedural, structural, and substantive concerns. All letters are included under the Correspondence Tab.