

RESOLUTION NO. 2026-xx

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, RELATED TO THE INTENT TO OVERRULE THE ORANGE COUNTY AIRPORT LAND USE COMMISSION'S DETERMINATION THAT THE CITY OF COSTA MESA'S NEIGHBORHOODS WHERE WE ALL BELONG ZONING UPDATES AND HOUSING ELEMENT IMPLEMENTATION IS INCONSISTENT WITH THE JOHN WAYNE AIRPORT ENVIRONS LAND USE PLAN

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY FINDS AND DECLARES AS FOLLOWS:

WHEREAS, under California law, every city must adopt a general plan, which must include specified mandatory elements, and may include additional optional elements, in furtherance of State policy to provide a comprehensive, long-term plan for the physical development and use of property within the City's jurisdiction; and

WHEREAS, California Government Code section 65358(a) authorizes the City Council to amend the General Plan if it is deemed to be in the public interest; and

WHEREAS, the General Plan is a long-range, comprehensive document that serves as a guide for the orderly development of the City of Costa Mesa; and

WHEREAS, by its very nature, the General Plan is subject to update and revision to account for current and future community needs; and

WHEREAS, the Housing Element is one of the seven State-mandated General Plan chapters or "elements" and is a component of the City of Costa Mesa 2015-2035 General Plan; and

WHEREAS, California Government Code section 65580, et sec. (State Housing Element Law) requires each city and county to adopt a housing element that identifies and analyzes existing and projected housing needs within their jurisdiction and prepare goals, policies, programs, quantified objectives, and sites to further the development, improvement, and preservation of housing; and

WHEREAS, California Government Code section 65588 requires that local governments review and revise the Housing Element of their comprehensive General Plans not less than once every eight years, and the California Legislature identifies overall housing goals for the State with the goal of ensuring every resident has access to housing and a suitable living environment; and

WHEREAS, the City's Sixth Cycle (2021-2029) Housing Element was adopted by the Costa Mesa City Council on February 1, 2022, through Resolution No. 2022-06 and amendments adopted on November 15, 2022, through Resolution No. 2022-67, and as revised on March 1, 2023, to incorporate non-substantive changes as authorized by the City Council, and as recently amended on March 17, 2026, through Resolution No. 2026-11 whereby 17 Housing Element Opportunity Sites were removed from the sites inventory and two were added; and

WHEREAS, Costa Mesa has identified additional Housing Element Sites utilizing properties that are eligible for rezoning through the citywide voter initiative, known locally as Measure K, and the "Neighborhoods Where We All Belong" (NWWAB) planning effort to implement several Housing Element implementation programs; and

WHEREAS, the NWWAB planning effort includes amendments to the City's General Plan Land Use, Circulation, Housing, Noise, Community Design, and Open Space and Recreation Elements, amendments to the Newport Boulevard Specific Plan, North Costa Mesa Specific Plan, and One Metro West Specific Plan to reflect the application of the MUOD to Measure K sites, and amendments to various sections of Title 13 of the Zoning Code, and the rezoning of over 1,000 properties identified as Measure K sites; and

WHEREAS, California Public Utilities Code section 21676(b) requires the City of Costa Mesa to refer an amendment of the City's general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the Airport Land Use Commission (ALUC) pursuant to section 21675 to the ALUC for their consideration; and

WHEREAS, at a duly-noticed public hearing on July 16, 2026, the ALUC reviewed NWWAB planning effort and found the proposed amendments to be inconsistent with the AELUP on a 7-0 vote; and

WHEREAS, following the ALUC public hearing, City of Costa Mesa staff modified the location of the application of the Mixed-Use Overlay District to no longer include non-Housing Element Measure K properties located within John Wayne Airport Safety Zones 1-3 nor within the 65 dBA CNEL contour;

WHEREAS, one Housing Element Site is located in Safety Zone 3, and was recently converted from a motel to a very low income single-room occupancy use that is part of the City's strategy to address housing needs and comply with State Housing Law, and is not proposed to be removed from the Housing Element;

WHEREAS, NWWAB will apply the MUOD to applicable Measure K sites within Safety Zone 6 and according to the California Airport Land Use Planning Handbook, Safety Zone 6 has a maximum density of "no limit;"

WHEREAS, the City of Costa Mesa General Plan, Zoning Code, and North Costa Mesa Specific Plan include policies for compatibility with the AELUP;

WHEREAS, the City of Costa Mesa does not waive any objection to and/or right to challenge any failure by the ALUC to proceed in the manner required by law, including but not limited to, Public Utilities Code sections 21670 through 21679.5, related to its above referenced July 16, 2026, finding of inconsistency; and

WHEREAS, pursuant to Public Utilities Code sections 21670 and 21676, the City of Costa Mesa may, after a public hearing, propose to overrule the ALUC by a two-thirds vote of the City Council, if the City of Costa Mesa makes specific findings that the proposed project is consistent with the purposes of section 21670; and

WHEREAS, at a duly noticed public hearing on September 1, 2026, the Costa Mesa City Council took action to notify the ALUC of the City's intent to overrule ALUC's Determination of Inconsistency for the NWWAB planning effort; in addition, the Costa Mesa City Council previously overruled the ALUC for its Sixth Cycle Housing Element on November 15, 2022, through Resolution No. 2022-68.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES as follows:

BE IT RESOLVED that the Costa Mesa City Council is notifying the Orange County Airport Land Use Commission of the City's intent to overrule the ALUC Determination that the NWWAB planning effort is inconsistent with the John Wayne Airport Environs Land Use Plan (AELUP).

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby approve to be forwarded to ALUC the proposed findings in support of the City's intent to overrule the ALUC Determination as shown in Exhibit A, FINDINGS and directs staff to

forward a letter to ALUC indicating that the City's intent to override ALUC's Determination is inconsistent with the AELUP. The letter shall include the proposed findings in support of the City's intended action.

BE IT FURTHER RESOLVED that if any section, division, sentence, clause, phrase or portion of this resolution, or the document in the record in support of this resolution, are for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.

PASSED AND ADOPTED this 1st day of September, 2026.

John Stephens, Mayor

ATTEST:

APPROVED AS TO FORM:

Brenda Green, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 2026-xx and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 1st day of September, 2026, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 1st day of September, 2026.

Brenda Green, City Clerk

Exhibit A

FINDINGS

The Costa Mesa City Council makes the following findings pursuant to section 21670 of the Public Utilities Code as follows:

- A. **Finding No. 1: It is in the public interest to provide for the orderly development of each public use airport in this State and the area surrounding these airports so as to promote the overall goals and objectives of the California airport noise standards adopted pursuant to Section 21669 and to prevent the creation of new noise and safety problems.**

Justification for overrule: Section 2.1.1 of the AELUP establishes community CNEL guidance. The AELUP defines noise exposure in the 65 dBA CNEL noise contour as “High Impact” while also identifying residential uses as “conditionally consistent” in the 65 dBA CNEL noise contour. The AELUP does not prohibit residential uses in the 65 dBA CNEL noise contour; it requires residential uses to have insulation or other systems to bring sound attenuation to no more than 45 dB indoors.

The Noise Element of the City’s General Plan includes several policies to address potential airport/residential noise impacts.

- N-1.1: Enforce the maximum acceptable exterior noise levels for residential areas at 65 CNEL.
- N-1.4: Ensure that appropriate site design measures are incorporated into residential developments, when required by an acoustical study, to obtain appropriate exterior and interior noise levels. When necessary, require field testing at the time of project completion to demonstrate compliance.
- N-1.5: Apply the standards contained in Title 24 of the California Code of Regulations as applicable to the construction of all new dwelling units.
- N-1.6: Discourage sensitive land uses from locating within the 65 CNEL noise contour of John Wayne Airport. Should it be deemed by the City as appropriate and/or necessary for a sensitive land use to locate in the 65 CNEL noise contour, ensure that appropriate interior noise levels are met and that minimal outdoor activities are allowed.
- N-1.7: Support alternative methods for the reduction of noise impacts at John Wayne Airport while continuing to maintain safety and existing limitations on aircraft daily departures.
- N-2.1: Require the use of sound walls, berms, interior noise insulation, double-paned windows, and other noise mitigation measures, as appropriate, in the design of new residential or other new noise-sensitive land uses that are adjacent to arterials, freeways, or adjacent to industrial or commercial uses.

- N-2.4: Require that all proposed projects are compatible with adopted noise/land use compatibility criteria.
- N-2.6: Allow a higher exterior noise level standard for infill projects in existing residential areas adjacent to major arterials if it can be shown that there are no feasible mechanisms to meet the exterior noise levels. The interior standard of 45 dBA CNEL shall be enforced for any new residential project.

The City's Land Use Element includes Policy LU-3.17: New residential developments within the 60 dB CNEL noise contour of the airport shall provide designated outdoor signage informing the public of the presence of operating aircraft.

The proposed MUOD amendment includes two airport related regulations:

- Applicable MUOD projects shall be subject to a noise study prepared by a qualified acoustical engineer. Applicable MUOD projects include those abutting a freeway or within the Airport Planning Area, as defined by the Airport Environs Land Use Plan (AELUP) for John Wayne Airport. The noise study shall certify compliance with CMMC Title 13, Chapter XIII (Noise Control) and the AELUP.
- MUOD projects on properties located within the Airport Planning Area, as defined by the Airport Environs Land Use Plan (AELUP) for John Wayne Airport, shall comply with applicable requirements of the AELUP, unless overridden per State law.

Following the ALUC meeting, City staff adjusted the proposed scope of the NWWAB project to remove non-Housing Element Measure K sites within the 65 dBA CNEL contour around the airport, Safety Zone 1, Safety Zone 2, and Safety Zone 3 from the MUOD. By modifying the scope of the application of the MUOD, the City has diligently addressed airport noise while also pursuing compliance with State Housing Law. The NWWAB effort will provide for orderly development in areas surrounding JWA and elsewhere in Costa Mesa. Therefore, the City is able to make the finding to overrule the ALUC inconsistency determination in regard to PUC Finding No. 1.

Additionally, the CNEL noise contours of the AELUP Master Plan were established in 1985. Advances in aircraft technology, including quieter fleets, warrant study and subsequent revisions to the noise contours. The Noise Chapter of EIR No. 617 for the 2014 John Wayne Settlement Agreement Amendment utilized contemporary modeling (FAA Integrated Noise Model Version 7.0d) to describe how dBA CNEL noise contours have decreased in size. EIR No. 617 explained that "one of the most important factors in generating accurate noise contours is the collection of accurate operational data."

- B. **Finding No. 2: It is the purpose of this article to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.**

Justification for overrule: Safety Compatibility Zones of the AELUP recommend which land uses are acceptable in various JWA environments. As indicated in the above section entitled "Justification for overrule," the City's Noise Element Policies adequately address the public exposure to excessive noise.

As originally proposed, of 1,079 sites within the Measure K boundary, an approximately 1,000-square-foot corner of one Measure K property is located within Safety Zone 1, one parcel is within Safety Zone 2, and seven other parcels are within Safety Zone 3. After the July 16, 2026 ALUC meeting, the City modified the project to not apply the MUOD to properties in Safety Zone 1, Safety Zone 2, and non-Housing Element Measure K properties in Safety Zone 3.

With the project modification, the MUOD would only apply to one site (1400 Bristol Street) within Safety Zone 3. The California Airport Land Use Planning Handbook states that Safety Zone 3 can "allow infill at the average of surrounding residential area." The Housing Element site that remains in Safety Zone 3 is a two-story motel that was recently converted to very low-income single-room occupancy units. As previously stated herein, the very low-income affordable housing units support the City's obligation to satisfy its 6th Cycle Housing Element RHNA of 11,760 units, of which 2,919 units must be affordable to very low-income households. It is appropriate and necessary for the City to encourage and facilitate the development of housing, including lower and moderate-income housing, to meet State Housing Law. Implementation of the 6th Cycle Housing Element, including implementing Measure K, is required to ensure the provision of adequately zoned land to accommodate the largest RHNA in Costa Mesa history, the City's share of regional growth, and comply with State Housing Law.

The NWWAB project will apply the MUOD to Measure K sites within Safety Zone 6, where the California Airport Land Use Planning Handbook establishes a maximum density of "no limit" and an average number of people per gross acre of "no limit."

The ALUC staff report concludes that the application of the MUOD to sites south of JWA along Bristol Street could have maximum heights that "would come very close" to penetrating the JWA transitional surface of 92 feet but would "not penetrate the Obstruction Imaginary Surfaces for JWA." The City is no longer proposing to apply the MUOD to sites on Bristol Street between

Santa Ana Avenue and City of Newport Beach City Limits. Additionally, the City of Costa Mesa General Plan includes policies regarding airport and land use compatibility including:

- LU-3.14: Certain development proposals which may include the construction or alteration of structures more than 200 feet above ground level may require filing with the Federal Aviation Administration (FAA) and Airport Land Use Commission (ALUC) pursuant to federal and State law. If a filing requirement is determined to be necessary in accordance with the procedures provided by State/federal agencies, the filing of a Notice of Proposed Construction or Alteration (FAA Form 7460-1) shall be required prior to review and consideration of the proposed development.” Land Use Element (page LU-18) refers to the threshold stated above. It shall be amended to refer to Filing FAA Form 7460-1 Notice of Construction and Alteration, and not to Form 7480-1.
- Policy LU-3.15. The City will ensure that development proposals, including the construction or operation of a heliport or helistop comply fully with permit procedures under State law, including referral of the project to the ALUC by the applicant, and with all conditions of approval imposed or recommended by the Federal Aviation Administration, ALUC, and Caltrans, including the filing of Form 7480-1 (Notice of Landing Area Proposed) with the FAA. This requirement shall be in addition to all other City development requirements.
- Policy LU-3.16. The City shall refer certain projects to the Airport Land Use Commission for Orange County, as required by Section 21676 of the California Public Utilities Code to determine consistency of the project(s) with the Airport Environs Land Use Plan for John Wayne Airport.

Additionally, the MUOD includes regulations to address potential airport-related conflicts such as:

- MUOD projects on properties located within the Airport Planning Area, as defined by the Airport Environs Land Use Plan (AELUP) for John Wayne Airport, shall comply with applicable requirements of the AELUP, unless overridden per State law.

At the July 16, 2026 meeting, ALUC expressed that the heights allowed in the existing North Costa Mesa Specific Plan permit a maximum building height that could result in building construction which exceeds the 206-foot JWA Imaginary Horizontal Surface. ALUC’s determination of inconsistency is not based on proposed regulations in the NWWAB MUOD, but rather existing provisions of the North Costa Mesa Specific Plan. NWWAB would apply the MUOD, with a maximum building height of 108 feet in the North Costa Mesa Specific Plan area, to Measure K sites. This is a lower maximum building height than allowed in the specific plan. Should a property

owner choose to develop via the provisions of the MUOD instead of the specific plan, the development would not exceed the obstruction imaginary surfaces.

In 2007, the City submitted a project for ALUC consideration that included a mixed-use development with both hotel and residential uses (The Wyndham Hotel and High Rise Residential Project) in the South Coast Plaza Town Center area. This area already contains Plaza Tower and Center Tower which exceed 20 stories. The project included a General Plan Amendment, a Specific Plan Amendment, an Environmental Impact Report (EIR), a Final Master Plan and a proposed subdivision. The ALUC determined that the project and the General Plan/Specific Plan amendments were inconsistent in regard to the inclusion of height standards that penetrate the AELUP horizontal imaginary surface, and the City subsequently overruled the ALUC determination. The City's overrule finding was based on the Federal Aviation Administration (FAA) findings that the then proposed building height of 304 feet AMSL "would not adversely affect air safety" and the FAA subsequently issued a "no hazard determination." Additionally, the FAA conditioned that any future buildings proposed in this area with height proposed above 173 feet above grade level would require a specific determination of "no hazard" by the FAA in order to move forward. This requirement is included in the height standards of the North Costa Mesa Specific Plan. Therefore, potential safety risks associated with future construction on the five Housing Element sites in the North Costa Mesa Specific Plan area are addressed by the FAA requirement and the Specific Plan requirements. It should be noted that the AELUP declares the FAA as the authority to determine impacts on airport or aeronautical operations. It is inappropriate for the ALUC to make a secondary finding of inconsistency for the same issue. Based on the above facts, the City is justified in making the finding to overrule the ALUC inconsistency determination in regard to PUC Finding No. 2