



# Claremont Planning Commission

## Agenda Report

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**File #:** 4383

**Item No:** 2.

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**TO:** PLANNING COMMISSION

**FROM:** BRAD JOHNSON, COMMUNITY DEVELOPMENT DIRECTOR

**DATE:** OCTOBER 4, 2022

**Reviewed by:**  
Finance Director:N/A

**SUBJECT:**

**CONSIDER AN AMENDMENT TO THE CLAREMONT ZONING CODE (TITLE 16 TO THE CLAREMONT MUNICIPAL CODE) THAT, IF ADOPTED, WILL: (1) REPEAL SECTION 16.051.060 TITLED HOTELS/MOTELS; (2) REPLACE SECTION 16.051.060 WITH A NEW CHAPTER 16.101, ALSO TITLED HOTELS/MOTELS; AND (3) ADD NEW SECTIONS TO CHAPTER 16.900 (DEFINITIONS) PERTAINING TO HOTELS AND MOTELS (COLLECTIVELY REFERRED TO AS THE "HOTEL/MOTEL ORDINANCE").**

**SUMMARY**

Adopted in 2004, the City of Claremont's existing Hotel/Motel Ordinance is primarily codified in Section 16.051.060 of the City's Zoning Code (Title 16 to the City of Claremont Municipal Code ["CMC"].) (Attachment A). The City's hotels and motels are a valued and much-needed community amenity and a driver of the local economy. However, for at least the past decade, the City's Police Department, Community Improvement Division, and Planning Division have been working with motel owners to address criminal, code enforcement, and nuisance activities in and around certain motels located near the I-10 freeway. These activities have worsened in recent years. At this year's Priorities Planning Workshop, the City Council adopted an objective to evaluate amendments to the City's existing Hotel/Motel Ordinance.

In April 2022, the Claremont Police Commission approved a Statement of Direction that, among other things, recommended conceptual provisions for a new or amended Hotel/Motel Ordinance. (Attachment B). Staff attempted to draft amendments to the Zoning Code that, if adopted, would implement the Police Commission's Statement of Direction. In this report, these are referred to as the "Version 1.0" Code amendments, which may be found in Attachment D. It is important to note that the Police Commission created its Statement of Direction as a starting point without the benefit of input from City staff, the City Attorney's Office, or stakeholders in the hotel/motel industry.

City staff used the "Version 1.0" Code amendments (Attachment D) to conduct outreach with

management representatives from each of the five hotels/motels in Claremont as well as legal counsel for the California Hotel & Lodging Association and California Association of Boutique & Breakfast Inns (collectively, the “Hotel Associations”), and legal counsel for the Motel 6 located in Claremont. Staff also relied on the expertise of the City’s Police Department, Community Improvement Division, Planning Division, and the advice of its City Attorney’s Office to refine the “Version 1.0” Code amendments. The culmination of this input is reflected in the “Version 2.0” Code amendments that may be found in Attachment E.

The “Version 2.0” Code amendments attempt to balance several competing interests and objectives, including without limitation: the community’s desire for enhanced oversight and enforcement tools for motels in areas susceptible to crime; the hoteliers’ desire to be free from costly and burdensome governmental requirements that do not make a meaningful difference in deterring, investigating, and prosecuting criminal activity; and constitutional constraints that have become more clear in the 18 years since the City adopted its Hotel/Motel Ordinance.

The Planning Commission will consider the proposed amendments to the City’s Hotel/Motel Ordinance and make a recommendation to the City Council. Because these Code amendments would require an amendment to the City’s Zoning Code, duly noticed public hearings are required for both the Planning Commission (for a recommendation) and the City Council (for final approval).

A positive recommendation on a Zoning Code Amendment requires the affirmative vote of at least five (5) members of the Planning Commission when six (6) or more are present and eligible to vote on the proposal. In the event that less than six members are present or eligible to vote on the proposal, four (4) affirmative votes are required for a positive recommendation. Any vote that does not meet these thresholds is considered a negative recommendation of the Planning Commission. If the recommendation is negative, it is deemed a final decision, which may be appealed to the City Council pursuant to Chapter 16.321 of the Claremont Zoning Code.

## **RECOMMENDATION**

Staff recommends the Planning Commission adopt A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CLAREMONT APPROVING AN AMENDMENT TO THE CLAREMONT ZONING CODE (TITLE 16 TO THE CLAREMONT MUNICIPAL CODE) THAT, IF ADOPTED, WILL: (1) REPEAL SECTION 16.051.060 TITLED HOTELS/MOTELS; (2) REPLACE SECTION 16.051.060 WITH A NEW CHAPTER 16.101, ALSO TITLED HOTELS/MOTELS; AND (3) ADD NEW SECTIONS TO CHAPTER 16.900 (DEFINITIONS) PERTAINING TO HOTELS AND MOTELS (COLLECTIVELY REFERRED TO AS THE “HOTEL/MOTEL ORDINANCE”) AND RECOMMENDING THE CITY COUNCIL APPROVE THE “VERSION 2.0” CODE AMENDMENTS.

## **ALTERNATIVES TO RECOMMENDATION**

In addition to the recommendation, there are the following alternatives:

- A. Recommend the City Council not amend the existing Hotel/Motel Ordinance (Attachment A). This could be accomplished at least two ways. First, as noted above, any vote that does not meet the supermajority thresholds (five+ affirmative votes of six-seven Commissioners; four+ affirmative votes of four-five Commissioners) is considered a negative recommendation of the Planning Commission. Second, the Planning Commission could, by minute motion, make a negative recommendation to the City Council. This second approach would allow the Planning Commission to articulate the basis for its negative recommendation if it so chooses.

- B. Adopt a resolution (Attachment C) recommending the City Council approve the “Version 1.0” Code amendments (Attachment D).
- C. Adopt a resolution (Attachment C) recommending the City Council approve Code amendments that differ from “Version 1.0” or “Version 2.0.” Depending on the nature and/or extent of the changes, this alternative may require the Commission to continue the item (preferably to a date certain) to allow staff time to draft alternative Code amendments.
- D. Continue the item (preferably to a date certain) to give staff time to gather additional information for the Commission.

## **FINANCIAL REVIEW**

The cost of legal fees to date, which includes meetings with staff and stakeholders as well as researching and preparing the material for this meeting, is estimated to be \$7,200 and is included in the operating budget of the Administrative Services Department. The cost of staff time to participate in internal and stakeholder meetings; provide feedback on the draft Code amendments; and prepare the material for this meeting is estimated to be \$5,829 and is included in the operating budgets of the Administrative Services, Community Development, and Police Departments.

## **ANALYSIS**

### **Background**

The City’s hotels and motels are a valued community amenity and a driver of the local economy. They provide much-needed lodging to tourists, business travelers, and visitors of the Claremont Colleges. However, for at least the past decade, the City’s Police Department, Community Improvement Division, and Planning Division have been working with motel owners to address criminal, code enforcement, and nuisance activities in and around certain motels located near the I-10 freeway. These activities have worsened in recent years. (See, e.g., Attachment H.)

At the Priorities Planning Workshop that was held in February of this year, the City Council developed a list of priorities and objectives for 2022-24. During the Workshop, many residents expressed concern regarding frequent criminal activity occurring in and around the motels located near the I-10 freeway, including prostitution and human trafficking. The Police Department has also seen a rise in narcotic sales, gang activity, and violent crimes against persons in and around these motels. In response to these concerns, one of the objectives that the City Council approved for the 2022-24 time period is to evaluate nuisance activity occurring in and around local motels and use a collaborative approach to abate the activity, including consideration of amendments to the City’s existing Hotel/Motel Ordinance.

### **Existing Hotel/Motel Ordinance**

The City adopted its existing Hotel/Motel Ordinance (Attachment A) more than 18 years ago through the adoption of Ordinance No. 2004-04. Like the City’s existing Hotel/Motel Ordinance (Attachment A), any amendments to the Hotel/Motel Ordinance would apply to hotels and motels (including long-term stay hotels) Citywide. There are currently five motels and hotels located in Claremont: Claremont Lodge (736 South Indian Hill Boulevard), Double Tree by Hilton Hotel Claremont (555 West Foothill Boulevard), Hotel Casa 425 & Lounge (425 West First Street), Knight’s Inn Claremont (721 South Indian Hill Boulevard), and Motel 6 (840 South Indian Hill Boulevard). More hotels and motels are anticipated in the future.

## **“Version 1.0” Code Amendments**

In April 2022, the Claremont Police Commission approved a Statement of Direction (Attachment B) that, among other things, contained recommendations on potential provisions for a new or amended Hotel/Motel Ordinance. Staff used these recommendations to guide the “Version 1.0” Code amendments (Attachment D). Importantly, the Police Commission approved its Statement of Direction without the benefit of input from staff, the City Attorney’s Office, or industry stakeholders. It was understood that the Police Commission’s Statement of Decision was a starting point that would be more fully vetted before any proposals were presented to the Planning Commission.

## **“Version 2.0” Code Amendments (Staff’s Recommendation)**

City staff solicited input on the “Version 1.0” code amendments from management representatives of each of the five hotels/motels in Claremont and legal counsel for the Hotel Associations. (See, e.g., Attachment G.) Staff worked with the City’s Police Department, Planning Division, Community Improvement Division, and City Attorney’s Office to refine the “Version 1.0” Code amendments. The culmination of this input and outreach is reflected in the “Version 2.0” Code amendments in Attachment E.

The rationale for the key “Version 2.0” Code amendments is summarized below. In addition, the City Attorney created a chart (Attachment F) that summarizes the key differences between the existing Hotel/Motel Ordinance (Attachment A), the “Version 1.0” Code amendments (Attachment D), and the “Version 2.0” Code amendments (Attachment E). The “Version 2.0” Code amendments attempt to balance several competing interests and objectives, including without limitation: the community’s desire for enhanced oversight and enforcement tools for motels in areas susceptible to crime; the hoteliers’ desire to be free from costly and burdensome governmental requirements that do not make a meaningful difference in deterring, investigating, and prosecuting criminal activity; and constitutional constraints that have become more clear in the 18 years since the City adopted its Hotel/Motel Ordinance.

Definition of “Hotel” and “Motel”: Like the existing ordinance, both sets of potential Code amendments distinguish “hotels” from “motels” based on whether guest rooms can be accessed directly from the outdoors (as opposed to needing to pass through a lobby or interior corridors to access guest rooms). To be a “hotel,” more than fifty percent (50%) of guest rooms must be accessed from a lobby or interior corridor. If at least fifty percent (50%) of guest rooms have direct access from the outdoors, then the use classifies as a “motel.”

Definition of “Guest”: The existing ordinance does not define “guest.” Staff recommends the ordinance include a broad definition of “guest” that includes any person occupying a guest room, even if they are not paying for the room or spending the night there (with exceptions for hotel/motel employees and minor children in the custody or care of guests). The scope of this definition is important because it will determine which individuals need to be included in the guest register (discussed later).

Heightened Requirements for Freeway Motels: Due to their location and building configuration, motels near freeways are especially susceptible to criminal and nuisance activity, including prostitution and human trafficking. In a motel, guests can come and go from their rooms with minimal observation or supervision by the motel’s employees or other guests. A motel with close proximity to a freeway onramp is ideal for evading law enforcement. If a crime occurs, a guest can be on the freeway before law enforcement has time to respond. Criminal and nuisance activity in

motels near the I-10 freeway has been an ongoing problem in Claremont that has worsened in recent years. (See Attachment H.) For this reason, staff recommends the following heightened requirements for freeway motels (defined as motels within one half (1/2) mile of an on or off ramp of the I-210 or I-10 freeways). The Hotel Associations were generally supportive of this proposal. (See Attachment G, Section A.)

- **Guest Register:** The existing ordinance already requires hotels/motels to gather and maintain certain personal information of its guests, including the guest's name, permanent address, dates of occupancy, and room rate. (CMC § 16.051.060(F).) One of the most effective ways to deter criminal activity is to require guests to also provide a valid identification document ("ID"). The "Version 1.0" Code amendments would require hotels/motels to scan guests' IDs and retain the scans (and other guest information) for four (4) years. Industry stakeholders expressed concerns about guest privacy and protecting this highly-sensitive information from data breaches. (Attachment G, Section J [commenting on § 16.101.040(E)].) Staff is sensitive to this concern. The "Version 2.0" Code amendments eliminate the requirement that hotels/motels scan guest IDs, and instead, require freeway motels to verify guests have valid IDs and retain the guests' ID number and issuing jurisdiction for one (1) year. This is sufficient to verify that a guest has a valid ID without putting sensitive personal information at undue risk of a data breach. The "Version 2.0" Code amendments allow the City's Community Development Director to approve a different check in system (e.g., use of "digital keys" or electronic check in kiosks) if a freeway motel is in full compliance with the ordinance and does not have a track record of criminal activity.
- **Secured Parking:** The existing ordinance does not require a hotel/motel's parking areas to be secured by a fence, gate, or electronic arm. Both of the proposed Code amendments would require secured parking for freeway motels unless it would be infeasible or unsafe. Staff has not evaluated whether it would be feasible and safe for the City's existing freeway motels to provide secured parking.
- **Surveillance Cameras:** The existing ordinance does not require a hotel/motel to have surveillance cameras. Although costly, surveillance cameras are an effective deterrent of criminal and nuisance activity and aid law enforcement in investigations. Both of the proposed Code amendments would require freeway motels to have CCTV cameras on all of their common areas and parking areas and to retain the footage for ninety (90) days.

The following provisions are applicable to all hotels/motels (not just freeway motels).

Maximum Length of Stay: The existing ordinance contains limits on both the *consecutive* length of stay (no more than 30 consecutive days) and *cumulative* length of stays (no more than 60 cumulative days in any 180-day period). (CMC § 16.051.060(B)(1).) Industry stakeholders expressed concerns that the limit on *cumulative* length of stays bars law-abiding guests who rely on Claremont's hotels and motels for frequent, intermittent lodging, such as visiting professors and other business professionals who stay in Claremont's hotels during the week and return to their homes on the weekends. (See, e.g., Attachment G, Section D [comments on § 16.101.202 (B)].) Staff agrees that guests exceeding the current *cumulative* limits length of stays is generally unlikely to result in criminal, code enforcement, or nuisance activity, and shares the industry stakeholders' concern that this restriction results in more harm than good by barring intermittent stays by law-abiding guests. As such, staff recommends removing the 60-day *cumulative* length of stay restriction from the Hotel/Motel Ordinance. Staff recommends retaining the 30-day *consecutive* length of stay restriction, which prevents guest rooms from being used as de facto

residential units. The City regulates residential units differently from hotel/motel guest rooms.

Minimum Length of Stay: The existing ordinance requires hotels and motels to rent rooms for “overnight accommodations” (CMC § 16.051.060(B)(1)) and expressly prohibits hotels and motels from accepting an “hourly rate or any rate less than the rate for a full day’s room rental” (CMC § 16.051.060(D)). For motels only, the existing ordinance specifies that “[g]uest rooms shall not be rented for a period of less than 18 hours at a time.” (CMC § 16.900.585.) If adopted, “Version 1.0” Code amendments would require *all* hotel and motel rooms to be rented for a minimum of 18 hours and would prohibit an operator from re-renting the room if a guest checks out early. Industry stakeholders expressed two concerns about this restriction (discussed below).

- **Re-Renting Rooms:** Industry stakeholders reported that it is not unusual for a guest to cancel their reservation or check out early for a variety of legitimate reasons (e.g., their travel plans change, they are dissatisfied with the accommodations, they arrive late at night and leave early the following morning, etc.). Preventing a hotelier from re-renting unused rooms for a designated period of time is wasteful and will result in a significant amount of lost income for the hotelier. (Attachment G, Section G [comments on § 16.101.030].) Staff supports this request. The practice of re-renting rooms has not been a source of criminal, code enforcement, or nuisance activity in Claremont. Instead, in Claremont, these problems typically arise in rooms that guests rent and occupy for a full overnight stay (or longer). For these reasons, staff recommends retaining the general requirement that the minimum rental term be overnight. However, staff does not recommend the ordinance require a minimum rental term to be at least 18 hours, and staff does not recommend the ordinance prohibit re-renting unused rooms.
- **“Day Use” Rates:** The Doubletree reported that its parent company (Hilton) offers a “day use” rate to business travelers, which is less than the overnight rate. This “day use” rate allows business travelers to rent a hotel room for a shorter period of time (e.g., as a workspace or a space to “freshen up”) when the guest does not need overnight accommodations. Staff is wary of broadly allowing hourly room rentals, but agrees that, in narrow, closely-monitored circumstances, “day use” rates provide a benefit to the community. The “Version 2.0” Code amendments would allow “day use” rates, subject to advance written approval of the City’s Community Development Director . The Director could not approve “day use” rates for any hotel or motel with a history of criminal activity, and the Director could revoke the approval if it results in criminal activities or is otherwise detrimental to the health, safety, or welfare of the community.

Room Rates: The existing ordinance requires room rates to be charged “by the day” and expressly prohibits weekly or monthly rates. (CMC § 16.051.060(D).) Hoteliers indicated that it is industry standard for hotels and motels to vary pricing based on length of stay and requested that this restriction be removed. Staff supports this request.

Valid Credit or Debit Card: One of the most effective ways to deter criminal activity is to require guests to provide a valid credit or debit card. The existing ordinance does not require this (i.e., hotels/motels can accept cash payment). Both the “Version 1.0” and “Version 2.0” Code amendments would require hotels/motels to confirm a guest has a valid credit or debit card, even if the guest is paying for the room with cash. The hoteliers requested a minor change in the “Version 1.0” Code amendments so they would not be required to charge guests’ cards and provide a refund later. (They are able to check the validity of a card without charging it.) Staff supports this request.

Kitchens in Guest Rooms: The existing ordinance does not permit kitchens in guest rooms (with an exception for long-term stay hotels). Industry stakeholder requested this restriction be removed. (Attachment G, Section H [commenting on § 16.010.040(A)].) Staff supports this request. Kitchen facilities can be an attractive amenity in a guest room. The “Version 2.0” Code amendments remove the prohibition on kitchens in guest rooms.

Other Site & Operational Requirements: The proposed code amendments both include several site and operational requirements to clarify the hotel/motel’s obligations with respect to cleanliness, room furnishings, exterior of property, and common areas. These provisions largely reiterate or clarify requirements that are currently found elsewhere in the Claremont Municipal Code as a way of providing enhanced notice to hoteliers and the community.

City Inspections of Records, Surveillance Footage, and Non-Public Areas: The existing ordinance requires hotels/motels to allow the City to audit their records “at all reasonable times” (CMC § 16.051.060(F)), and the “Version 1.0” Code amendments would make it a violation of the ordinance to not allow the City to inspect records and surveillance footage with fifteen (15) days of a request. In 2015, the United States Supreme Court held that warrantless inspection requirements like this violate the Fourth Amendment to the United States Constitution. *City of Los Angeles v. Patel*, 576 U.S. 409 (2015). The “Version 2.0” Code amendments provide an inspection procedure that complies with the constitutional requirement that hotels/motels have an opportunity for pre-compliance review before they submit to an inspection. It is staff’s experience that Claremont’s current hotels typically cooperate with law enforcement and provide consent to inspection of their records, surveillance footage, and sites.

Amortization of Legal Nonconforming Conditions: Hotels/motels that have been operating lawfully prior to the adoption of Code amendments must be afforded an opportunity to bring their sites and operation into compliance with the new requirements. The “Version 2.0” Code amendments proposes a deadline of April 1, 2023 for operational changes (approximately 3 months) and a deadline of January 1, 2024 for changes that require site improvements (approximately 1 year) with the ability for the Community Development Director to grant extensions if hotels/motels are making diligent progress towards compliance with the new regulations.

Enforcement: The existing ordinance does not have a stand-alone enforcement section. Instead, the City’s enforcement options are elsewhere in the Claremont Municipal Code and/or state law. The proposed Code amendments would outline the City’s enforcement options as a way of providing enhanced notice to hoteliers and the community. The “Version 2.0” Code amendments would include a subsection that encourages hotels/motels to proactively abate criminal activities and nuisances, emphasizing that calls for service generated *by the hotel/motel itself* generally will not be used as evidence that the hotel/motel is a nuisance.

## **CEQA REVIEW**

It can be seen with certainty that the proposed amendments to the Hotel/Motel Ordinance have no possibility of having a significant effect on the environment. In the absence of any pending application for any hotel or motel that might implicate the proposed ordinance, any specific environmental effects would be speculative. Therefore, the adoption of the proposed Hotel/Motel Ordinance is not a project subject to the CEQA pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.

## **PUBLIC NOTICE PROCESS**

The agenda and staff report for this item have been posted on the City website and distributed to interested parties. If you desire a copy, please contact Nhi Atienza at [natienza@ci.claremont.ca.us](mailto:natienza@ci.claremont.ca.us).

On Thursday, September 22, 2022, written notices were mailed to property owners within 500 feet of each respective hotel/motel located in Claremont. Notice of the Planning Commission hearing was also published in the September 23, 2022 edition of the Claremont Courier. Copies of this staff report have been sent to management representatives from all of the hotels/motels located in Claremont and other interested parties.

Submitted by:

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Community Development Director

Prepared by:

Katie Wand  
Assistant to the City Manager

### **Attachments:**

- A - Existing Hotel/Motel Ordinance
- B - Police Commission's Statement of Direction
- C - Draft Planning Commission Resolution
- D - "Version 1.0" Code Amendments
- E - "Version 2.0" Code Amendments
- F - Chart Comparing Existing Ordinance, "Version 1.0," and "Version 2.0"
- G - Letter from Counsel to Hotel Associations
- H - "Prostitution in S. Claremont I-10 Fwy Corridor: A Prelim. Assessment"